

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

-----;
IN THE MATTER OF:
New York State Department of Transportation
50 Wolf Road
Albany, NY 12232
SPDES Permit No. NYR20A288

Docket No. CWA-02-2016-3403
-----;

HELD: TUESDAY, APRIL 3, 2018
9:00 a.m. - 4:22 p.m.

BEFORE: ADMINISTRATIVE LAW JUDGE SUSAN L. BIRO

1 A P P E A R A N C E S:
2 Appearing for COMPLAINANT(S) ENVIRONMENTAL PROTECTION
3 AGENCY:
4 CHRISTOPHER SAPORITA, ESQ.
5 JASON P. GARELICK, ESQ.
6 ENVIRONMENTAL PROTECTION AGENCY, REGION 2
7 290 BROADWAY, 16TH FLOOR
8 NEW YORK, NY 10007
9 p: (518) 587-7300 e: Garelick.Jason@EPA.gov
10
11 Appearing for RESPONDENT(S) DEPARTMENT OF
12 TRANSPORTATION:
13 ALICIA L. MCNALLY, ESQ.
14 DAVID WINANS, ESQ.
15 50 WOLF ROAD
16 ALBANY, NY 12205
17 p: (518) 457-2411 e: Alicia.Mcnally@dot.ny.gov
18
19 ALSO PRESENT: TRACYELLEN KUBEK, DOT Representative
20 CHRISTY ARVIZU, EPA Representative
21 DENISE KAHLER-BRAATEN, Sign Language
22 Interpreter
23 JESSICA YOCOM, Sign Language
24 Interpreter
25 JENNIFER ALMASE, Clerk

1 This is the Hearing in the Matter of NEW
2 YORK STATE DEPARTMENT OF TRANSPORTATION, held at:
3
4 JAMES T. FOLEY COURTHOUSE
5 445 BROADWAY, COURTROOM 6
6 ALBANY, NY 12207
7
8 record reported via machine shorthand by Diana M.
9 Russell, Court Reporter and Notary Public within and
10 for the State of New York.
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 INDEX OF EXAMINATION
2 WITNESS: CHRISTY ARVIZU
3 EXAMINATION PAGE
4 By Mr. Garelick 24, 125
5 By Mr. Saporita 73
6 By Mr. Winans 75, 129
7
8 WITNESS: KOURTNEY KIRKEBY
9 EXAMINATION PAGE
10 By Mr. Saporita 132, 174
11 By Ms. McNally 165
12 By Mr. Winans 173
13
14 WITNESS: ROBERT JACOBSEN
15 EXAMINATION PAGE
16 By Mr. Garelick 177
17 By Ms. McNally 222
18 By Mr. Winans 233
19
20
21
22
23
24
25

1 INDEX OF EXHIBITS
 2 (Given to the Reporter to append to the transcript.)
 3 PAGE
 4 COMPLAINANT DESCRIPTION ADMITTED
 5 EXHIBIT 1 4/3/03 Notice of Intent 15
 6 EXHIBIT 2 NYS SPDES Permit-GP-02-02 15
 7 EXHIBIT 3 NYS SPDES Permit-GP-08-002 15
 8 EXHIBIT 4 NYS SPDES Permit-GP-0-10-002 15
 9 EXHIBIT 5 NYS SPDES Permit-GP-0-15-003 15
 10 EXHIBIT 6 NYS SPDES Permit-GP-0-15-003 15
 Revised
 11 EXHIBIT 8 5/18/12 Region 9 Audit Letter 15
 12 EXHIBIT 9 Region 9 Pre-Audit Records 15
 Request
 13 EXHIBIT 10 Tentative Audit Agenda 15
 14 EXHIBIT 11 Region 9 Audit Confirmation 15
 Letter-5/30/12
 15 EXHIBIT 13 6/7/12 Table Tracking 15
 Region 9
 16 EXHIBIT 14 Erosion and Sediment Control 15
 Training Sign-In Sheet-2/2/10
 17 EXHIBIT 15 2/18/10 Presentation 15
 SPDES in Construction
 18 EXHIBIT 16 June 2003 Memorandum 15
 19 EXHIBIT 17 6/3/10 Letter 15
 20 EXHIBIT 22 Meeting notes of 6/14/12 15
 21 EXHIBIT 23 Binghamton MS4 15
 Post-construction Map
 22 EXHIBIT 24 Map-"NYS DOT Region 9 MS4 15
 Compliance Audit"
 23 EXHIBIT 25 Presentation-"Region 9- 15
 Lessons Learned"
 24 EXHIBIT 26 11/20/08 Route 17, Parksville 15
 Drawings
 25 EXHIBIT 27 6/21/12 E-mail 15

1 INDEX OF EXHIBITS-cont'd
 2 (Given to the Reporter to append to the transcript.)
 3 PAGE
 4 COMPLAINANT DESCRIPTION ADMITTED
 5 EXHIBIT 30 1/30/13 Region 9 MS4 15
 Audit Report
 6 EXHIBIT 31 10/17/12 Region 8 Audit Letter 15
 7 EXHIBIT 32 Region 8 Tentative Agenda for 15
 Audit
 8 EXHIBIT 33 10/17/12 Pre-Audit Records 15
 Request
 9 EXHIBIT 34 11/14/12 Region 8 15
 Table Tracking
 10 EXHIBIT 35 1/29/13 Region 8 Audit Report 15
 11 EXHIBIT 36 5/22/13 Region 5 Audit Letter 15
 12 EXHIBIT 37 5/22/13 Pre-Audit Records 15
 Request
 13 EXHIBIT 39 12/17/13 Region 5 Audit Report 15
 14 EXHIBIT 40 3/5/14 ACO-CWA-02-2014-3028 15
 15 EXHIBIT 41 3/21/14 ACO Extension Request 15
 16 EXHIBIT 42 3/24/14 ACO Extension Request 15
 Granted Letter
 17 EXHIBIT 44 1/26/15 Meeting Request 15
 Letter
 18 EXHIBIT 45 E-mail-1/26/15-Arvisu to Bass 15
 19 EXHIBIT 47 6/5/14 ACO-CWA-02-2014-3041 15
 20 EXHIBIT 48 Compliance Submission to EPA 15
 Re: CWA-02-2014-3041
 21 EXHIBIT 49 Compliance Submission to EPA 15
 Re: CWA-02-2014-3041
 22 EXHIBIT 50 Compliance Submission to EPA 15
 Re: CWA-02-2014-3041
 23 EXHIBIT 51 Compliance Submission to EPA 15
 Re: CWA-02-2014-3041
 24 EXHIBIT 52 Compliance Submission to EPA 15
 Re: CWA-02-2014-3041
 25 EXHIBIT 53 Compliance Submission to EPA 15
 Re: CWA-02-2014-3041

1 INDEX OF EXHIBITS-cont'd
 2 (Given to the Reporter to append to the transcript.)
 3 PAGE
 4 COMPLAINANT DESCRIPTION ADMITTED
 5 EXHIBIT 54 Compliance Submission to EPA 15
 Re: CWA-02-2014-3041
 6 EXHIBIT 55 Compliance Submission to EPA 15
 Re: CWA-02-2014-3041
 7 EXHIBIT 56 Compliance Submission to EPA 15
 Re: CWA-02-2014-3041
 8 EXHIBIT 57 Compliance Submission to EPA 15
 Re: CWA-02-2014-3041
 9 EXHIBIT 58 Compliance Submission to EPA 15
 Re: CWA-02-2014-3041
 10 EXHIBIT 59 Compliance Submission to EPA 15
 Re: CWA-02-2014-3041
 11 EXHIBIT 60 Information 15
 Re: CWA-02-2016-3403
 12 EXHIBIT 61 Information 15
 Re: CWA-02-2016-3403
 13 EXHIBIT 62 Information 15
 Re: CWA-02-2016-3403
 14 EXHIBIT 63 Information 15
 Re: CWA-02-2016-3403
 15 EXHIBIT 64 2/2/17-Administrative 15
 Complaint Answer
 16 EXHIBIT 65 1995 EPA Interim Clean Water 15
 Act Settlement Penalty Policy
 17 EXHIBIT 66 2016 EPA Final Signed 15
 Penalty Inflation Guidance
 18 EXHIBIT 69 DEC Final Designation 15
 Criteria for MS4
 19 EXHIBIT 72 NYS DOT website 15
 20 EXHIBIT 73 4/18/14 NYS DOT Acknowledgement/
 Comments-CWA-02-2014-3028 15
 21 EXHIBIT 74 1/24/13 E-mail 15
 Re: Region 8 Report
 22 EXHIBIT 75 1/24/13 E-mail 15
 Re: Region 8 Report
 23 EXHIBIT 76 7/21/17-E-mail 15
 24
 25

1 INDEX OF EXHIBITS-cont'd
 2 (Given to the Reporter to append to the transcript.)
 3 PAGE
 4 RESPONDENT DESCRIPTION ADMITTED
 5 EXHIBIT 1 NYS DOT Public Information 16
 EXHIBIT 4 6/11-Environmental Handbook 16
 For Transportation Operations
 6 EXHIBIT 5 10/14/11-MS4 Permit 16
 Permit No. GP-0-10-002
 7 EXHIBIT 7 1/29/13 Region 8 Audit Report 16
 8 EXHIBIT 8 1/30/13 Region 9 Audit Report 16
 9 EXHIBIT 9 3/13 SWMP Plan 16
 10 EXHIBIT 11 12/17/13 Region 5 Audit Report 16
 11 EXHIBIT 12 3/5/14 ACO 16
 12 EXHIBIT 13 3/12/14 E-mail 16
 13 EXHIBIT 14 3/24/14 Correspondence 16
 14 EXHIBIT 15 4/16/14 E-mail 16
 15 EXHIBIT 16 Sign-In Sheet/Agenda 105
 16 EXHIBIT 17 5/15/14 E-mail 16
 17 EXHIBIT 18 6/5/14 ACO Correspondence 16
 18 EXHIBIT 19 6/12/14 E-mail 16
 19 EXHIBIT 20 6/24/14 SHARP Plans 16
 20 EXHIBIT 21 6/30/14 E-mail 16
 21 EXHIBIT 22 7/1/14 Progress Report 16
 Re: CWA-02-2014-3028
 22 EXHIBIT 24 9/2/14 Progress Report 16
 Re: CWA-02-2014-3028
 23 EXHIBIT 25 9/2/14 E-mail 16
 24
 25

1 INDEX OF EXHIBITS-cont'd
2 (Given to the Reporter to append to the transcript.)
3 PAGE

| RESPONDENT | DESCRIPTION | ADMITTED |
|----------------------|--------------------------------|----------|
| 4 EXHIBIT 26 | 9/16/14 Correspondence | 16 |
| 5 EXHIBIT 27 | 9/18/14 E-mail | 16 |
| 6 EXHIBIT 28 | 9/22/14 E-mail | 16 |
| 7 EXHIBIT 29 | 9/22/14 E-mail | 16 |
| 8 EXHIBIT 31 | 10/31/14 Progress Report | 16 |
| Re: CWA-02-2014-3028 | | |
| 9 EXHIBIT 32 | 11/3/14 E-mail | 16 |
| 10 EXHIBIT 33 | 12/8/14 Correspondence | 16 |
| 11 EXHIBIT 34 | 12/9/14 E-mail | 16 |
| 12 EXHIBIT 36 | 12/31/14 Progress Report | 16 |
| Re: CWA-02-2014-3028 | | |
| 13 EXHIBIT 37 | 12/31/14 E-mail/Correspondence | 16 |
| 14 EXHIBIT 38 | 2/10/15 Correspondence | 16 |
| 15 EXHIBIT 40 | 4/1/15 Progress Report | 16 |
| Re: CWA-02-2014-3028 | | |
| 16 EXHIBIT 41 | 4/30/15 Progress Report | 16 |
| Re: CWA-02-2014-3028 | | |
| 17 EXHIBIT 42 | 5/19/15 Correspondence | 16 |
| 18 EXHIBIT 43 | 6/18/15 Correspondence | 16 |
| 19 EXHIBIT 45 | 6/30/15 Progress Report | 16 |
| Re: CWA-02-2014-3028 | | |
| 20 EXHIBIT 46 | 7/2/15 E-mail | 16 |
| 21 EXHIBIT 47 | 7/7/15 E-mail | 16 |
| 22 EXHIBIT 49 | 7/14/15 Progress Report | 16 |
| Re: CWA-02-2014-3041 | | |
| 23 EXHIBIT 50 | 8/17/15 Correspondence | 16 |
| 24 EXHIBIT 52 | 9/10/15 Progress Report | 16 |
| Re: CWA-02-2014-3041 | | |
| 25 | | |

1 INDEX OF EXHIBITS-cont'd
2 (Given to the Reporter to append to the transcript.)
3 PAGE

| RESPONDENT | DESCRIPTION | ADMITTED |
|----------------------|--------------------------------|----------|
| 4 EXHIBIT 53 | 9/10/15 Progress Report | 16 |
| Re: CWA-02-2014-3041 | | |
| 5 EXHIBIT 54 | 9/18/15 E-mail | 16 |
| 6 EXHIBIT 56 | 9/30/15 E-mail | 16 |
| 7 EXHIBIT 57 | 9/30/15 Progress Report | 16 |
| Re: CWA-02-2014-3041 | | |
| 8 EXHIBIT 59 | 11/10/15 Correspondence | 16 |
| 9 EXHIBIT 60 | 11/24/15 Progress Report | 16 |
| Re: CWA-02-2014-3041 | | |
| 10 EXHIBIT 61 | 12/22/15 E-mail/Correspondence | 16 |
| 11 EXHIBIT 62 | 1/26/16 Progress Report | 16 |
| Re: CWA-02-2014-3041 | | |
| 12 EXHIBIT 63 | 1/29/16 ACO CWA-02-2014-3041 | 16 |
| 13 EXHIBIT 64 | 6/15/16 Correspondence | 16 |
| 14 EXHIBIT 66 | 7/11/16 Correspondence | 16 |
| 15 EXHIBIT 67 | 7/14/16 Administrative | 16 |
| Complaint Answer | | |
| 16 EXHIBIT 70 | 12/1/16 Correspondence | 16 |
| 17 EXHIBIT 71 | 2/2/17 Correspondence | 16 |
| 18 EXHIBIT 72 | Personal Service Detail Report | 16 |
| 19 | | |
| 20 | | |
| 21 | | |
| 22 | | |
| 23 | | |
| 24 | | |
| 25 | | |

1 ALJ BIRO: Going on the record in the
2 matter of New York State Department of
3 Transportation, Docket No. CWA-02-2016-3403.
4 Good morning. I'm Susan Biro, I'm the
5 Chief Administrative Law Judge of the EPA,
6 and I have been assigned to hear this case at
7 hearing.
8 Counsel, could you identify yourselves for
9 the record? For the Agency first?
10 MR. SAPORITA: Good morning, Your Honor.
11 My name is Christopher Saporita for the EPA.
12 MR. GARELICK: Good morning, Your Honor.
13 My name is Jason Garelick for the EPA.
14 ALJ BIRO: Good morning. And the
15 Department?
16 MS. McNALLY: Alicia McNally for the
17 Department of Transportation of New York
18 State.
19 MR. WINANS: And I'm David Winans for
20 the Department of Transportation.
21 ALJ BIRO: Good morning. Before we
22 begin, Madam Reporter, we have a sign
23 language translator in the courtroom -- two
24 sign language translators in the courtroom.
25 Could you please swear in the sign language

1 translators?
2 (Whereupon, the sign language
3 interpreters are sworn in by the Court
4 Reporter.)
5 ALJ BIRO: Ladies, at any point, if you
6 need to take a break or are confused, need
7 further clarification in order to be
8 accurately translating, you know, please
9 advise me. Raise your hand, indicate you
10 want a time-out, and we will definitely do
11 that, because the most important thing is
12 that we get the best translation we can for
13 the Witness so there is no issue about her
14 understanding the questions and the
15 statements made so she can testify
16 accurately.
17 Okay. We follow standard Federal Trial
18 Practice, but we don't follow the Federal
19 Rules of Evidence in this proceeding; we
20 follow the Consolidated Rules of Practice, so
21 hearsay is admissible, all of the documentary
22 evidence, generally, comes in unless it's
23 irrelevant, immaterial, unreliable, a very
24 limited group for keeping out documentary
25 evidence. The fact that something comes into

Page 13

1 evidence, doesn't mean that it's going to be
 2 given a great amount of weight. How much
 3 weight is given is determined in the end
 4 based on what else corroborates it's
 5 validity.
 6 Are there any preliminary matters before
 7 we begin?
 8 MR. SAPORITA: Yes, Your Honor. We just
 9 want to confirm that the documents that have
 10 been stipulated are in evidence and don't
 11 need to be marched in one-by-one throughout
 12 the testimony.
 13 ALJ BIRO: That's fine. Would you like
 14 to move them into evidence at this point?
 15 MR. SAPORITA: Yes, Your Honor. We move
 16 that all of the stipulated Complainant's
 17 exhibits be admitted into evidence.
 18 ALJ BIRO: Okay. And let me just
 19 check...
 20 MR. SAPORITA: If you like, I could read
 21 them.
 22 ALJ BIRO: No, I think I have a list
 23 right here.
 24 Okay. I have admitted Complainant's
 25 Exhibits 1 through 77; is that correct?

Page 14

1 MR. SAPORITA: No, Your Honor. There
 2 are a few that were not stipulated.
 3 ALJ BIRO: Oh, wait. Okay. So why
 4 don't you read me your list, because I see
 5 there were intermittent ones that were not
 6 admitted.
 7 MR. SAPORITA: The admitted ones, Your
 8 Honor?
 9 ALJ BIRO: Yes.
 10 MR. SAPORITA: CX-1, CX-2, CX-3, CX-4,
 11 CX-5, CX-6, CX-8, CX-9 --
 12 ALJ BIRO: So 1 through 7?
 13 MR. SAPORITA: No, Your Honor; 7 is not
 14 stipulated. I can do them in groupings: 1
 15 through 6, then 8 through 11, then 13 through
 16 17, then 22 through 27, then 30 through 42,
 17 44, 45, 47 through 66, 69, 72 through 77.
 18 ALJ BIRO: Ms. McNally; is that correct?
 19 MS. McNALLY: Give me one second, Your
 20 Honor.
 21 MS. ALMASE: In looking at the Joint
 22 Stipulations, I don't think 38 was stipulated
 23 to.
 24 MR. SAPORITA: 38? Let me see.
 25 MS. McNALLY: Yes, that's correct for

Page 15

1 Complainant's exhibits.
 2 MR. SAPORITA: 38 is -- okay. Let me
 3 double-check the stipulations, actually.
 4 That's correct, okay.
 5 ALJ BIRO: So 30 through 37, and then 39
 6 through 42?
 7 MR. SAPORITA: That's correct.
 8 ALJ BIRO: Okay. Before we close this
 9 hearing, we are going to go through this
 10 again to make sure we know all of the
 11 exhibits that have been admitted and can be
 12 relied on.
 13 MR. SAPORITA: Okay.
 14 ALJ BIRO: So I will admit 1 through 6,
 15 8 through 11, 13 through 17, 22 through 27,
 16 30 through 37, 39 through 42, 44 and 45, 47
 17 through 66, 69, 72 through 77.
 18 MR. SAPORITA: That's right, Your Honor.
 19 ALJ BIRO: Okay. There is no objection,
 20 Ms. McNally?
 21 MS. McNALLY: No objection.
 22 ALJ BIRO: How about for Respondent, Ms.
 23 McNally?
 24 MS. McNALLY: So, Respondent's Exhibits
 25 5, 7, 8, 11 -- you know what, let me start

Page 16

1 over. I have the ones that aren't in it, so
 2 I can do it that way.
 3 So, 1, 4, 5, 7, 8, 9 up to 15, 17 through
 4 22, 24 through 29, 31 through 34, 36 through
 5 38, 40 through 43, 45 through 47, 49 through
 6 50, 52 through 54, 56 through 57, 59 through
 7 64, 66 and 67, and then 70 through 72.
 8 ALJ BIRO: Mr. Saporita; is that
 9 correct?
 10 MR. SAPORITA: That's correct, Your
 11 Honor.
 12 ALJ BIRO: Okay. So I'm admitting,
 13 without objection, Respondent's Exhibits 1,
 14 4, 5, 7 through 15, 17 through 22, 24 through
 15 29, 31 through 34, 36 through 38, 40 through
 16 43, 45 through 47, 49, 50, 52 through 54, 56,
 17 57, 59 through 64, 66, 67, and 70 through 72.
 18 Are we all in agreement?
 19 MR. SAPORITA: Yes.
 20 MS. McNALLY: Yes.
 21 ALJ BIRO: Are there any Joint exhibits
 22 you wish to admit?
 23 MR. SAPORITA: No, Your Honor.
 24 ALJ BIRO: Are there any other
 25 preliminary matters?

Page 17

1 MR. SAPORITA: Yes, Your Honor. One
 2 more for Complainant's. We -- due to the
 3 limits of the electronic filing system, we
 4 had to break up Exhibit 39 into several
 5 subsets, so they are enumerated 39-A through
 6 L, I believe. For the purpose of testimony,
 7 they will be presented as one document,
 8 continuously enumerated, but we will refer to
 9 it as 39.

10 ALJ BIRO: And we admitted all parts of
 11 that exhibit?

12 MR. SAPORITA: Yes, ma'am.

13 ALJ BIRO: Is that right, Ms. McNally?

14 MS. McNALLY: That's fine.

15 ALJ BIRO: Do you have any preliminary
 16 matters you would like to raise, Ms. McNally?

17 MS. McNALLY: No.

18 ALJ BIRO: Mr. Saporita, would you like
 19 to make an opening statement?

20 MR. SAPORITA: Yes, Your Honor; thank
 21 you.

22 Your Honor, as I have said my name is
 23 Christopher Saporita, along with my
 24 colleague, Jason Garelick, I represent the
 25 EPA in this action against Respondent, New

Page 18

1 York State DOT. This is a case about a large
 2 well-resourced Department of Transportation,
 3 which, despite it's clear legal duty to drive
 4 the planning and implementation of programs
 5 to control water pollution from its
 6 State-wide activities, was asleep at the
 7 wheel; and only opened its eyes to its
 8 responsibilities and the risks created by its
 9 slumbering disregard when it was roused by
 10 the EPA.

11 Through over 16,000 outfall pipes, the DOT
 12 discharged polluted storm water from
 13 thousands of miles of roads, dozens of
 14 facilities and hundreds of construction
 15 projects to the waters of the United States.
 16 Because it controls the infrastructure,
 17 facilities and activities that can cause
 18 extensive water pollution, the DOT is
 19 obligated, under the Clean Water Act, to
 20 undertake serious and thoughtful planning,
 21 implement thorough and effective procedures,
 22 and train and supervise staff and contractors
 23 to ensure performance of its efforts to
 24 control pollution.

25 In fact, the DOT recognizes its obligation

Page 19

1 by applying, in 2003, for coverage under New
 2 York State's Clean Water Act for operators of
 3 Municipal Separate Storm water Systems. That
 4 permit contains numerous explicit and
 5 compelling requirements, and those that apply
 6 for coverage knowingly undertake the duty to
 7 meet those requirements and are fully aware
 8 that the failure to do so can result in
 9 reliability and significant penalty; but as
 10 of June 19, 2012, over 9 years later, the DOT
 11 had failed in fundamental and far-reaching
 12 ways to undertake its duty under the permit.

13 Through three comprehensive audits that,
 14 included requests for dozens of records,
 15 interviews with numerous DOT staff managers,
 16 including managers responsible for
 17 environmental compliance, and inspections of
 18 over 36 sites throughout the state over the
 19 course of 9 days, the EPA and contractors
 20 learned that after getting permit coverage,
 21 the DOT significantly failed to comply with
 22 its terms.

23 In this hearing, through the introduction
 24 of the DOT's owns records and admissions,
 25 through the testimony of experienced,

Page 20

1 thorough and highly credible inspectors and
 2 the extensive documentation contained in
 3 audit reports, including dozens of revealing
 4 photographs, the EPA will show they failed to
 5 implement four major programmatic
 6 requirements and numerous terms of the MS4
 7 permit.

8 First, the evidence will show that the DOT
 9 failed to develop, implement and document
 10 programs to locate and eliminate illegal
 11 discharge into the sewer system. The
 12 evidence will show that the DOT failed to
 13 establish the goals, procedures and oversight
 14 necessary to control the discharge of
 15 polluted storm water from construction sites
 16 under its control. The evidence will further
 17 show that the DOT failed to perform planning,
 18 training and inspections required to ensure
 19 the effective long-term operation of
 20 post-construction storm water controls; and
 21 finally, the witnesses, documents and
 22 photographs in this case, will demonstrate
 23 that the DOT failed to develop and implement
 24 a program that ensure that pollution
 25 prevention and good housekeeping practices

Page 21

1 are implemented at the maintenance facilities
 2 as self-assessments, staff training and
 3 site-specific planning.
 4 Based on its conclusion that the DOT was
 5 liable for at least 16,218 days of
 6 violations, the EPA considered the statutory
 7 penalty factors in the Clean Water Act with
 8 guidance from the Clean Water Act Settlement
 9 Policy to determine an appropriate penalty.
 10 Although, the statutory maximum penalty for
 11 that number of violations is in the millions
 12 of dollars, the EPA proposed to assess a
 13 penalty of \$150,000.
 14 The DOT may argue that, notwithstanding
 15 its widespread, serious and long-standing
 16 violations, it should not have to pay a
 17 penalty in this case. They may offer several
 18 reasons for this unusual view, but the
 19 central one is based on clear
 20 misunderstanding by staff members. Despite
 21 any claims, the EPA promised not to assess a
 22 penalty. The exhibits and testimony in this
 23 case will show that the EPA never made, and
 24 never would make, such a promise, and that
 25 any purported reliance by the DOT on its

Page 22

1 misunderstanding as the basis for undertaking
 2 compliance efforts and costs, was not only
 3 unreasonable, but irrelevant, since the DOT
 4 was long-obligated to spend the money that it
 5 finally did to remedy its violations and come
 6 into compliance.
 7 Moreover, the DOT's legal burden in
 8 stopping the government is insurmountable,
 9 based on the bare allegations that DOT
 10 employees lack the statutory responsibility
 11 to do so in it's oral comments to forego
 12 penalty.
 13 Because the EPA's evidence will clearly
 14 demonstrate the DOT's widespread and
 15 long-standing violations of the Clean Water
 16 Act, at the end of this hearing, we will ask
 17 the tribunal to find the DOT liable, because
 18 the DOT's violations showed a significant
 19 disregard for the clear requirements designed
 20 to protect the American public and water from
 21 serious harm. It's culpability is great;
 22 therefore, we will ask this tribunal to
 23 assess a commensurate penalty that will
 24 appropriately punish the Respondent and will
 25 deter them and others that violate the Clean

Page 23

1 Water Act and level the playing field for
 2 those who, in good faith, spent the time and
 3 to timely comply with the law.
 4 Thank you, Your Honor.
 5 ALJ BIRO: Thank you.
 6 Ms. McNally, would you like to make an
 7 opening statement now or at the beginning of
 8 your case?
 9 MS. McNALLY: We will reserve for the
 10 beginning of our case; thank you.
 11 ALJ BIRO: Okay. Mr. Saporita, would
 12 you call your first witness?
 13 MR. SAPORITA: Your Honor, Mr. Garelick
 14 is going to call the first witness.
 15 MR. GARELICK: Your Honor, the
 16 Complainants calls Christy Arvisu to the
 17 stand.
 18 ALJ BIRO: I understand you have agreed
 19 to sequester the witnesses during the
 20 hearing; is that correct?
 21 MS. McNALLY: That's correct.
 22 MR. SAPORITA: That's correct, Your
 23 Honor.
 24 MR. GARELICK: I believe that the
 25 parties, both -- well, she is a party

Page 24

1 representative, and Ms. Kubek is their party
 2 representative.
 3 ALJ BIRO: Is there anybody else in the
 4 courtroom who is a witness? No. Then we
 5 will proceed.
 6 Would you note for the record the witness
 7 is testifying with the aide of a sign
 8 language interpreter.
 9 Could you swear in the witness, please?
 10 *****
 11 CHRISTY ARVISU,
 12 called as a witness, being duly sworn,
 13 testifies as follows:
 14 *****
 15 DIRECT EXAMINATION
 16 BY MR. GARELICK:
 17 Q. Good morning.
 18 A. Good morning.
 19 Q. Who do you work for?
 20 A. The Environmental Protection Agency, Region 2.
 21 Q. What is your position with the EPA?
 22 A. Environmental Scientist.
 23 Q. What does an Environmental Scientist do?
 24 A. An Environmental Scientist can do a variety of
 25 things. My particular role, I'm a compliance officer

1 and I do inspections and oversight.
 2 ALJ BIRO: Ms. Arvisu, it's very
 3 important that the Court Reporter be able to
 4 take down what you say word-for-word, so you
 5 have to talk a little slower.
 6 It has nothing to do with being deaf, it
 7 has to do with recording the testimony.
 8 THE WITNESS: Yes, Your Honor.
 9 Q. You mentioned compliance. What is your role
 10 with respect to compliance?
 11 A. With compliance, I do inspections, I do a
 12 variety of compliance activities, such as
 13 inspections, enforcement, when there is
 14 non-compliance observed during audits, inspection of
 15 MS4 when it's a storm sewer system, and other types
 16 of Clean Water Act inspections that I do.
 17 Q. Okay.
 18 ALJ BIRO: Ms. Arviza, are you okay?
 19 Would you like to take a break?
 20 THE WITNESS: No, I'm good.
 21 ALJ BIRO: Okay; all right. It's not a
 22 stressful proceeding, right?
 23 THE WITNESS: I'm trying to slow down.
 24 ALJ BIRO: Nothing is going to happen
 25 here today. We are going to take the

1 testimony. After this hearing, I will go
 2 back and I will review everything. Nobody is
 3 going to jail. You're not going to jail. It
 4 will be okay, so you need to just -- we want
 5 to hear your honest testimony, and I don't
 6 want you to stress about it. Just relax, but
 7 if you want to take a break or want some
 8 water, I will get it for you.
 9 THE WITNESS: I'm good. I have water
 10 right here. Thank you, Your Honor.
 11 ALJ BIRO: And that is true for everyone
 12 who testifies. We don't want to get
 13 emotional testimony, we want to get the best
 14 honest testimony we can.
 15 THE WITNESS: Okay.
 16 ALJ BIRO: If you don't understand me or
 17 any of the witnesses, you can ask for added
 18 translation. Whatever you need; okay?
 19 THE WITNESS: Okay; thank you.
 20 Q. How long have you worked at the EPA?
 21 A. I have worked for the EPA for 17-1/2 years.
 22 Q. And have you had different positions during
 23 your 17-1/2 years?
 24 A. Yes. For the first four years, I worked at EPA
 25 Region 3 as an environmental scientist, but on the

1 permit side. Then I came to Region 2 in 2004, to the
 2 enforcement and compliance side. So I have been on
 3 both ends of the spectrum; pollutant discharge and
 4 elimination from the system.
 5 Q. You mentioned earlier MS4. What is an MS4?
 6 A. Municipal Support Storm Sewer System, and that
 7 is -- MS4s are municipalities or government agencies
 8 that have a conveyance for maintaining -- or for
 9 storm water discharge for water through the US and
 10 urbanized areas that are set by the government,
 11 usually. That changes every ten years.
 12 Q. Since 2004, when you mentioned you started
 13 doing compliance, what has been your role with
 14 respect to MS4 compliance and inspections?
 15 A. I have been doing MS4 audits for EPA Region 2
 16 since 2004, and, typically -- I did my first audit in
 17 2007, but I helped setup the MS4 audit in Region 2.
 18 I have trained MS4 inspectors in my region and also
 19 done over 27 audits in that time.
 20 Q. What training have you had while you have been
 21 with EPA?
 22 A. I have taken required training we have to take
 23 as part of our credential training, and I have also
 24 taken MS4 training we have had offered to us by EPA
 25 headquarters, different webinars, I have gone to

1 Washington DC for storm water training and storm
 2 water conferences that -- we have national storm
 3 water conferences, although not in the last few
 4 years. I have also done MS4 train-the-trainer, where
 5 I have presented, and also gone to EPA Region 10,
 6 where I have presented training to Region 10 staff at
 7 the request of EPA headquarters and Region 10.
 8 Q. And can you briefly tell us about your
 9 education?
 10 A. I graduated college in 1998 with a degree,
 11 Bachelor's degree in Soil Science and Environmental
 12 Science.
 13 Q. Okay. Did there come a time when you became
 14 involved in a case involving New York State DOT?
 15 A. I'm sorry, can you say that again?
 16 Q. Did there come a time, while you were working
 17 at EPA, that you became involved in a case involving
 18 New York State DOT?
 19 A. Yes.
 20 Q. Approximately, when was that?
 21 A. It started in 2012.
 22 Q. And how did you become involved in that?
 23 A. I was a -- I did an audit of New York State DOT
 24 in 2012, and started in Binghamton, New York.
 25 Q. Okay. And this was part of your duties as a

1 compliance officer?
 2 A. Yes, that's correct.
 3 Q. Okay. What was your role with respect to this
 4 case?
 5 A. I was the -- can I clarify something about my
 6 title?
 7 Q. Sure.
 8 A. Enforcement officer.
 9 Q. So you do enforcement, as well as compliance?
 10 A. Yes.
 11 Q. Okay. And what is the difference between
 12 enforcement and compliance?
 13 A. Compliance is where an inspector -- so I do
 14 inspections and I also do soil enforcement, so I have
 15 to clarify that.
 16 Q. Okay; thank you. And you mentioned that you
 17 did an audit with respect to New York State DOT.
 18 What is an audit?
 19 A. An audit is an in-depth look at the MS4. We
 20 typically do a detailed overview of the MS4 program
 21 from the start to finish of how the program is
 22 managed upfront, to how they implement minimum
 23 control measures, which are public transportation,
 24 public involvement, good housekeeping for the
 25 extension, construction, post-construction, illicit

1 discharge protection and elimination. We look at
 2 each and every one of them.
 3 Q. Okay. What is the overall purpose for doing
 4 these audits?
 5 A. To determine how the MS4 is implementing its
 6 program and to ensure compliance as part of that.
 7 Q. Okay.
 8 A. Because if an MS4 is not implementing its
 9 permit properly, it can lead to discharges of water.
 10 Q. When you do these audits, as a general matter,
 11 do you do this alone or are there contractors or
 12 other people that you work with?
 13 A. We generally do them as a team. It can be as a
 14 team of EPA inspectors, or it can be done with
 15 contractors. It depends on the type of MS4 that we
 16 are doing.
 17 Q. Okay. And in the case relating to New York
 18 State DOT, how many audits have you performed?
 19 A. How many audits did we perform?
 20 Q. Yes.
 21 A. For DOT, we did three total.
 22 Q. Can you tell us where those were?
 23 A. The first one was in Binghamton, New York, the
 24 second was in Poughkeepsie, New York, and the third
 25 was in Buffalo, New York.

1 Q. And the one -- the initial one, that would be
 2 -- that would be considered for DOT Region 9?
 3 A. That's correct. Region 9, yes.
 4 Q. And was that approximately June 19th through
 5 the 21st of 2012?
 6 A. Yes, that's correct.
 7 Q. Okay. And then, the second audit that you
 8 performed, that was with respect to Region 8?
 9 A. Yes, that's correct.
 10 Q. Just to link it, what geographic location was
 11 that?
 12 A. That was in the Hudson Valley.
 13 Q. And that was approximately November 27th
 14 through 29th of 2012?
 15 A. Yes, that's correct.
 16 Q. And the third audit that you did, that was what
 17 would be considered Region 5, New York State DOT?
 18 A. Yes, that's correct.
 19 Q. And what geographical location is that?
 20 A. That is in the Niagara Falls area, Western New
 21 York.
 22 Q. And was that approximately June 25th through
 23 27th of 2013?
 24 A. Yes, that's correct.
 25 Q. Okay. What was your role with respect to these

1 three audits?
 2 A. My role with respect to the audits was
 3 coordinating the audits, because we had contractors
 4 to relieve. So I setup the audits, coordinated the
 5 audits by working with the contractors to setup a
 6 date, and sending out these audit notifications and
 7 record requests to New York State DOT. Then once we
 8 got the response back from New York State DOT,
 9 working with the contractors to finalize, we do a
 10 pre-audit call at New York State DOT and enter the
 11 audit with the contractors, who had the on-site
 12 portion of the audit.
 13 When the audit was complete, the contractors
 14 wrote the report, but I was involved in reviewing the
 15 report, sending my comments out, any updates and
 16 revised my comments.
 17 Q. Okay; thank you. You have mentioned
 18 contractors a couple of times. Who are the
 19 contractors that were involved in this case?
 20 A. We utilized PG Environmental for all three
 21 audits, and PG Environmental sent a team out each
 22 time -- not a team -- not the same team each time,
 23 but there were the same contacts for each one, same
 24 key contact, and different team managers came out
 25 each time.

Page 33

1 Q. Okay. Has the EPA used that contractor for a
 2 significant period of time?
 3 A. Yes. PG Environmental has been a key
 4 contractor of the EPA for quite sometime.
 5 Q. You mentioned that you reviewed records prior
 6 to conducting the audit, correct?
 7 A. Yes.
 8 Q. Okay. And I would ask that the witness be
 9 shown what has already been moved into evidence as
 10 Complainant's Exhibit 1?
 11 MR. GARELICK: How do you want the
 12 dynamic might be of the introduction of
 13 records to go? Shall I approach the Witness
 14 myself?
 15 ALJ BIRO: Whatever is most efficient
 16 for you, as long as we have already marked
 17 them and it's identified.
 18 MR. GARELICK: Sure.
 19 Q. I will show you what has been marked as
 20 Complainant's Exhibit 1 in evidence.
 21 Do you recognize this document?
 22 A. Yes, it's an acknowledgment of a Notice of
 23 Intent that the DEC sends to the MS4 when they apply
 24 for coverage.
 25 Q. What is the significance -- can you explain

Page 34

1 what this document is and what its significance is?
 2 A. I'm sorry, can you say that again?
 3 Q. Can you explain what the significance of this
 4 document is?
 5 A. Yes. It's an acknowledgment that New York
 6 State DEC sends to an MS4, for DOT in this case, when
 7 they apply for coverage, and grants coverage and has
 8 the permit number and states that it has specific
 9 deadlines in it.
 10 Q. What is the deadline that is contained within
 11 this document?
 12 A. The deadline -- for example, the deadline for
 13 the SWMP, or storm water management program, must be
 14 fully implemented by January 8, 2008. The very first
 15 permit was issued in 2003, and the annual report --
 16 I'm sorry.
 17 Q. You mentioned the very first permit. Can you
 18 explain the relationship between the Notice of Intent
 19 and the permit?
 20 A. I'm sorry, what do you mean by that?
 21 Q. The Notice of Intent references a permit. Can
 22 you explain what it's referencing?
 23 A. Sure. The Notice of Intent, in 2003, DEC
 24 issued a permit requiring coverage, requiring MS4s to
 25 apply for coverage by March 10, 2003. So MS4s are

Page 35

1 automatically designated as getting or requiring
 2 coverage at the NOI. The DOT was an automatically
 3 designated MS4, so they were required to submit an
 4 NOI. They did so because the DEC issued the
 5 acknowledgment of Notice of Intent granting coverage
 6 on April 2, 2003, and they got their coverage in a
 7 timely matter at that point in time.
 8 Q. Okay. And in other words, acknowledge being
 9 covered by the permit?
 10 A. Yes.
 11 Q. Did those permits continue?
 12 A. When this first permit expired, it was expired
 13 in 2008, a new permit was issued in 2008. Any MS4
 14 that was covered under the 2003 permit, that permit
 15 coverage automatically rolled over the 2008 permit.
 16 So the DOT did not need to do anything because it
 17 automatically rolled over. The 2008 permit was a
 18 2-year permit. So when that permit, MS4 permit, was
 19 issued again in 2010, MS4s that were covered under
 20 the 2008 permit, in order to get coverage on the 2010
 21 permit, coverage at that time was not automatically
 22 rolled over into the 2010 permit; instead, this MS4
 23 submitted their annual report in a timely matter,
 24 within 180 days, and permit coverage was granted,
 25 because DEC considered the annual report to be the

Page 36

1 NOI for the 2010 permit.
 2 Q. Did that happen in this case?
 3 A. To my knowledge, yes.
 4 Q. And looking at Complainant's Exhibit 1, is
 5 there contact information contained therein for who
 6 DOT may contact regarding questions relating to the
 7 permit?
 8 A. Yes.
 9 Q. Who?
 10 A. That is on page 2.
 11 Q. That is on page 2, you said?
 12 A. Yes.
 13 Q. Who were the contact persons listed?
 14 A. The best two contacts were Joe Demer or Kevin
 15 Malone.
 16 Q. That is from DEC?
 17 A. Yes.
 18 Q. Okay. I'm now going to direct your attention
 19 to Complainant's Exhibit 4 in evidence.
 20 Do you recognize this document?
 21 A. Yes.
 22 Q. What is this document?
 23 A. It's -- the MS4 permit that was in effect at
 24 the time of the audit -- the audits.
 25 Q. Generally speaking, what does the permit

1 contain?

2 A. It contains the requirements that MS4 needs to

3 be complied with, such as the minimum control

4 measures.

5 Q. That's fine. Prior to conducting these audits,

6 did you have conversations with either EPA employees

7 or contractors regarding -- did you have

8 conversations with contractors and other EPA

9 employees prior to conducting the audits?

10 A. Conversations about what?

11 Q. Pre-audit conferences.

12 A. I had conversations with the contractors about

13 how to plan and conduct the audit, and the gist of

14 it, yes.

15 Q. Did you also have conversations with New York

16 State DOT staff regarding the upcoming audits?

17 A. No, not until we sent the audit notification

18 letter.

19 Q. Okay. And that was still prior to actually

20 conducting the audit?

21 A. That we had a pre-audit conference call.

22 Q. Okay. What -- you mentioned minimum control

23 measures that are contained within the 2010 permit,

24 correct?

25 A. Yes.

1 Q. What was the scope of the audits with respect

2 to New York State DOT concerning minimum control

3 measures?

4 A. We primarily looked at four minimum control

5 measures when we did the audit. We looked at minimum

6 control measures and that was for construction.

7 Q. When you say construction, what do you mean by

8 looking at a construction minimal control measure?

9 A. We are looking to see how DOT implemented the

10 requirement of the construction -- well, the

11 construction site's minimum control measure to ensure

12 the oversight of the construction requirement.

13 Q. Okay. And what was the next minimum control

14 measure you were looking at?

15 A. Post-construction.

16 Q. What were you generally looking at for the

17 post-construction minimal control measure?

18 A. Proper maintenance of the post-construction

19 site, proper operation and maintenance of

20 post-construction practices.

21 Q. What was the next minimum control matter?

22 A. Illicit discharge elimination; illicit

23 discharges, such as waste out of the storm sewer and

24 being discharged to the waters of the US, or water in

25 the United States?

1 Q. Okay. And what was the final minimal control

2 measure that you looked at?

3 A. Good housekeeping and pollution prevention.

4 Q. And what does that mean?

5 A. That's looking at the residency or maintenance

6 yard to ensure that DOT was evaluating its site to

7 ensure that pollutants are not being discharged or

8 running off-site into storm sewers and being

9 discharged to waters of the United States.

10 Q. I'm going to ask you some questions about the

11 individual audits that we have discussed, and I want

12 to direct your attention to Complainant's Exhibit 8

13 already in evidence.

14 Do you recognize this document?

15 A. Yes.

16 Q. And what is that document?

17 A. It's the MS4 audit notification letter we sent

18 for the audit we did in DOT Region 9, Binghamton.

19 Q. And what does it basically say?

20 A. It basically says that we are going to do an

21 audit in Region 9 on June 19th through the 21st, and

22 what we're going to review. We would like to have

23 staff available, and we have a conference call prior

24 to the audit, and we are requesting records ahead of

25 the audit.

1 Q. So, essentially, let's them know you're coming

2 and that they should prepare for your visit?

3 A. That's correct.

4 Q. I want to direct your attention to what has

5 been previously admitted into evidence as

6 Complainant's Exhibit 9.

7 Do you recognize this document?

8 A. Yes.

9 Q. And, generally speaking, what is this document?

10 A. It's the records request that I referenced in

11 the audit notification letter.

12 Q. And this looks blank, obviously. So this is

13 what you sent them?

14 A. Yes.

15 Q. Okay. And how is this records request broken

16 up?

17 A. Basically, broken up by category. The first

18 section, it's the overview, the program management.

19 The next section is the minimum control measures,

20 Illicit Discharge Detection and Elimination. Then

21 the next section is pollution prevention/good

22 housekeeping. Then the next section is the

23 construction site storm water run-off control --

24 minimum control measure. And the final section is

25 the post-construction storm water management minimum

Page 41

1 control measure.
2 Q. So is it fair to say that the document requests
3 are directly related to the minimum control measures
4 that you previously mentioned?
5 A. Yes.
6 Q. I want to direct your attention to what has
7 previously been moved into evidence as Complainant's
8 Exhibit 10.
9 Do you recognize this document?
10 A. Yes.
11 Q. And what do you recognize this document to be?
12 A. This is the agenda that we had sent with the
13 audit notification letter for Region 9 audit.
14 Q. What is the purpose of this document?
15 A. It's to frame the audit so DOT had an idea of
16 what we had hoped to achieve.
17 Q. Now, I'm going to direct your attention to
18 Complainant's Exhibit 11 in evidence.
19 Do you recognize this document?
20 A. Yes.
21 Q. And what is this document?
22 A. It's a response from DOT Region 9 acknowledging
23 the audit notification letter that we had sent out.
24 Q. Okay. And that is for the audit in Region 9?
25 A. Yes.

Page 42

1 Q. Now, I'm going to direct your attention to what
2 has been previously moved into evidence as
3 Complainant's Exhibit 13.
4 Do you recognize this document?
5 A. Yes.
6 Q. And what is this document?
7 A. This is the filled-out record response --
8 records request response from DOT Region 9.
9 Q. And who filled it out, to your knowledge?
10 A. I don't know specifically who filled it out.
11 Q. You received this from DOT?
12 A. Yes.
13 Q. Okay. And, well --
14 Now, I will show you what has been marked as
15 Complainant's Exhibit 30 in evidence.
16 Do you recognize this rather large document?
17 A. Yes.
18 Q. And what do you recognize the document to be?
19 A. This is the audit report for DOT Region 9.
20 Q. And you mentioned this briefly, but what was
21 your role with respect to this audit report?
22 A. I worked with the contractor to finalize the
23 audit report after it was drafted by the contractor.
24 Q. Okay. This process that we just went through
25 with respect to Region 9, the documentation that was

Page 43

1 just discussed, did you follow the same procedure
2 with respect to Region 8 and Region 5?
3 A. Yes.
4 Q. In other words, you sent an audit notice
5 letter, pre-audit records request, audit agenda, you
6 received an audit confirmation letter, a response to
7 your records request, and an audit report was
8 completed?
9 A. We do not always receive an audit confirmation
10 letter. We might have received an e-mail
11 confirmation or something, but not a formal
12 confirmation letter.
13 Q. But besides that, the process was the same for
14 the other two regions?
15 A. Yes. The process was the same, yes.
16 Q. After the audit reports were completed with
17 respect to Regions 9, 8 and 5, respectively, what
18 happened next?
19 A. After the reports were completed, we reviewed
20 the findings and evaluation, and determined that DOT
21 was in violation, and proceeded to draft an
22 Administrative Compliance Order.
23 Q. Okay. I will show you what has been marked as
24 Complainant's Exhibit 40 in evidence.
25 Do you recognize this document?

Page 44

1 A. Yes.
2 Q. And what do you recognize this document to be?
3 A. This is the Administrative Compliance Order
4 that was issued March 5, 2014.
5 Q. Who was it issued to?
6 A. It was issued to New York State Department of
7 Transportation.
8 Q. And who signed the order from EPA?
9 A. Dore LaPosta, Division Director.
10 Q. And how does this Administrative Compliance
11 Order relate to the findings in the audit reports?
12 A. It was issued with the violations that were
13 identified during the three audits of DOT at the
14 Binghamton Region 9, the Poughkeepsie Region 8 and
15 Buffalo Region 5 audits in 2012 and 2013.
16 Q. And the violations that you mentioned, are they
17 with respect to the minimum control measures that we
18 previously discussed?
19 A. Yes.
20 Q. Okay. What happened after you issued the
21 Administrative Compliance Order?
22 A. After the order was sent, we received -- they
23 had a 20-day period for -- let me get the exact term
24 for it. It's called -- yes, opportunity for a period
25 of 20 days to confer regarding the order position.

Page 45

1 We received a letter, or an e-mail, I can't remember
 2 exactly, from DOT wishing to take advantage of that
 3 20-day period. So we granted that 20-day period and
 4 gave DOT time, because they wished to review the
 5 order in depth. So we gave them that time. I can't
 6 remember exactly how much time, but that was some
 7 time until mid-April.
 8 Q. Okay. When was the date of the order?
 9 A. The date was March 5th.
 10 Q. Of what year?
 11 A. 2014.
 12 Q. And so, did there come a time in approximately
 13 May of 2014, when you met with individuals from New
 14 York State DOT?
 15 A. Yes.
 16 Q. Okay. And what was the purpose of that
 17 meeting?
 18 A. The purpose of that meeting was to go over the
 19 questions and issues that had arisen from DOT's
 20 review of the order. So we offered to meet with them
 21 face-to-face at their offices in Albany.
 22 Q. Is that standard practice for compliance at
 23 EPA?
 24 A. We are always willing to work with
 25 municipalities and anybody that we issue an order to,

Page 46

1 so whether face-to-face or over the phone.
 2 Q. And do you recall who was at that meeting?
 3 A. From EPA, it was Justine Modigliani, the
 4 section chief, myself; and from DEC, was Carol
 5 Lamphe, Meredith Streeter, and there was -- from DOT,
 6 Jonathan Bass, Dan Hitt, Ellen Kubek -- I'm sorry, an
 7 attorney from the DOT, I can't remember anybody else.
 8 Q. Okay. What was generally discussed at that
 9 meeting?
 10 A. We discussed the order and the time frames for
 11 the compliance schedule, as well as clarifying what
 12 the compliance schedule was for and, basically, we
 13 talked about DOT's concerns with the schedule that
 14 was in their -- DOT expressed that they needed more
 15 time to comply, and we said okay, we can work with
 16 you on that, and we came up with a schedule that
 17 worked for both, EPA and DOT.
 18 Q. And when you say you came up with a schedule,
 19 did you put this in any documentation?
 20 A. Yes. We memorialized a new schedule in a new
 21 and revised Administrative Compliance Order.
 22 Q. Now, I'm showing you what has been previously
 23 marked as Complainant's Exhibit 47 in evidence.
 24 Do you recognize this document?
 25 A. Yes.

Page 47

1 Q. What do you recognize this document to be?
 2 A. It's the revised Administrative Compliance
 3 Order that memorializes the deadlines that we agreed
 4 to with DOT at our May 2014 meeting.
 5 Q. Besides the compliance dates, are there any
 6 substantive differences in the two compliance order
 7 documents?
 8 A. No, they are identical.
 9 Q. What happened after you issued the second
 10 compliance order?
 11 A. After the second compliance order was issued,
 12 DOT started working towards compliance and submitting
 13 information once they met different deadlines, and
 14 they submitted quarterly progress reports.
 15 Q. And how long a period of time did this process
 16 take?
 17 A. From June of 2014 until final compliance was
 18 achieved in February of 2016, so just over a
 19 year-and-a-half.
 20 Q. And approximately, how many times did you meet
 21 during that time period?
 22 A. Approximately two, possibly three, and
 23 conference calls and phone calls in-between, too.
 24 Q. Okay. During this meeting with DOT staff,
 25 what, if anything, did you discuss relating to

Page 48

1 penalties?
 2 A. No discussion about a penalty.
 3 Q. And do you recall having any written
 4 correspondence with DOT relating to penalties during
 5 this period of time?
 6 A. Written correspondence, no.
 7 Q. So you mentioned that DOT complied with the
 8 Administrative Compliance Order in approximately
 9 February of 2016?
 10 A. Yes, the final submittal.
 11 Q. What happened next relating to this complaint
 12 -- or relating to this case? Sorry.
 13 A. After the February 5, 2016 submittal, we moved
 14 forward with the next phase, which was the complaint.
 15 Q. Okay. And is that essentially the reason why
 16 we're here today?
 17 A. Yes.
 18 Q. Okay. How, if at all, does the complaint
 19 differ from the Administrative Compliance Orders in
 20 this case?
 21 A. The complaint is an assessment of penalties.
 22 Q. And does it reflect the findings that were in
 23 the audit report and compliance order?
 24 A. Most, but not all, of the violations are
 25 reflected in the complaint.

1 Q. Can you explain that?

2 A. Yes. During the course of the Administrative

3 Compliance Order, we determined that some of the

4 violations in the Administrative Compliance Order

5 were not, in fact, violations and DOT had some

6 documentation, so we did not include those in the

7 complaint.

8 Q. Okay. And like the previous documents that we

9 discussed, the complaint essentially groups

10 violations by minimum control measures?

11 A. I would have to take a look at the complaint to

12 be certain, but...

13 Q. That's fine. It's actually a legal question,

14 so no worries.

15 Are you fine? If you need to take a break or

16 anything, we are going to go onto the next phase of

17 questioning. I want to make sure --

18 A. I'm fine.

19 Q. Okay. I want to talk to you a little bit about

20 specific violations and the record requests relating

21 to those violations.

22 I'm going to direct your attention to Exhibits

23 13, 34 and 37 for this set of questions.

24 ALJ BIRO: Would you like to take a

25 break?

1 MR. GARELICK: Sure. If we could take a

2 quick break, that would be great.

3 ALJ BIRO: We will stand in recess for

4 15 minutes.

5 (At which time, 10:05 a.m., a brief

6 recess is taken until 10:21 a.m.)

7 ALJ BIRO: Okay.

8 BY MR. GARELICK:

9 Q. Hello, again. I want to direct your attention

10 to Complainant's Exhibit 13 in evidence, particularly

11 records request -- or line 12.

12 A. Yes.

13 Q. What records did you request from DOT relating

14 to DOT permit requirements to develop and maintain a

15 map showing the location of all outfalls?

16 A. Map showing location of all outfalls?

17 Q. Correct; is that record request 12?

18 A. Yes. That would be 12, yes.

19 Q. Okay. And can you describe -- or you can read

20 from the document that is in evidence what you were

21 actually requesting?

22 A. Well, that one, we requested an on-site

23 demonstration of storm drain mapping tools, storm

24 drain system mapping tools. We emphasized layers of

25 mapping that formed the MS4 program activity, such as

1 storm drain system connectivity, structural control,

2 outfalls, and receiving waters.

3 Q. Okay. And did they -- did the DOT provide any

4 documentation to the request?

5 A. They said no, but, they will present that

6 example during the EPA visit.

7 Q. I will direct your attention to Exhibit --

8 Complainant's Exhibit 34 in evidence, and

9 particularly, records request number 14.

10 A. 34, you said?

11 Q. Yes.

12 A. Okay. 14.

13 Q. And was this the records request with respect

14 to Region 8?

15 A. Yes.

16 Q. Okay. And for the same requirement regarding

17 outfalls, did you request documentation from DOT?

18 A. Yes, something similar to the Region 9 -- same

19 thing, on-site demonstration.

20 Q. Okay. And was this responsive to your request,

21 the documentation that they provided.

22 A. They said, yes, and they said there was an

23 outfall mapping inventory project, record plan

24 showing storm drain construction, and specifically,

25 they stated that the storm drain conveyance system

1 information is found in record plans, and they used

2 GIS to identify the record plans for an area and the

3 outfalls already mapped at that location.

4 Q. Okay. Did you do any follow-up on this at this

5 time, or were these other individuals to do follow-up

6 on the record requests?

7 A. That follow-up, I believe, was done during the

8 audits.

9 Q. Okay. I will direct your attention to

10 Complainant's Exhibit 37, records request 12.

11 One question: Was this relating to the same

12 outfall records request that we discussed?

13 A. Yes.

14 Q. And what was DOT's response?

15 A. They stated, yes. And at the time of the

16 audit, Region 5 staff will demonstrate GIS inventory

17 of outfalls receiving waters, MS4 area and permanent

18 state pollutant discharge elimination system

19 facilities, et cetera.

20 Q. And was it the contractor's role to follow-up

21 on these responses at the time of their audit?

22 A. Yes.

23 Q. Moving on for a second, I will direct your

24 attention to Complainant's Exhibit 34, particularly

25 records request number 17.

Page 53

1 What records did you request from DOT, if any,
 2 with respect to its obligation to conduct outfall
 3 reconnaissance inventory addressing every outfall
 4 within the perimeters of jurisdiction at least once
 5 every 5 years?
 6 A. We requested documentation of outfalls
 7 reconnaissance inventory, including records of
 8 outfall inspections, dry weather, field screening,
 9 and monitoring for the most recent reporting year.
 10 Q. What is the significance of this request?
 11 A. It's a permit requirement.
 12 Q. And this was with respect to -- the record we
 13 are looking at currently, is with respect to Region
 14 8?
 15 A. Yes, that's correct.
 16 Q. And what was the response from New York State
 17 DOT?
 18 A. Number 17, they stated that they were
 19 submitting Illicit Discharge Detection Elimination
 20 for Westchester County and New York City, DEP, East
 21 of Hudson watershed, outfall summary report for March
 22 of 2011 to February of 2012.
 23 Q. Have you evaluated that response, the DOT's
 24 response, to that record request?
 25 A. I can't recall specifically. I would have to

Page 54

1 look at the audit report.
 2 Q. Are you aware of whether Region 8 DOT conducted
 3 outfall reconnaissance of its entire region?
 4 A. During the audit, it was discussed that DOT
 5 Region 8 was not going to meet the time frame for
 6 completing a hundred percent of its outfall
 7 reconnaissance inventory, because they were focusing
 8 on completing the Westchester/Eastern Hudson
 9 activity, and they were not going to do the
 10 watershed, or area to the west of the river, the
 11 Hudson River, so they said they were not going to
 12 meet the permit requirement.
 13 Q. When were they required to meet the permit
 14 requirements for that matter?
 15 A. That requirement, the outfall reconnaissance
 16 inventory, the ORI requirement, first appeared in the
 17 2008 permit, which was -- or went into effect May 1,
 18 2008; therefore, five years from that date, because
 19 the outfall reconnaissance is to be done once every
 20 five years with reasonable progress every year. So
 21 five years from that date is April 30, 2013. So DOT
 22 stated they were not going to meet that deadline.
 23 Q. And were you able to make a determination as to
 24 what percentage, essentially, of that deadline DOT
 25 did not comply with?

Page 55

1 A. Using data that was submitted during the time
 2 of the audit, they stated, no, they were not going to
 3 meet it, they were not going to meet it, they were
 4 focusing on Westchester and Eastern Hudson. Using
 5 the data that was submitted to us, they were actually
 6 about 50 percent completed by April -- or May 1,
 7 2013.
 8 Q. Okay. So in other words, they did not complete
 9 half of their requirements?
 10 A. That's correct.
 11 Q. And that included all of Rockland County?
 12 A. I would have to take a look at the second
 13 number.
 14 Q. Okay. I will direct your attention to
 15 Complainant's Exhibit 13, particularly records
 16 request 16. Exhibit 13, records request 16.
 17 What records did you request from New York
 18 State DOT relating to its obligation to develop and
 19 implement a program to detect and address illicit
 20 non-storm water discharges to the small MS4?
 21 A. We requested written procedures for field
 22 screening, outfall, and procedures for illicit
 23 detection, or the IDDE.
 24 Q. Is this known as track and fix?
 25 A. It's track down.

Page 56

1 Q. Okay; thanks. And what was DOT's response?
 2 A. They stated, no, but they had filled out the
 3 second -- or third column with a title, Instruction
 4 for Conducting Outfall Inspections, and that they
 5 would also present an example during EPA visit.
 6 Q. Okay. And did this documentation satisfy your
 7 request?
 8 A. For Region 9?
 9 Q. Yes.
 10 A. The document, Instruction for Conducting
 11 Outfall Inspection, was not detailed to the level
 12 that it needed to be detailed.
 13 Q. What level does it need to be detailed to?
 14 A. DOT found, during it's audit, that if they
 15 found illicit discharges, they would be referred to
 16 the Department of Health -- or the Department of
 17 Environmental Conservation did not have authority to
 18 stop the illicit discharge. It was outside of their
 19 right-of-way, but if it's within their right-of-way,
 20 they do have authority and responsibility to do track
 21 down, but they do track it down to where it's outside
 22 of their right-of-way. They, then, needed to have
 23 procedures for coordinating outside of the
 24 right-of-way; how do you coordinate that responsible
 25 entity, you track down to that point, to someone

Page 57

1 else.
2 Q. Okay.
3 A. It's merely handing it off to DOH -- or DEC for
4 follow-up and their approach.
5 Q. I will direct your attention to Complainant's
6 Exhibit 34, records request number 18.
7 What records did you request from Region 8 with
8 respect to the track down requirement?
9 A. Written procedures for field screening outfall
10 and procedures for IDDE.
11 Q. And what was DOT's response?
12 A. They stated, yes, and they stated they would
13 submit outfall inspection training and procedures.
14 Q. And I'm going to direct your attention to
15 Complainant's Exhibit number 37, records request
16 number 16.
17 With respect to the same requirement, what did
18 you request from New York State DOT.
19 A. Written procedures for field screening outfall
20 and procedures for IDDE.
21 Q. And was this response adequate.
22 A. They submitted instruction for constructing
23 outfall inspection and operation storm water outfall
24 inventory form. I believe we said it was inadequate
25 because it was instructions for conducting outfall

Page 58

1 inspections, not the actual IDDE procedures.
2 Q. Can you explain that difference?
3 A. Without looking at the actual inspection form,
4 it's more than for conducting inspections, not the
5 actual procedure for detecting and eliminating
6 discharges that happen.
7 Q. And what is the difference between outfall and
8 illicit discharges?
9 A. An outfall is storm water that comes out and
10 discharges to waters of the US -- of the United
11 States. Illicit discharge is where pollutants are
12 being discharged to waters of the United States, and
13 trying to prevent pollutants from being discharged
14 and the track down part of that, if there is an
15 illicit discharge and it gets into the waters of the
16 United States through the storm water conveyance
17 system, it's the MS4s responsibility to figure out
18 where it's coming from and mediate that discharge of
19 not getting into the system.
20 Q. Okay.
21 A. Stop it at the source.
22 Q. And that document request did not contain
23 written procedures for field screening outfalls and
24 procedures for IDDE, or illicit discharge detection
25 elimination?

Page 59

1 A. In my belief, it did not.
2 Q. Okay. I will direct your attention to
3 Complainant's Exhibit 13, particularly records
4 request number 9.
5 A. What number?
6 Q. Complainant's Exhibit 13, records request
7 number 9.
8 What documentation, if any, did you request
9 from New York State DOT regarding its obligation to
10 inform the public of the hazards associated with
11 illegal discharges and the improper disposal of
12 waste?
13 A. We requested procedures for receiving and
14 investigating public/employee complaints.
15 Q. What was DOT's response?
16 A. They stated, no; and no procedures.
17 Q. And was that adequate?
18 A. No.
19 Q. I will direct your attention to Complainant's
20 Exhibit 34, particularly records request number 11.
21 With respect to Region 8, what request did you
22 make with respect to procedures for receiving and
23 investigating public/employee complaints?
24 A. We requested procedures for receiving and
25 investigating public/employee complaints.

Page 60

1 Q. And what was DOT's response?
2 A. They stated, yes, and they forwarded an
3 operations handbook and snow and ice procedures, and
4 they sent a link to the operation handbook.
5 Q. Did you evaluate the adequacy of this response?
6 A. I can't recall specifically.
7 Q. Do you recall looking at the documentation that
8 they submitted?
9 A. I recall they submitted it, yes.
10 Q. And do you recall if it had adequate procedures
11 for receiving and investigating public/employee
12 complaints?
13 A. No. What was the question?
14 Q. Do you recall if the documentation that they
15 submitted contained adequate procedures for receiving
16 and investigating public/employee complaints?
17 A. I would have to take a look at it again.
18 Q. I will direct your attention to Complainant's
19 Exhibit 13, records request 37.
20 What records did you request from DOT relating
21 to its obligation to develop, implement and enforce a
22 program that describes procedures for receipt and
23 follow-up on complaints, or other information
24 submitted by the public, regarding construction site
25 storm water run-off?

Page 61

1 A. We requested procedures for receipt and
 2 follow-up on complaints, or other information
 3 submitted by the public, regarding construction
 4 sites.
 5 Q. And what was -- what is the importance of this
 6 request?
 7 A. The importance of this is the public has -- the
 8 permit requires a way for the public to be able to
 9 report. I have to have a copy of the permit, that
 10 would be great.
 11 Q. Sure. You should have Complainant's Exhibit 4.
 12 Okay. So does this help refresh your
 13 recollection?
 14 A. This is important for the public to have the
 15 permit, not only the permit requirement, but it
 16 allows the public to report it to the MS4, and the
 17 MS4 can follow-up on environmental concerns that are
 18 happening, that are perhaps run-offs on the
 19 construction site that are getting into the storm
 20 sewer and discharging to waters of the US, and also
 21 bring about being a good neighbor to the public,
 22 being a timely response, as there may be concerns
 23 that the MS4 may not be aware of.
 24 Q. And what did you request for documentation, in
 25 this regard, from Region 9?

Page 62

1 A. Yes, we did -- I believe I answered that
 2 already.
 3 Q. And what was DOT's response with respect to the
 4 request for documentation?
 5 A. No, they said, none available.
 6 Q. I will direct your attention to Complainant's
 7 Exhibit 34 in evidence, particularly records request
 8 number 44.
 9 And did you ask for similar documents with
 10 respect to Region 8?
 11 A. Yes.
 12 Q. And what was DOT's response?
 13 A. They stated that they had procedures for
 14 receipt -- or we asked for procedures for receipt and
 15 follow-up for complaints, or other information
 16 submitted by the public, regarding construction
 17 sites.
 18 Q. And what was DOT's response?
 19 A. They stated, yes, and they had narrative
 20 construction procedures.
 21 Q. Was that adequate to your request?
 22 A. I have to take a look and see what that was
 23 specifically.
 24 Q. I will direct your attention to Complainant's
 25 Exhibit 37, particularly records request number 38.

Page 63

1 Were you asking for similar documents in that
 2 regard?
 3 A. Yes.
 4 Q. And what was DOT's response?
 5 A. DOT cited, what appeared to be a specific
 6 construction site, and it appeared to be a very
 7 specific nomenclature. It was codes that DOT uses
 8 for their site, it had PIN numbers and whatnot.
 9 Q. And was that adequately responsive to your
 10 request for the documents describing procedures?
 11 A. No, it did not appear to be.
 12 Q. I will direct your attention, again, to the
 13 same document, Complainant's Exhibit 37, records
 14 request number 49.
 15 What records did you request from DOT relating
 16 to its obligation to develop, implement and enforce a
 17 program to ensure adequate long-term operation and
 18 maintenance of management practices by trained staff,
 19 including assessment to ensure that practices are
 20 performed properly?
 21 A. We requested documentation of training for DOT
 22 staff that conduct post-construction storm water
 23 management practice inspection and maintenance.
 24 Q. And was this cited documentation adequately
 25 responsive to your request?

Page 64

1 A. DOT stated, yes, and they submitted a document
 2 dated -- or titled 2011 Outfall Inspection Agenda
 3 that appeared to be inadequate.
 4 Q. I'm going to direct your attention to
 5 Complainant's Exhibit 13 in evidence, particularly
 6 records request number 20.
 7 What documents, if any, did you request from
 8 New York State DOT to develop and prevent a good
 9 housekeeping program for municipal operations and
 10 facilities that addresses municipal operations that
 11 contribute or potentially contribute pollutants of
 12 concern to the small MS4 system?
 13 A. We requested operational BMPs, best
 14 manufacturing practices, developed to reduce storm
 15 water pollution from DOT facilities and activities.
 16 Q. And what documents did DOT respond with, if
 17 any?
 18 A. They responded with a lot of documents. First,
 19 Chapter 4 of the Environmental Handbook for
 20 Transportation Operations, Operation of Oil and Water
 21 Separators, Wastewater Controls from Vehicle Washing
 22 and Storage, Spill Prevention, Control and
 23 Counter-measure Plans, and Spill Prevention Guidance
 24 Template, fuel and petroleum storage, main office and
 25 regional responsibilities, DOT/DEC MOU for spill

1 zones along the right-of-way, road-kill deer carcass
 2 composting operation and maintenance manual.
 3 Q. And did you have a chance to review these
 4 documents at some point?
 5 A. Yes.
 6 Q. And were any of these documents site-specific?
 7 A. No.
 8 Q. Was there a requirement for these BMPs to be
 9 site-specific?
 10 A. In relation to?
 11 Q. Their best management practices; what was the
 12 requirement with respect to these documents?
 13 A. Required them for -- I'm sorry, what's the
 14 question?
 15 Q. Did you believe these documents to be
 16 adequately responsive to your request?
 17 A. Not wholly responsive, no.
 18 Q. Why is that?
 19 A. These documents are general guidances for site
 20 -- DOT needed site-specific BMPs to adjust
 21 site-specific concerns and failures at their
 22 maintenance facilities. So while these guidances are
 23 just State-wide procedures, they need to be an
 24 additional level of detail to address site-specific
 25 concerns at various areas across the state where we

1 saw concerns. In Buffalo, they have different
 2 concerns than Poughkeepsie and Binghamton. The
 3 topography is different and the environment is
 4 different, there needed to be an additional layer of
 5 concern.
 6 Q. I will direct your attention to Complaint's
 7 Exhibit 34 in evidence, particularly record requests
 8 33 and 34.
 9 Was this request for the similar requirement
 10 that we just discussed?
 11 A. Yes, that's correct.
 12 Q. And is it -- without getting to the specific
 13 details, is it fair to say that the responses that
 14 they provided similarly lack site-specific BMPs?
 15 A. Yes.
 16 Q. I will direct your attention to Complainant's
 17 Exhibit 37 in evidence, particularly record requests
 18 20 and 21.
 19 Were these requests responsive to the same
 20 requirement we just discussed?
 21 A. Same requirement, yes.
 22 Q. And were there any site-specific documentation
 23 provided by DOT in response to these requests?
 24 A. Site-specific, no.
 25 Q. I would like to direct your attention to

1 Complainant's Exhibit 13 in evidence, particularly
 2 record request number 21.
 3 What documentation did you request from New
 4 York State DOT relating to its obligation to perform
 5 a self-assessment of municipal operations?
 6 A. We requested copies or documentation of
 7 self-assessment of DOT operations and facilities for
 8 the current permit term.
 9 Q. And what do we mean by self-assessment?
 10 A. A self-assessment is a review or a walk-through
 11 of the maintenance facility for environmental
 12 concerns. It is from the top-down. We look at the
 13 environmental exposure, what can run off the site,
 14 and you document what you see, what you can do to fix
 15 it. These are things that need to be implemented.
 16 Q. And what was DOT's response?
 17 A. No, but there was a narrative, or document,
 18 that said there was a spill prevention control and
 19 countermeasure plan, and spill prevention report; and
 20 they will present examples during EPA visit.
 21 Q. Was that an adequate response to your request
 22 for self-assessment documents?
 23 A. No.
 24 Q. Why not?
 25 A. The spill prevention control and countermeasure

1 plan is a small component of a self-assessment, but
 2 not a complete self-assessment. We need to look at
 3 more than the spill plans.
 4 Q. I will direct your attention to Complainant's
 5 Exhibit 34 in evidence, records request number 25.
 6 And what request was this relevant to; what
 7 requirement?
 8 A. This was the self-assessment, similar request
 9 for documentation of self-assessment of all DOT
 10 operations and facilities, the current permit term
 11 for DOT Region 8.
 12 Q. And was this documentation reflective of
 13 performing self-assessments?
 14 A. The response was very similar, that stated,
 15 yes, and spill prevention control and countermeasure
 16 plan template, and petroleum bulk storage inspection,
 17 and reporting checklist.
 18 Q. Was that a self-assessment?
 19 A. No.
 20 Q. Why not?
 21 A. Again, it's a small component of what a
 22 self-assessment would look like -- would look at, but
 23 there is more to a self-assessment than spill
 24 prevention control and petroleum bulk storage.
 25 Q. I will direct your attention to Complainant's

1 Exhibit number 37 in evidence, particularly records
 2 request number 22.
 3 And what obligation was this record request
 4 with respect to?
 5 A. This is with respect to the documentation of
 6 self-assessments of all DOT operations and facilities
 7 for the current permit term for DOT Region 5 in
 8 Buffalo.
 9 Q. And were the responses contained within the
 10 Region 5 response directive of actual
 11 self-assessments performed?
 12 A. No. Again, they were spill control plans,
 13 spill control countermeasure plans, above-ground
 14 storage tank inspection, and reconciliation plan
 15 form, which are not self-assessments.
 16 Q. Did you take a post-construction conference
 17 call July 25, 2013 relating to the inspection?
 18 A. I believe so, yes.
 19 Q. And do you recall a conversation relating to
 20 whether DOT had conducted self-assessments of New
 21 York State DOT facilities, specifically for storm
 22 water purposes?
 23 A. I don't recall specifically.
 24 Q. I will direct your attention to Complainant's
 25 Exhibit 13 in evidence, records request number 27.

1 What documentation, if any, did you request
 2 with respect to training relating to pollution
 3 prevention and good housekeeping?
 4 A. We requested employee maintenance personnel
 5 training plan, records and syllabus pertaining to
 6 pollution prevention/good housekeeping training.
 7 Q. And what was DOT's response?
 8 A. They stated nothing, no, none available.
 9 Q. Was that adequate?
 10 A. No.
 11 Q. I will direct your attention to Complainant's
 12 Exhibit 34 in evidence, particularly records request
 13 number 33.
 14 What was this request requesting?
 15 A. This is similar. The training plan records and
 16 syllabus of good housekeeping for DOT Region 8.
 17 Q. And what was their response?
 18 A. They stated, yes, and indicated employee
 19 maintenance personnel training.
 20 Q. Okay. And was that adequate for training
 21 purposes?
 22 A. Without looking at the actual training plan,
 23 off the top of my head, I can't recall.
 24 Q. I will direct your attention to Complainant's
 25 Exhibit 37, records request number 28.

1 And what were you requesting in this records
 2 request?
 3 A. Very similar to the other, this is personnel
 4 training plan, record or syllabus for pollution
 5 prevention/good housekeeping for DOT Region 5
 6 Buffalo.
 7 Q. And what was DOT's response?
 8 A. Same; they stated, no, but they had a comment
 9 at the end, the last column, stating that they did
 10 annual spring safety meeting, informal monthly
 11 facility inspections with follow-up guidance.
 12 Q. Okay. And was this adequate, based on your
 13 understanding?
 14 A. No.
 15 Q. Why not?
 16 A. Because spring safety meetings typically
 17 covered safety items, not environmental components,
 18 and informal monthly facility inspections do not have
 19 a structured agenda, and it's not documented.
 20 MR. GARELICK: One second, Your Honor.
 21 Q. I would like to direct your attention to
 22 Complainant's Exhibit 13 in evidence, particularly
 23 records request number 22.
 24 What did you request in this records request
 25 number 22?

1 A. Records of DOT facility inspections conducted
 2 for storm water purposes, most recent reporting year.
 3 Q. What is the relevance of that request?
 4 A. Probably part of it is related to the
 5 self-assessment.
 6 Q. And what was DOT's response?
 7 A. They stated, no, not available.
 8 Q. I will direct your attention, on the same
 9 document, to records request number 47.
 10 What did EPA request from DOT relating to that
 11 question?
 12 A. Records of maintenance for post-construction
 13 storm water management practices for the most recent
 14 reporting year.
 15 Q. And what was DOT's response?
 16 A. They stated, no, nothing for the most recent
 17 reporting year.
 18 Q. Was that an adequate response?
 19 A. It depends.
 20 Q. What does that depend on?
 21 A. It depends on how many processes there are in
 22 DOT's region. This is Region 9, so if they do more
 23 or less -- if they had more or they have less, it
 24 depends on the -- you know, any source of their storm
 25 water management, but most likely, it may not have

1 been, but not knowing the universe, I can't say.
 2 Q. Same analysis with respect to records request
 3 number 46?
 4 A. 46 is the same as 47.
 5 Q. Okay. And the response from DOT was?
 6 A. 46's response was, not available.
 7 *****
 8 FURTHER DIRECT EXAMINATION
 9 BY MR. SAPORITA:
 10 Q. With regard to those last lines --
 11 ALJ BIRO: Wait, wait. What is this
 12 switch-hitting rule we are doing here?
 13 MR. SAPORITA: Just one last question
 14 before we --
 15 ALJ BIRO: You want to ask a few more
 16 questions?
 17 MR. SAPORITA: Just one or two to finish
 18 the line of questioning.
 19 ALJ BIRO: Ms. McNally, do you have any
 20 objection to this?
 21 MS. McNALLY: Provided we are allowed
 22 the same courtesy, we have no objection.
 23 ALJ BIRO: Go ahead.
 24 BY MR. SAPORITA:
 25 Q. Thank you.

1 Regarding rows 46 and 47, the inspections, and
 2 the DOT's answer that they did not have those
 3 records, is it possible to evaluate and know whether
 4 your post-construction BMPs are in working order
 5 without completing regular inspections?
 6 A. No.
 7 MR. SAPORITA: Thank you. No further
 8 questions.
 9 ALJ BIRO: Before we proceed, I
 10 understand that you intend to recall this
 11 Witness at a later time, so she is not being
 12 asked any questions on direct regarding
 13 penalty; is that correct?
 14 MR. SAPORITA: That's correct.
 15 ALJ BIRO: Is that what you agreed to,
 16 Ms. McNally?
 17 MS. McNALLY: Yes. As long as her
 18 testimony is confined to the penalty when she
 19 is recalled, we have no problem with that.
 20 ALJ BIRO: All right. Then, would you
 21 like to proceed with cross-examination?
 22 MR. WINANS: I'm prepared to proceed, if
 23 you would be pleased.
 24 ALJ BIRO: We are going to take a break
 25 whenever the maintenance people arrive and

1 break for lunch, which should be around noon,
 2 in order to allow them to fix the blinking
 3 light. So I don't want to cut off your
 4 questioning, but in an effort to eliminate
 5 this annoyance, you know...
 6 MR. WINANS: You are the boss. Whatever
 7 you want to do.
 8 ALJ BIRO: We will take a break then,
 9 because I think it really needs to be fixed
 10 because they are kind enough to come and do
 11 it today. I would like to get it done; okay.
 12 MR. WINANS: Are you saying to start
 13 now?
 14 ALJ BIRO: Start now, but when they
 15 arrive, we are going to take a break for
 16 lunch and we will come back.
 17 MR. WINANS: Very good.
 18 *****
 19 CROSS-EXAMINATION
 20 BY MR. WINANS:
 21 Q. Ms. Arvisu, my name is David Winans. I'm an
 22 attorney with the Department of Transportation. I
 23 work right in that office where you met with the
 24 people at the DOT; and I do have a few questions for
 25 you.

1 If, for some reason, you don't understand one
 2 of my questions, please let me know that. I want to
 3 be correct, I want to get to the facts, okay, and I'm
 4 not an environmental specialist in any way. A month
 5 ago, I didn't know the difference between MS4 and
 6 MS13, and I was worried I was getting dragged into
 7 something on Salvadorian Crime Families; but at this
 8 point, hopefully, we will be able to get through
 9 this.
 10 Now, when you did the audit of the DOT and
 11 their compliance with the MS4 permit, how many audits
 12 had you done at the EPA before that?
 13 A. Prior to DOT?
 14 Q. Yes, prior to DOT in, I think it's 2012.
 15 A. I would have to take some time to think about
 16 that.
 17 Q. Had you ever audited a State Department of
 18 Transportation for compliance with an MS4 permit?
 19 A. Prior to DOT, no.
 20 Q. Isn't it a fact, Ms. Arvisu, that prior to the
 21 2012 series of three audits of the New York State
 22 Department of Transportation, the EPA had never
 23 audited a State Department of Transportation for
 24 compliance with the MS4 permit?
 25 A. Region 2.

1 Q. Well, if you only know about Region 2, by all
 2 means, tell me that.
 3 MR. SAPORITA: Objection, Your Honor.
 4 This is irrelevant.
 5 ALJ BIRO: Overruled. Go ahead.
 6 Q. Had you, in Region 2, ever participated in an
 7 audit of a State transportation department for
 8 compliance with MS4 permits?
 9 A. No.
 10 Q. To your knowledge, had Region 2 ever engaged in
 11 an audit for compliance with MS4 permit requirements
 12 anywhere in Region 2?
 13 A. Of MS4?
 14 Q. Yes, MS4.
 15 A. Yes.
 16 Q. Okay. Where had you done an audit for MS4 for
 17 a State transportation department before 2012?
 18 A. I'm sorry, I'm confused by your question.
 19 Q. Okay. If I understand correctly, Region 2 is
 20 comprised of the State of New York, New Jersey,
 21 Puerto Rico, and the Virgin Islands; is that correct?
 22 A. Yes.
 23 Q. And the only states in Region 2 are New York
 24 and New Jersey; is that correct?
 25 A. The only states, yes.

1 Q. Had Region 2 ever engaged in an audit for MS4
 2 compliance in the State of New Jersey before 2012?
 3 A. You're talking MS4, in general?
 4 Q. MS4, the State DOT.
 5 A. Of DOT?
 6 Q. Yes.
 7 A. No.
 8 Q. I mean, New Jersey has a Department of
 9 Transportation, does it not?
 10 A. Yes. I just want to clarify something. When
 11 you are talking about MS4, if you are referencing MS4
 12 in general, I need to clarify that and you can say
 13 DOT. Please say DOT so I get that clear in my head,
 14 because, obviously, before 2012, we have done MS4s,
 15 but prior to 2012, no DOTs.
 16 Q. Okay. And I imagine in Puerto Rico -- do you
 17 get to go to Puerto Rico?
 18 A. Occasionally, yes.
 19 Q. They have a Department of Transportation in
 20 Puerto Rico, do they not?
 21 A. Yes.
 22 Q. Was there any audit for MS4 compliance of the
 23 DOT in Puerto Rico before 2012?
 24 A. I believe there was, but at a multi-level
 25 thing, so, no.

1 Q. What about the Virgin Islands; is there a DOT
 2 in the Virgin Islands?
 3 A. Not -- I'm not sure.
 4 Q. Have you been to the Virgin Islands with EPA?
 5 A. Yes, I have.
 6 Q. And did you do any audits of the DOT there
 7 before 2012?
 8 A. No.
 9 Q. And what about the other regions of the EPA;
 10 are you aware of any audits of State DOTs for
 11 compliance with their MS4 permits before 2012?
 12 A. I believe there have been, yes.
 13 Q. What states?
 14 A. I can't recall off the top of my head.
 15 Q. Okay. Now, Ms. Arvisu, do you know when the
 16 Clean Water Act was adopted and became law?
 17 A. 1973.
 18 Q. So can we agree that the State transportation
 19 system in New York pre-dates the Clean Water Act?
 20 A. I believe so.
 21 Q. Okay. And are you aware that the Clean Water
 22 Act has, as one of its goals, one of its
 23 requirements, the control of storm water discharges?
 24 A. Yes.
 25 Q. Okay. And storm water, can we define that as

1 rain water that occurs because of normal
 2 precipitation?
 3 A. Yes.
 4 Q. And is it a requirement of the Clean Water Act
 5 that that storm water be treated consistent with the
 6 requirements of the Act?
 7 A. Yes.
 8 Q. And is that process something that occurs over
 9 the entire transportation system in a state?
 10 A. Subject to the Clean Water Act.
 11 Q. Are you aware what the New York State
 12 Department of Transportation's transportation system
 13 consisted of in 2012?
 14 MR. GARELICK: Objection, Your Honor.
 15 It is vague as to what an entire
 16 transportation system comprises of.
 17 MR. WINANS: I can be more specific.
 18 ALJ BIRO: Okay.
 19 Q. Ms. Arvisu, do you know how many lane miles
 20 consist -- that the New York State Department of
 21 Transportation's transportation system consists of?
 22 A. No.
 23 Q. Do you know how many catch basins there are in
 24 the transportation system that is operated by the New
 25 York State Department of Transportation?

1 A. No.

2 Q. You are aware, Ms. Arvisu -- I think you said

3 on direct, that there are municipal storm water

4 systems that connect legally to the New York State

5 Department of Transportation system; is that correct?

6 A. They are part of the areas that are adjacent to

7 New York State.

8 Q. And sometimes they connect, do they not?

9 A. They are an interconnected system, yes.

10 Q. Okay. And is it accurate to say that the Clean

11 Water Act and the MS4 permits do contemplate that

12 rainfall will occur, it will enter the storm water

13 system, and it will pass through that system into the

14 waters of the United States?

15 A. Yes.

16 Q. Okay. And since the Clean Water Act was

17 adopted, was there a requirement that municipal

18 systems, including the State of New York, obtain an

19 MS4 permit?

20 A. Urbanized areas automatically designated, yes.

21 Q. You indicated on direct testimony that the

22 first MS4 permit for New York State was in 2003; did

23 I get that correct?

24 A. Yes.

25 Q. And when I look at the exhibit , it appears

1 that it's 28 pages in length in 2003.

2 Did you write that permit?

3 A. I did not write that permit.

4 Q. Do you know who wrote that permit?

5 A. New York State DEC.

6 Q. The DEC was working for whom in creating that

7 permit?

8 A. I'm sorry?

9 Q. Who was the DEC working for; were they working

10 for the State of New York or were they working as an

11 agent of the EPA?

12 A. A delegated entity.

13 Q. And was there any negotiation between the State

14 DOT and the DEC in formulating the contents of the

15 2003 MS4 permit?

16 A. I have no knowledge of that.

17 Q. The 2003 permit was replaced, I believe you

18 testified, by a 2008 permit; is that correct?

19 A. Yes.

20 Q. And I note in the exhibit that the MS4 permit

21 from 2008 went from the original 28 pages to 91

22 pages.

23 Do you know what was added when they went from

24 2003 to 2008?

25 A. More substantial requirements in the different

1 -- you have to do a line-by-line comparison, but...

2 Q. And, once again, when that 2008 permit was

3 created, was that created by the DEC working as an

4 agent of the EPA?

5 A. DEC-delegated authority.

6 Q. Okay. And was there any negotiation that was

7 possible between the state DOT and the --

8 MR. GARELICK: Objection; calls for

9 speculation.

10 ALJ BIRO: Sustained.

11 Q. Okay. Are you aware of any negotiations that

12 occurred between the State DOT and the DEC in

13 formulating the terms of the 2008 MS4 permit?

14 A. I have no knowledge of that.

15 Q. That MS4 permit in 2008, that only had a 2-year

16 term; is that correct?

17 A. Yes.

18 Q. And that permit was replaced by a 2010 MS4

19 permit, which is in evidence as Exhibit 4.

20 Was that permit, the 2010 permit, the permit

21 that you were operating under when you performed the

22 series of three audits in 2012?

23 A. At that time, that was the permit that was in

24 effect.

25 Q. And that permit appears to be 116 pages in

1 length, as opposed to the 2008 permit, which is 91

2 pages, and the 2003 permit, which was 28 pages.

3 Would it be accurate to say that all of the

4 terms in that 2010 permit were formulated by the DEC

5 as a delegated agent of the EPA?

6 A. A delegated authority.

7 Q. Delegated authority; thank you.

8 Now, is it fair to say that in those 116 pages,

9 in the MS4 permit, there are many provisions, many

10 requirements, that were not covered by your audit?

11 A. There are two sections to the permit. One for

12 traditional MS4, non-traditional MS4, then there is

13 another section of the permit that has special

14 conditions, like Part 9 bridges, and Long Island

15 Sound, and special watersheds.

16 Q. But you only audited the portions of the MS4

17 permit that are covered in your audit report; is that

18 a fair statement?

19 A. Can you say that again? I'm not following your

20 question.

21 Q. I just want to know, I want to make it clear,

22 okay, and you correct me if I'm wrong, that the

23 entire contents of the 116-page MS4 permit were not

24 audited by you in 2012?

25 A. Re-evaluating the minimum control measures was

Page 85

1 the key component of the permit, the minimum control
 2 measures.
 3 Q. Okay. And this audit process that you followed
 4 in 2012, it did consist of three separate and
 5 distinct audits, correct?
 6 A. Yes.
 7 Q. And the first audit was in DOT Region 9, which
 8 is based primarily in the Binghamton area. Do you
 9 recall that?
 10 A. That's correct.
 11 Q. And then, the second audit was in DOT Region 8,
 12 which is in the Poughkeepsie area, correct?
 13 A. That's correct.
 14 Q. And then, the third audit was a mini-audit of
 15 DOT Region 5, which is in the Niagara and Erie County
 16 area; is that correct?
 17 A. That's correct. They were all the same types
 18 of audits.
 19 Q. Okay. Now, when the MS4 permits were
 20 developed, was there any thought given as to how New
 21 York had operated its transportation system since
 22 before the American Revolution and what records DOT
 23 maintained?
 24 MR. GARELICK: Objection, Your Honor.
 25 She has not given any indication that she was

Page 86

1 the one who personally developed the permit,
 2 so as to speculate what someone was thinking
 3 about during the American Revolution --
 4 ALJ BIRO: Assumes facts not in
 5 evidence; sustained. Restate.
 6 Q. The records that are specified in the MS4
 7 permit, are those the records that you requested when
 8 you made your initial record requests?
 9 A. Can you say that again?
 10 Q. Did your audit process include a request to DOT
 11 for records?
 12 A. Yes.
 13 Q. And you have multiple exhibits, one for each of
 14 the three audits, that contains a list of records
 15 that you requested. Do you recall those?
 16 A. Yes.
 17 Q. And where did you identify the names for the
 18 records that are listed on those record requests?
 19 A. The record requests were developed based on the
 20 specific permit requirements. We identified records
 21 that would be applicable to substantiate what we
 22 needed for those.
 23 Q. So, since you began the audit process and since
 24 you have worked with the DOT on compliance with the
 25 MS4 requirements, have you come to learn that DOT

Page 87

1 records do not always go by the names that appear in
 2 the MS4 permit?
 3 A. We learned that, yes. They are different, but
 4 there are still requirements in the permit that need
 5 to be met. They may be called a different name, but
 6 still requirements of the records that need to be
 7 met.
 8 Q. For example, the records you just went over,
 9 there is a requirement in the MS4 permit for records
 10 showing outfall mapping; is that one of the
 11 requirements?
 12 A. Yes.
 13 Q. Is that a fair way of restating it?
 14 A. Yes.
 15 Q. And that was one of the areas that you have
 16 testified that the DOT was deficient in its
 17 recordkeeping, correct?
 18 A. Yes.
 19 Q. And did you, in the process of your audit,
 20 review the as-built drawings for the highway
 21 locations where you performed the audits?
 22 A. Yes.
 23 Q. Were the outfalls depicted in all of the
 24 as-built drawings?
 25 A. We did not cite that as a violation in the

Page 88

1 complaint.
 2 Q. So that --
 3 A. That was for the preliminary storm sewer shed
 4 mapping. That was not cited as a violation in the
 5 complaint because that was the presentation that DOT
 6 gave us. That was the record plan, that was not a
 7 violation.
 8 Q. Okay. Your investigation included records
 9 related to illicit discharges. Can you tell the
 10 Judge what an illicit discharge is?
 11 A. Illicit discharge is a pollutant that is
 12 entering a storm sewer, that could be dumped in a
 13 storm sewer, that could be motor oil, that could be
 14 leaking into a catch basin, that makes its way to the
 15 storm sewer.
 16 Q. Is rain water enters a catch basin during a
 17 rain storm, is that illicit discharge?
 18 A. Only if pollutants enter first.
 19 Q. Did you ever, in the case of your audits, make
 20 any determination or find any evidence that the New
 21 York State Department of Transportation was engaging
 22 in illicit discharges into the storm water system to
 23 reach the waters of the United States?
 24 A. We saw evidence of illicit discharge.
 25 Q. Where?

1 A. At the Poughkeepsie audit, where we saw paint
 2 in catch basins.
 3 Q. Paint?
 4 A. Paint residue in catch basins.
 5 Q. Anything else?
 6 A. I can't recall off the top of my head.
 7 Q. Would it be possible, Ms. Arvisu, for a person
 8 not working for the DOT to utilize the storm water
 9 system to engage in the process of making illicit
 10 discharges?
 11 A. I'm sorry, I couldn't hear you with the
 12 coughing?
 13 Q. Would it be possible for someone, other than
 14 the DOT, to use the storm water system to make an
 15 illicit discharge?
 16 A. In the DOT system?
 17 Q. Yes.
 18 A. Absolutely.
 19 Q. And that could be paint or oil, I think you
 20 said; is that correct?
 21 A. Yes.
 22 Q. Could it also be an illicit connection that
 23 discharges affluent, sewage?
 24 A. Yes.
 25 Q. And what about a discharge from a downspout or

1 a sump pump of groundwater, or water collected on a
 2 roof, does EPA regard that to be illicit discharge?
 3 A. No.
 4 Q. Are such connections from either a downspout or
 5 a sump pump that goes into the storm water system and
 6 carries exclusively ground water or rain water, is
 7 there a requirement in the MS4 permit that those
 8 connections be regulated?
 9 A. Regulated, no.
 10 Q. So it would be possible for a Citizen to go out
 11 and connect their sump pump to a catch basin and,
 12 still, New York would be in compliance with the --
 13 A. It's recommended not to. There are certain
 14 categories under the permit where they have allowable
 15 non-storm water discharges. If I'm able to look at
 16 the permit, I can read it there in the permit. It's
 17 allowable non-storm water discharges, and there is
 18 exemptions for non-storm water discharges, and New
 19 York State permits specifically identify them as
 20 water from crawl spaces and basement sump pumps as
 21 one of those.
 22 Q. I may have misunderstood your testimony, but I
 23 thought that one of the things that you found the
 24 State to be deficient on was in the regulations of
 25 these connections, people connecting to the storm

1 water system. My note said that you were looking for
 2 records regarding New York State DOT's outreach to
 3 the public about illicit connections?
 4 A. That's correct. And that is the connection,
 5 yes, that's correct.
 6 Q. Okay. And if you have a connection to the
 7 State municipal storm water system and you don't know
 8 what's coming from that connection, is that something
 9 that the State is required to know about under its
 10 permit?
 11 A. Who, the State?
 12 Q. Yes, the State that owns the catch basin that
 13 someone connects a pipe to.
 14 A. That part of the State -- I'm sorry, I'm not
 15 following your question.
 16 Q. Is that part of the State's responsibility, to
 17 know who is connected to the State's system?
 18 A. That is part of the State's IDDE program to
 19 track down.
 20 Q. So it's a responsibility, is that what you're
 21 saying?
 22 A. If there is discharge and you see something
 23 coming down, it's part of the State's MS4
 24 responsibility, that is the connection part of the
 25 track down program.

1 Q. Okay. So, Ms. Arvisu, is the State only
 2 responsible for tracking down illicit discharges or
 3 are they also responsible for tracking connections?
 4 A. Normally, you would find illicit discharge to
 5 be something that is at a connection. So illicit
 6 connections you find through -- you find sewage
 7 coming out into your water body of the US, and you
 8 find it at the source of the connection. That is how
 9 you find it, at the connection.
 10 Q. Did you find any illicit connections to the
 11 State system during the course of your three audits?
 12 A. I don't believe we did.
 13 Q. And so, the problems that you cited in your
 14 audit report and the problems that you have testified
 15 to today, are with the State's failure to have
 16 records in compliance with the permit; is that
 17 correct?
 18 A. Not specifically, no.
 19 Q. Okay. Well, how is it not specifically related
 20 to that?
 21 A. Can you remind me what specifically that record
 22 is that you're questioning on?
 23 Q. To be honest, I was -- the attorneys for the
 24 EPA were meticulous in covering three exhibits with
 25 record requests, and I have been listening to you

1 testify for sometime, and I cannot identify each one,
 2 so I guess I will just move on.
 3 From the time that you first notified the New
 4 York State DOT of EPA's intention to perform an
 5 audit, and the first audit would be in -- of the
 6 Region 9 area, were the DOT employees cooperative
 7 with you?
 8 A. Yes.
 9 Q. At any point in time in the process, did DOT
 10 employees refuse to cooperate with you?
 11 A. No.
 12 Q. Did you hear any instances where a DOT employee
 13 refused to cooperate with any other personnel working
 14 on the audits?
 15 A. No.
 16 Q. The Region 9 audit includes -- what I did write
 17 down your testimony was; minimal -- minimum control
 18 measures related to construction work?
 19 A. Yes.
 20 Q. And you did find deficiencies in connection
 21 with the control measures exercised in the
 22 construction supervision for Region 9; is that
 23 correct?
 24 A. Yes.
 25 Q. When you identified those deficiencies, did you

1 notify the DOT employees?
 2 A. During the audit, if we noticed -- we had a
 3 closing conference where we summarized issues and
 4 concerns, but told them the issues were preliminary
 5 until delivery of an audit report.
 6 Q. Let me go over the dates with you.
 7 You did the Region 9 audit between June 19th
 8 and June 21st of 2012? I have written the dates
 9 down, if you think I'm wrong, tell me.
 10 A. That's correct.
 11 Q. Okay. My information is that you did not
 12 furnish the Region 9 audit report to DOT until
 13 January 13, 2013, that is the date on the audit
 14 report; is that right?
 15 A. It was not sent until March of 2014.
 16 Q. The audit report wasn't sent until March of
 17 2014?
 18 A. That's when the Administrative Compliance Order
 19 was sent.
 20 Q. Okay. So would it be accurate, then, that EPA
 21 performed its second and third audits on November 27,
 22 2012 through November 29, 2012, before DOT got any
 23 audit report?
 24 A. That's correct.
 25 Q. And isn't it true that there was also the third

1 audit report -- or excuse me, the third audit, that
 2 occurred June 25th to June 27th in 2013?
 3 A. Okay.
 4 Q. Now, Ms. Arvisu, it appears as though in the
 5 Region 8 audit, you also audited for compliance with
 6 minimum control measures for construction; isn't that
 7 right?
 8 A. Yes.
 9 Q. And did it surprise you, after you had not told
 10 the DOT about the deficiencies on minimum control
 11 measures from the Region 9 audit, that you found the
 12 same things when you did the Region 8 audit?
 13 A. No.
 14 Q. And the goal of your process was compliance,
 15 was it not?
 16 A. That's correct.
 17 Q. And so, was it the EPA's approach to this that
 18 compliance was something that could wait until you
 19 did the audit report and did the Administrative
 20 Compliance Order?
 21 MR. GARELICK: Objection, Your Honor.
 22 As to, generally, EPA's legal interpretation
 23 of how they should handle enforcement
 24 matters.
 25 ALJ BIRO: Overruled, go ahead.

1 MR. WINANS: I will try to --
 2 ALJ BIRO: Do you understand the
 3 question, Ms. Arvisu?
 4 THE WITNESS: Not really.
 5 ALJ BIRO: Please restate it.
 6 Q. Ms. Arvisu, you did wait to tell DOT they were
 7 not in compliance with the minimal control measures
 8 until the audit reports were sent out, and you say
 9 they weren't sent out until the time of the
 10 administrative --
 11 MR. SAPORITA: Objection; asked and
 12 answered.
 13 MR. WINANS: I was trying to repeat it.
 14 I was just looking for an answer.
 15 ALJ BIRO: Overruled.
 16 Ms. Arvisu, do you understand the
 17 question?
 18 THE WITNESS: It keeps getting
 19 interrupted.
 20 ALJ BIRO: Let's have a short direct
 21 question of whatever point you're making.
 22 Q. Ms. Arvisu, did you tell the people at the DOT
 23 that they were not in compliance with the minimum
 24 control measures for construction before the
 25 compliance order was sent out?

1 A. No.

2 Q. Okay. Did EPA treat the New York State

3 Department of Transportation the way that the EPA

4 treats all State Departments of Transportation in

5 connection with these audits?

6 A. DOT was treated the same way you treat all

7 MS4s.

8 Q. And MS4 includes other municipal systems; is

9 that right?

10 A. All municipalities, including non-MS4 colleges,

11 universities and counties.

12 Q. And that process started with the permit,

13 correct? In other words, compliance begins with the

14 permit that spells out the requirements; isn't that

15 correct?

16 A. Yes.

17 Q. And then, in order to ensure compliance with

18 the Clean Water Act and with the terms of the permit,

19 does EPA rely on DEC to do any of that enforcement?

20 A. Rely on DEC to do enforcement?

21 Q. Yes.

22 A. If EPA doesn't audit, we take the enforcement

23 action.

24 Q. In the event of an illicit discharge into the

25 storm water system, is that something that can be

1 enforced by either EPA or DEC?

2 A. What do you mean by that?

3 Q. An illicit discharge, someone finding something

4 in the storm water system that is not rain water.

5 A. Yes. An MS4, for failure to take an action,

6 EPA or DEC can take -- can enforce against the MS4

7 for failure to enforce.

8 Q. Thank you; that was what I was asking.

9 But your audit wasn't regarding an illicit

10 discharge, was it?

11 A. No.

12 Q. Your audit was to ensure compliance with the

13 terms of the MS4 permit; is that correct?

14 A. That's correct.

15 Q. And in connection with those problems that you

16 found, they culminated in the service of the

17 Administrative Consent [sic] Order?

18 A. Compliance order.

19 Q. Excuse me, Administrative Compliance Order; and

20 that was in March of 2014?

21 A. That's correct.

22 Q. And have you reviewed Complainant's Exhibit 40,

23 which is -- actually, it's a letter. There is a

24 letter attached to it; have you noticed that?

25 A. I don't know what exhibit you're talking about?

1 MR. WINANS: May I approach?

2 ALJ BIRO: You may.

3 MR. WINANS: I am not as fast-learned

4 with the exhibits yet.

5 Q. I'm going to show you -- this is my copy of

6 Exhibit 40. Would you agree with me it starts out

7 with a letter to the Commissioner of Transportation?

8 A. Yes.

9 Q. And it has a date stamp on it of May 5, 2014?

10 A. Yes.

11 Q. And attached to that -- I don't want to get too

12 close to you, but there is an Administrative

13 Compliance Order attached; is that correct?

14 A. Yes, that is correct.

15 Q. And who prepared this Administrative Compliance

16 Order?

17 A. That was prepared by me, in consultation with

18 my management and my regional office regional

19 counsel.

20 Q. Who is your manager?

21 A. My manager is Doug McKenna.

22 Q. Who is Justine Modigliani?

23 A. Compliance section chief.

24 Q. And is she in a different part of the EPA, or

25 does she work with you?

1 A. She is in my branch. So I'm a part of the

2 National Pollutant Discharge Elimination System

3 Region 9, it's the NIFTE team.

4 Q. I would like to be in the NIFTE team, it sounds

5 like a lot of fun.

6 A. And then Justine is in the compliance section.

7 We both report to Doug McKenna.

8 Q. Did Justine Modigliani have anything to do with

9 the creation of the Administrative Compliance Order?

10 A. She is the person for that.

11 Q. Would she have seen it before it went out?

12 A. Absolutely, yes.

13 Q. I notice in Exhibit 40, the portion which is

14 the Administrative Compliance Order, there is a long

15 list, I counted 15 things that are detailed, that EPA

16 said DOT was not in compliance with. Does that sound

17 about right?

18 A. That sounds about right.

19 Q. And when you sent this out, on the last page of

20 the Administrative Compliance Order, right above --

21 it's on page 19, it's right above the signature of

22 Dore LaPosta. There is an article here and it's

23 number 6, I'm going to read it.

24 It says: Notice is hereby given that failure

25 to comply with the terms of the Clean Water Act,

Page 101

1 Section 309(a)3, compliance order may result in your
2 liability for civil penalty for each violation up to
3 \$37,500 per day under Section 309 of the Clean Water
4 Act, 33 USC13-19(d), as modified by 40 CFR Part 19.
5 Upon suit by EPA, the United States District Court
6 may impose such penalties if, after notice and
7 opportunity for hearing, the Court determines that
8 you have violated the Clean Water Act, as described
9 above, and failed to comply with the terms of the
10 compliance order. The District Court has the
11 authority to impose separate civil penalties for any
12 violations of the Clean Water Act and for any
13 violations of this compliance order.

14 Was that section in the Administrative
15 Compliance Order when it went out to DOT?
16 A. Yes.
17 Q. And is this a provision that you had seen in
18 other Administrative Compliance Orders sent out by
19 EPA in the past?
20 A. That is boilerplate language in every
21 Administrative Compliance Order.
22 Q. And now, when you send out these Administrative
23 Compliance Orders, is it your goal, as an officer of
24 the EPA, to assure that the Respondent gets into
25 compliance with the EPA regulations?

Page 102

1 A. It's our goal to get the Respondent to return
2 to compliance, yes.
3 Q. And does that include compliance with the terms
4 of their MS4 permit?
5 A. Yes.
6 Q. And is that the approach that you, personally,
7 working for the EPA in this case, undertook when you
8 were sending out the Administrative Compliance Order?
9 A. Yes.
10 Q. Was that your objective, compliance?
11 A. That is my objective, yes.
12 Q. And if you don't mind, I will go back now. I
13 don't think I need to show you any more of this.
14 And I think you said that the initial
15 discussion about the compliance order occurred in
16 June of 2014; is that right?
17 A. We had a meeting in May of 2014.
18 Q. I'm sorry, in May.
19 So when the compliance order went out, was
20 receipt acknowledged; did someone at the DOT contact
21 you about it?
22 A. Yes, I believe Dan Hitt actually contacted
23 Justine Modigliani after the 15-day period.
24 Q. Did you know who Dan Hitt was?
25 A. Yes.

Page 103

1 Q. Did you know what his job was at the DOT?
2 A. At that time, no.
3 Q. Did you understand him to have some
4 responsibility for the environmental unit at DOT?
5 A. Yes.
6 Q. And, initially, when Dan contacted the EPA
7 about this, did he mention anything about that part
8 that I read on the Administrative Compliance Order,
9 that talks about the fine?
10 A. Not that I was aware of, because he contacted
11 Justine.
12 Q. So he talked to Justine?
13 A. Yes.
14 Q. So you don't know what he talked about with
15 Justine?
16 A. That's correct.
17 Q. And were you aware that Dan requested that
18 there be a meeting with EPA officials?
19 A. Yes, because we got a letter from DOT in
20 mid-April or so requesting it.
21 Q. When Dan contacted the EPA about the meeting,
22 did he indicate that DOT wanted to comply?
23 A. Yes. He said that they intend to comply to the
24 fullest extent, or something like that.
25 Q. And I think you said on direct testimony, that

Page 104

1 the first thing that they did was requested an
2 extension of time?
3 A. Yes.
4 Q. Because there was a lot here. I mean, I have
5 never seen so many pieces of paper in connection with
6 a lawsuit before, and it's an awful lot to go
7 through; would you agree with that?
8 A. It's a lot, yes.
9 Q. And so, Dan wanted an extension of time, and he
10 wanted to have a meeting; is that right?
11 A. Yes, that's right.
12 Q. And who did he set that meeting up with?
13 A. I believe I set up the meeting with Jonathan
14 Bass, and I think we set it up for May sometime.
15 MR. WINANS: At this time, Your Honor,
16 I want to offer a somewhat redacted exhibit.
17 We talked about this during the break. There
18 is a Respondent's Exhibit 16, and we don't
19 have an agreement for the full exhibit, but
20 we have agreement for two pages; one is a
21 sign-in sheet and the other is an agenda.
22 And the other stuff, if necessary, we will
23 redact it, but it's possible that it might
24 come in later, okay. So can we note that
25 Respondent's Exhibit number 16 should be in

1 evidence subject to redaction.
 2 MR. SAPORITA: Pages 1 and 4?
 3 MR. WINANS: Yes, I think pages 1 and 4;
 4 yes, it is.
 5 ALJ BIRO: Respondent's Exhibit 16,
 6 consisting of two pages of it, 1 and 4, as
 7 redacted.
 8 MR. WINANS: Yes.
 9 ALJ BIRO: Are there redactions on the
 10 pages, itself?
 11 MR. WINANS: There are not presently.
 12 ALJ BIRO: Are there meant to be?
 13 MR. WINANS: The other two pages may
 14 come in from another witness.
 15 ALJ BIRO: I just want to know, are
 16 there redactions on the two pages we are
 17 admitting now?
 18 MR. WINANS: No.
 19 ALJ BIRO: So I will admit Respondent's
 20 Exhibit 16, which now consists of pages 1 and
 21 4 of the document, without objection.
 22 MR. WINANS: Correct.
 23 MR. SAPORITA: Correct.
 24 Q. Ms. Arvizu, I'm going to show you a sign-in
 25 sheet from the meeting. This is in Exhibit 16; and

1 it appears to be a sign-in sheet for a meeting on May
 2 13, 2014, and I will direct your attention to the
 3 first name on the page.
 4 A. Yes.
 5 Q. And that appears to be your name; is that your
 6 handwriting?
 7 A. Yes, Christy Arvizu.
 8 Q. And you put down that you are Region 2 EPA, and
 9 environmental scientist, and you have your phone
 10 number and e-mail there?
 11 A. Yes.
 12 Q. And you will note that there are other people
 13 in the meeting, and I will just direct your attention
 14 to some of them.
 15 There are two people from DEC, and then
 16 Jonathan Bass?
 17 A. There are three people from DEC.
 18 Q. One further down. And Jonathan Bass, was he
 19 the main contact through this compliance process?
 20 A. Yes.
 21 Q. So Jonathan would regularly send you e-mails as
 22 you went through the compliance process; is that
 23 correct?
 24 A. Yes.
 25 Q. And then, there is another DOT employee, Scott

1 Capeller, an attorney from my office, Keith Martin,
 2 and Dan Hitt, and he put his title down there as the
 3 Director of the Office of the Environmental. There
 4 is Ellen Kubek, who you will recognize is sitting
 5 over there, and Carl Cochesberger, then the other DEC
 6 person, and then Justine Modigliani?
 7 A. Yes.
 8 Q. Am I saying her name right?
 9 A. Yes.
 10 Q. It says she is the Compliance Section Chief?
 11 A. Yes.
 12 Q. And now, of the two EPA people who were there
 13 at the meeting, would it be fair to say you were the
 14 most hands-on person; you had the most knowledge of
 15 the dealings with DOT and the interpretation of the
 16 MS4 permit?
 17 A. Not as we went through the compliance process,
 18 but submitting material, yes.
 19 Q. And but in terms of someone speaking for EPA,
 20 would Justine have any authority to speak for the
 21 EPA?
 22 A. Yes, she is the manager, but speaking on behalf
 23 of EPA, decisions and all of that, comes from
 24 management.
 25 Q. We all answer to management, I understand that.

1 But Justine, was she somebody with more authority
 2 than you at this meeting, or were you equals?
 3 A. She had more than me at this meeting.
 4 Q. Okay. And now, there is also -- I don't want
 5 to crowd your space here, but I want to cover this
 6 with you.
 7 There is an agenda for the meeting of May 13th,
 8 and it's also in evidence right now, and it starts --
 9 it's very short, so I will go through the list. It
 10 starts with Introduction, so I take it, at this
 11 meeting, there was a conference room; is that
 12 correct?
 13 A. Yes.
 14 Q. And that was at DOT offices, at 50 Wolf Road?
 15 A. Yes.
 16 Q. Where I wish I was?
 17 A. Yes.
 18 Q. And when you came into this room, did everyone
 19 sit down at the table?
 20 A. Yes.
 21 Q. And where did you sit in relation to the other
 22 people at the table?
 23 A. I sat at the end of the table, and Justine sat
 24 next to me, and then everyone from DEC and the DOT.
 25 Q. Who was opposite you at the table?

1 A. I think it was Dan at the other end.
 2 Q. Okay. So he was like the -- it was like a big
 3 conference of people that were in a dispute. They
 4 were on two sides of the table; is that right?
 5 A. Kind of.
 6 Q. And Justine is seated next to you?
 7 A. Yes, she was seated next to me.
 8 Q. After the introduction, it says, Review of NYS
 9 DOT 418 Comments Spreadsheet; was that a document
 10 that was prepared by DOT?
 11 A. Yes.
 12 Q. And did that detail DOT's, I don't want to say
 13 disagreements, but comments about the findings of
 14 your audit?
 15 A. Yes, that was a response to the order.
 16 Q. And then, there is an item that says Schedule?
 17 A. Yes.
 18 Q. And did Dan express and make it clear, both in
 19 phone calls and letters and at this meeting, that New
 20 York State DOT wanted to comply with EPA?
 21 A. Yes, I remember seeing an e-mail from Dan
 22 saying that DOT intended to fully comply.
 23 Q. Did Dan explain that some of the things that
 24 EPA was looking for in connection with their audit
 25 and in their compliance order, they would be

1 extensive; it would be significant devotion of staff
 2 time and money to do those things?
 3 A. I remember some discussion on staff time.
 4 Q. Okay. And then, it says, New York State DEC's
 5 role, and what was the DEC's role in this?
 6 A. I really don't remember that discussion.
 7 Q. Okay. And then, it says, Next steps. Do you
 8 remember what the next steps were?
 9 A. The next steps -- I remember that discussion
 10 talking about how to formalize and memorialize the
 11 schedule, you know, deadlines, and what the EPA's
 12 next step would be, the new compliance order, and how
 13 we would do that.
 14 Q. And I will step down here.
 15 Going back to that compliance order, I think
 16 you said that following the meeting, a new compliance
 17 order was formulated; is that correct?
 18 A. That's correct.
 19 Q. And were there some changes of some kind from
 20 the original requirements of the compliance order
 21 that were based upon the discussion at the meeting?
 22 A. The only thing not changed were the deadlines.
 23 Q. Okay. And so, the deadlines were extended out?
 24 A. Yes, at DOT's request. That very next day, I
 25 sent the new deadlines and new table to Jonathan Bass

1 to make sure I had done everything correctly from the
 2 discussion, and Jonathan said we were in agreement,
 3 and we went forward and drafted a new order and sent
 4 it to DOT in early June.
 5 Q. Okay. And those changes in the deadlines, were
 6 they in order to give DOT an opportunity to comply
 7 with what the EPA wanted?
 8 A. Yes.
 9 Q. Were there any changes made after the original
 10 -- or I shouldn't say the original, but the
 11 compliance order that was actually signed by the
 12 chief engineer at DOT, his name is Phil Eng. Were
 13 there any changes made to the deadlines after that
 14 finalized version was signed?
 15 A. After the June 2014 order, yes. At the request
 16 of DOT, there was some compliance deadlines that DOT
 17 said we need some additional time because we are
 18 running into some challenges, or we need more time.
 19 The EPA had some comments and some submissions, and
 20 we said okay, we can extend the deadline. So some
 21 deadlines got changes informally. He said, no
 22 problem, document it in the file. So DOT was making
 23 a good compliance effort, good faith effort, so they
 24 got changed, and we didn't need to issue a new order
 25 to do that.

1 Q. Very good. And then, during the compliance
 2 period, which, I think -- I think you testified to
 3 how long it took, but there was a period of time,
 4 from the May 2014, meeting until EPA was satisfied
 5 with the compliance; is that correct?
 6 A. Yes. So from June 2014 until February 2016,
 7 yes.
 8 Q. Okay. And during that period of time, did you
 9 receive regular, I think they call them, progress
 10 reports?
 11 A. That's correct.
 12 Q. And the progress reports documented DOT's
 13 efforts to comply with the terms of the
 14 Administrative Compliance Order; is that right?
 15 A. Yes, status updates, as well as actual
 16 submittals that they matched up at the same time.
 17 Q. Okay. And did you go back to DOT at any point
 18 when they sent you a progress report and say, no, no,
 19 no, that's not acceptable, you have to do something
 20 different, or you have to do something better?
 21 A. If the submittal -- if we needed more
 22 clarification and said this is inadequate, or
 23 something about we need more information or clarify
 24 this, yes, we did have some back and forth.
 25 Q. Well, Ms. Arvisu, the reason I ask is that I

1 have been through the documents and I have seen the
 2 progress reports, but what I'm not seeing is any
 3 letters going back, you know, saying, no, you have to
 4 do this differently or you have to do it better or
 5 you have to do it faster, whatever; you think there
 6 were?
 7 A. Maybe my definitions and your's are different.
 8 I would say there were some where I needed -- EPA
 9 needed clarification and something was pending, DOT
 10 sent something and said it was pending, more
 11 information is needed. So that -- we had plenty of
 12 dialogue with DOT. One was the Illicit Discharge
 13 Detection Elimination, we needed more clarification.
 14 We had a comment, please address it.
 15 Q. So to the extent you did have the
 16 conversations, did there come a point in time when
 17 you and the other people at EPA were satisfied with
 18 New York State DOT's compliance with the terms that
 19 were agreed upon?
 20 A. What do you mean?
 21 Q. I want to know: Is there anything left?
 22 A. As things were submitted, we would say
 23 complete, complete. So the list got shorter and
 24 shorter. The final submittal was February 5, 2016,
 25 but complete. Then we moved forward with the next

1 phase.
 2 Q. Okay. So that is the date of compliance,
 3 February 5, 2015; is that right?
 4 A. 2016.
 5 Q. 2016; okay. Thank you; so that is the date.
 6 And at that point, everything you found in the audit,
 7 every violation that you thought existed for the MS4
 8 permit, was resolved by February 5, 2016; is that
 9 right?
 10 A. The final submittal, yes.
 11 Q. Okay. Now, going back to that meeting in May
 12 of 2014, I believe you testified that you didn't have
 13 any discussion about that portion of the compliance
 14 order that talked about a fine or penalty; is that
 15 right?
 16 A. I did not, no.
 17 Q. Okay. Now, there were other people at the
 18 meeting, we have already gone down the list?
 19 A. Yes.
 20 Q. And they included Justine?
 21 A. That's correct.
 22 Q. And Justine was seated next to you?
 23 A. That's correct.
 24 Q. Ms. Arvisu, would it surprise you to hear that
 25 a bunch of State workers sitting around in a big

1 conference room after getting an Administrative
 2 Compliance Order that mentioned fines for them not
 3 doing their job, would it surprise you to learn that
 4 they might be concerned about that portion of the
 5 order?
 6 A. It wouldn't surprise me.
 7 Q. Do you think that, you know, they might be a
 8 little worried that that might make them look bad to
 9 their bosses?
 10 A. Yes.
 11 Q. Would it surprise you that the environmental
 12 employees at DOT didn't want there to be any fines or
 13 penalties?
 14 A. Yes.
 15 Q. Would it surprise you if the acting Director of
 16 the Office of the Environment, who was at the meeting
 17 with you on May 13, 2014, would it surprise you if he
 18 raised a question about whether there would be a
 19 penalty?
 20 A. No.
 21 Q. Now, are you saying that he didn't raise it or
 22 are you saying that you just don't -- you can't say
 23 he did raise it?
 24 A. I can't recall.
 25 Q. Okay. So you're not saying that Dan Hitt

1 didn't raise the question of a penalty, are you?
 2 A. I can't recall.
 3 Q. That's fair enough, Ms. Arvisu.
 4 You are certainly not going to call Mr. Hitt a
 5 liar if he comes in here and says he did raise it,
 6 are you?
 7 A. Certainly not.
 8 Q. What about Ms. Modigliani at the meeting, do
 9 you recall her indicating that there would be no
 10 penalty associated with the violations?
 11 A. No, she would not say that. We talked about
 12 penalties, that this is an order for compliance.
 13 Q. Okay. And, Ms. Arvisu, I would ask that you
 14 confine your testimony to what you remember and not
 15 what you think she would or would not do.
 16 A. Okay.
 17 Q. Is that fair enough?
 18 A. Yes, sorry.
 19 Q. And so, would it be correct to state that you
 20 didn't hear her or see her, reading her lips, say
 21 anything about the penalty?
 22 A. I can't recall.
 23 Q. Fair enough. Now, were you aware of the
 24 history that DOT has had with the Department of
 25 Environmental Conservation concerning DEC's

Page 117

1 enforcement over DOT operations?
 2 A. I have no knowledge of that.
 3 Q. Do you know what enforcement process DEC uses
 4 when they go after DOT because of some problems that
 5 they perceive?
 6 A. I have no knowledge of that.
 7 Q. So you don't know about Notices of Violation
 8 issued by DEC?
 9 A. To DOT?
 10 Q. Yes.
 11 A. I have no knowledge of that.
 12 Q. Did you know that when DEC issues a Notice of
 13 Violation to anyone, they include the penalty right
 14 in the Notice of Violation?
 15 A. I know the DEC's general procedures, yes.
 16 Q. And do you know that, as a fact, that normally
 17 if they are seeking a penalty, they put it right in
 18 the Notice of Violation?
 19 A. Yes.
 20 Q. And are you aware that DEC procedures normally
 21 involved some negotiations as to the terms of their
 22 Notice of Violation?
 23 MR. SAPORITA: Objection; irrelevant.
 24 Your Honor, DEC process has nothing to do
 25 with the EPA process of determining

Page 118

1 penalties.
 2 ALJ BIRO: Overruled. Go ahead.
 3 Q. I'm just asking whether you're aware of the
 4 DEC's process, in that the DEC normally includes the
 5 penalty in the Notice of Violation, and work out of a
 6 compliance order?
 7 A. DEC processes are different from EPA processes.
 8 Q. Okay. And now, what about after the DOT got
 9 into compliance, and I'm looking for that date again.
 10 You were so good to come up with it. It was February
 11 16th --
 12 A. March 20th.
 13 Q. Actually, what you told me a minute ago --
 14 ALJ BIRO: February 5, 2016.
 15 Q. February 5, 2016.
 16 A. Okay.
 17 Q. Have you been involved in any other enforcement
 18 actions against any other MS4 permittees since
 19 February of 2016?
 20 A. Yes.
 21 Q. And is the way that EPA has undertaken this
 22 proceeding consistent with the way that it has
 23 handled enforcement in other situations?
 24 A. There is nothing different about it.
 25 Q. Let me just understand the process.

Page 119

1 You start with a permit, because, obviously,
 2 you have to have a permit?
 3 A. Yes.
 4 Q. Then, the next process is the audit?
 5 A. Yes.
 6 Q. And the next part is the Administrative
 7 Compliance Order?
 8 A. Yes.
 9 Q. And that is the order that threatens possible
 10 penalties?
 11 A. Yes, part of the form language.
 12 Q. And the next process is, after you get the
 13 Respondent to comply, then you go back for a penalty;
 14 is that the process?
 15 A. If we perceive a complaint, yes.
 16 Q. Okay. Now, in this situation with DOT, you're
 17 not asserting that DOT was responsible for any
 18 illicit discharges, are you?
 19 MR. SAPORITA: Asked and answered.
 20 MR. GARELICK: Objection. Calls for a
 21 legal conclusion.
 22 ALJ BIRO: Sustained.
 23 Q. Okay. Ms. Arvisu, do you get involved in the
 24 process of collecting penalties from Respondents; is
 25 that part of your job?

Page 120

1 A. I'm an enforcement officer.
 2 Q. Well, there is a law, it's 334 USC 13 19, it's
 3 why we're all here today, and there is a process of
 4 issuing a complaint to the Respondent.
 5 Are you involved at all in that process, or
 6 should I be asking somebody else about it?
 7 A. What does that mean?
 8 Q. The documents that we are here today about --
 9 I'm sorry, I don't have the number on this guys. I
 10 didn't write it down.
 11 MR. SAPORITA: It's CX 60.
 12 Q. Okay. Are you familiar with the complaint
 13 against the DOT in this matter?
 14 A. Yes.
 15 Q. And that is the complaint that seeks the
 16 penalty of \$150,000?
 17 A. Yes.
 18 Q. Were you involved in the preparation of that
 19 complaint and the formulation of the penalty being
 20 sought in Complainant's Exhibit 60?
 21 A. Yes, I was involved in that.
 22 Q. Would it surprise you to learn that Respondents
 23 do not like to be hit with penalties?
 24 A. No.
 25 Q. And did it occur to you that when you were

1 going through the compliance process with the DOT
 2 employees, they might be less inclined to cooperate
 3 with you if they knew that after they complied and
 4 did everything that you wanted, you were going to
 5 send a document telling them they should have to pay
 6 \$150,000 in penalties?
 7 A. No.
 8 Q. Is that why you don't tell them, Ms. Arvisu?
 9 MR. GARELICK: Objection, Your Honor.
 10 ALJ BIRO: Overruled. Go ahead.
 11 Do you know the reason for your process?
 12 THE WITNESS: No.
 13 Q. Ms. Arvisu, I just want to know, you are
 14 working with Jonathan Bass on, sometimes, a weekly
 15 basis, you are in touch with him, you go to their
 16 offices, you have a meeting with him. You don't
 17 remember anybody asking about the penalty at the
 18 meeting, but you have this ongoing working
 19 relationship with him afterwards; isn't that fair?
 20 Isn't that true?
 21 A. Yes, that is true.
 22 Q. Isn't it also true, Ms. Arvisu, you, in your
 23 capacity as an EPA employee during that compliance
 24 period, you went to every one of the eleven New York
 25 State DOT regions?

1 A. I did not go to every eleven of them.
 2 Q. Did you go to some of them?
 3 A. I went to three.
 4 Q. Okay. And did you meet with DOT employees
 5 there?
 6 A. At the three offices, yes.
 7 Q. Did you tell them at the meeting that
 8 everything was fine and you just wanted compliance,
 9 and they were making positive steps in the direction
 10 of compliance; did you tell them that?
 11 A. We told them that they were with the audit
 12 and we did preliminary and closing conferences. The
 13 preliminary told them there will be an audit report.
 14 Q. Did you tell them there was a penalty coming
 15 after they did their work?
 16 A. No.
 17 Q. Did you explain to them that you weren't
 18 getting compliance?
 19 A. No.
 20 Q. Were any of them mean to you?
 21 A. No.
 22 Q. And during this process of working with DOT
 23 employees, you went to three regions. Did you tell
 24 any of them that there was going to be a penalty
 25 coming down the road?

1 A. No.
 2 Q. Did you tell Jonathan Bass that once you were
 3 finished and once that compliance was reached in
 4 February of 2016, you were, then, going to seek
 5 \$150,000 penalties?
 6 A. No.
 7 Q. Why didn't you tell him that?
 8 A. Because that decision is made by my management.
 9 Q. Why was it kept as a secret and used to
 10 surprise the DOT?
 11 MR. GARELICK: Objection, Your Honor.
 12 Characterizing it is as a secret --
 13 ALJ BIRO: I already sustained it. Go
 14 ahead.
 15 MR. GARELICK: -- as to compliance and
 16 enforcement.
 17 Q. Did you know there was a process where EPA has
 18 to seek public -- they have to file a public notice
 19 when they are seeking a penalty?
 20 A. We did. We followed that process.
 21 Q. Do you always follow that process, Ms. Arvisu?
 22 A. Yes.
 23 Q. Do you do that every time?
 24 A. Yes.
 25 Q. Did you do it with DOT in this situation?

1 A. Yes.
 2 Q. Where is that published; where do you publish
 3 it?
 4 A. On the EPA's website, a public notifier on the
 5 website.
 6 Q. And how often do you get comments?
 7 A. Rarely. I can't recall.
 8 Q. Okay.
 9 A. Rarely, but our public regional clerk can get
 10 to it if there are comments.
 11 Q. We will get into that with other witnesses, I'm
 12 sure.
 13 When you did the public notice for DOT seeking
 14 their penalty, do you know when that was filed?
 15 A. I know it was in our records somewhere. I --
 16 or my records, but I don't recall. It was probably
 17 filed right after the complaint was filed.
 18 Q. Sometime around July 1, 2016?
 19 A. Right after the complaint was filed.
 20 Q. And did the public notice indicate that EPA was
 21 seeking a proposed penalty of \$150,000?
 22 A. Yes.
 23 Q. And you don't know whether you got any
 24 comments; is that correct?
 25 A. I would check with the regional hearing clerk.

Page 125

1 Q. I have to ask, if I happen to go to EPA's
 2 website and see it there, and I comment, said I don't
 3 think they have to pay, would it make any difference?
 4 A. It would be filed.
 5 Q. Okay. Is that what you do with all of the
 6 comments, file them?
 7 MR. GARELICK: Objection, Your Honor.
 8 It's not clear if she does anything with the
 9 comments. That hasn't been established.
 10 ALJ BIRO: Okay.
 11 MR. WINANS: That's fine. I'm sure we
 12 will come back to that later.
 13 Thank you, Ms. Arvisu. I don't have any
 14 further questions.
 15 ALJ BIRO: So the maintenance people are
 16 still not here to fix the light. Let's go on
 17 until we get there.
 18 MR. GARELICK: Okay. I just have a
 19 couple of follow-up questions regarding Mr.
 20 Winans's questions.
 21 *****
 22 REDIRECT EXAMINATION
 23 BY MR. GARELICK:
 24 Q. Mr. Winans mentioned the illicit discharge
 25 detection program. Is it fair to say a covered

Page 126

1 entity has numerous obligations to comply with its
 2 illicit discharge program?
 3 A. Yes.
 4 Q. And is one of those obligations the requirement
 5 to implement a program to detect and address illicit
 6 non-storm water discharges?
 7 A. Yes.
 8 Q. And is a second one of those requirements to
 9 develop and maintain a map showing the location of
 10 all outfalls?
 11 A. Yes.
 12 Q. And is a third requirement to conduct outfall
 13 reconnaissance inventory?
 14 A. Yes.
 15 Q. And is a separate fourth requirement to inform
 16 the public of the hazards associated with illegal
 17 discharges?
 18 A. Yes.
 19 Q. Okay. And are those obligations covered in the
 20 complaint?
 21 A. Yes.
 22 Q. Earlier today, we discussed a Notice of Intent
 23 that was filed by New York State DOT to be covered
 24 under the DEC permit, correct?
 25 A. Yes.

Page 127

1 Q. And that was in 2003?
 2 A. Yes.
 3 Q. Okay. And is it fair to say that many of the
 4 obligations of DOT began at or around the time in
 5 2003?
 6 A. Yes.
 7 Q. And so, is it also fair to say that in 2012,
 8 when you began the first audit, many of these
 9 obligations had been in place for nine years?
 10 A. Yes.
 11 Q. I ask that the Witness be shown Exhibit 40,
 12 which is the Administrative Compliance Order that Mr.
 13 Winans was discussing with you.
 14 ALJ BIRO: Do you still have that, Ms.
 15 Arvisu?
 16 Q. I will direct your attention to page 21 of that
 17 document.
 18 And Mr. Winans read to you -- or had you read
 19 paragraph 6 of that document, correct?
 20 A. Yes.
 21 Q. I'm going to direct your attention slightly
 22 above that, to paragraph 5.
 23 Can you read paragraph 5 to the Court?
 24 A. This order does not constitute a waiver from
 25 compliance with, or a modification of, the effective

Page 128

1 terms and conditions of the CWA. It implies meeting
 2 regulations for any applicable permit which remains
 3 in full force and effect. This order is an
 4 enforcement action taken by EPA to ensure swift
 5 compliance with the CWA's issuance of this order and
 6 shall not be deemed an election by EPA to forego any
 7 civil or criminal actions for penalty, fines,
 8 imprisonment, or other appropriate relief under the
 9 CWA.
 10 Q. Is your understanding of EPA compliance and
 11 enforcement process consistent with this paragraph?
 12 A. Yes.
 13 Q. And did you make any statements or hear any
 14 statements in your meetings with DOT that were
 15 inconsistent with what is contained within this
 16 paragraph?
 17 A. No.
 18 Q. What is the standard practice at -- actually,
 19 withdrawn.
 20 Are you familiar with anyone who likes
 21 penalties?
 22 A. Who likes penalties? No.
 23 MR. GARELICK: No further questions.
 24 MR. WINANS: I have a couple of
 25 follow-up questions.

1 ALJ BIRO: Okay.
 2 *****
 3 RE-CROSS-EXAMINATION
 4 BY MR. WINANS:
 5 Q. So, Ms. Arvisu, after you look for the penalty,
 6 do you try to put them in jail; is that what comes
 7 next?
 8 A. No.
 9 Q. Okay. No one is going to jail.
 10 Do we have assurances on that; after all, it's
 11 in Exhibit 40 there might be imprisonment in the
 12 future?
 13 ALJ BIRO: Are we talking about in this
 14 case --
 15 MR. WINANS: We are talking about --
 16 ALJ BIRO: -- or generally?
 17 MR. WINANS: What is in Exhibit 40.
 18 Exhibit 40 threatens that we might go to
 19 jail.
 20 ALJ BIRO: Are we talking about DOT, in
 21 this case?
 22 MR. WINANS: Yes, DOT in this case.
 23 MR. SAPORITA: What is the question?
 24 ALJ BIRO: You're not a lawyer.
 25 Q. Is it the process of EPA, after they collect

1 the penalty, to seek imprisonment?
 2 MR. GARELICK: She never mentioned a
 3 single word that she is a part of the
 4 criminal program.
 5 ALJ BIRO: Restate your question for
 6 this Respondent, in this case.
 7 Q. Are you aware of any situations where,
 8 following the service of a complaint seeking a -- I
 9 withdraw the question.
 10 Are you aware of any instance where, after the
 11 issuance of an Administrative Compliance Order, that
 12 action has been taken by the EPA to seek someone's
 13 imprisonment?
 14 A. No, I'm not aware of that.
 15 Q. Okay. And now, just to go back on the MS4
 16 permits, your initial permit was 2003; is that
 17 correct?
 18 A. Yes.
 19 Q. And now, isn't it true that the 2003 permit was
 20 the first permit?
 21 A. Yes.
 22 Q. And isn't it true that under that 2003 permit,
 23 there was at least a little bit of understanding that
 24 maybe the permittee might not meet all of the
 25 requirements that EPA ultimately wanted?

1 A. It was not an EPA permit.
 2 Q. It was a DEC permit?
 3 A. That's correct.
 4 Q. Okay. But isn't it true that the 2003 permit
 5 does have time frames in it and gives the permittees,
 6 in some instances, up to five years to become
 7 compliant?
 8 A. That is correct, gave them five years.
 9 Q. Okay. And are you, as you sit here today,
 10 personally aware about the logistics and the manpower
 11 resources and the cost that would be necessitated by
 12 doing a complete survey of DOT's 40,000 lane miles of
 13 highway and 17,000 storm water outfalls?
 14 A. I'm not fully aware.
 15 Q. So you don't know whether it's reasonable to
 16 expect that to be done or not?
 17 A. No.
 18 MR. WINANS: Okay; thank you.
 19 ALJ BIRO: Okay. Ms. Arvisu, I don't
 20 have any questions for you, but you are going
 21 to be asked to come back, so please don't
 22 discuss your testimony that you gave with
 23 anybody until you are released.
 24 THE WITNESS: Okay.
 25 ALJ BIRO: We are going to break for

1 lunch and hope that the maintenance people
 2 come and fix the light, which has stopped
 3 making noise and now just blinks, so that is
 4 an improvement; and there is no cafeteria in
 5 this building, so how long do you think you
 6 would like for lunch?
 7 MR. GARELICK: 1:30, maybe, coming back?
 8 ALJ BIRO: We will stand in recess until
 9 1:30.
 10 (At which time, 12:34 p.m., a lunch
 11 recess was taken until 1:35.)
 12 ALJ BIRO: Mr. Garelick, are you all set
 13 with your next Witness?
 14 MR. GARELICK: Mr. Saporita will be
 15 taking over at this point.
 16 MR. SAPORITA: Yes. We will call
 17 Kourtney Kirkeby.
 18 ALJ BIRO: Madam Court Reporter, would
 19 you please swear in the Witness?
 20 *****
 21 KOURTNEY KIRKEBY,
 22 called as a witness, being duly sworn,
 23 testifies as follows:
 24 DIRECT EXAMINATION
 25 BY MR. SAPORITA:

1 Q. Would you please state your name for the
 2 record?
 3 A. Kourt Kirkeby.
 4 Q. And where are you employed?
 5 A. A Biologist with PG Environmental.
 6 Q. And what are your duties with PG Environmental?
 7 A. So, as a biologist, I do a lot of water
 8 resource work for various different projects that we
 9 work on. My duties as a compliance inspector, I do a
 10 lot of audits for various EPA regions across the
 11 country. I do a lot of work in water resource and
 12 jurisdictional water determinations, and I also do
 13 work in fisheries and wetlands.
 14 Q. And what is your educational background?
 15 A. My undergraduate was in Biology at Concordia
 16 College, and Environmental Studies, and when I
 17 graduated, the course work was Environmental
 18 Engineering. That is it for school.
 19 Q. Okay. And how long have you been at PGE?
 20 A. I have been at PGE about 7-1/2 years.
 21 Q. And were you involved with the EPA audits of
 22 the New York State Department of Transportation?
 23 A. Yes.
 24 Q. And prior to doing this audit, what kind of
 25 training had you done on the job, or through other

1 audits, to get prepared?
 2 A. So when I started at PGE, I conducted Nette
 3 Court work, which is EPA-certified in industrial
 4 construction storm water, as well as MS4. Prior, I
 5 conducted MPDS. I reviewed and, basically, did a
 6 report on the MPDS inspector's manuals for industrial
 7 storm water construction, storm water MS4s, including
 8 CEI and collection systems, you name it. And then,
 9 for on-the-job training, I had conducted
 10 approximately 60 industrial and construction storm
 11 water inspections prior to the audit.
 12 Q. How many of those were MS4?
 13 A. This was my first MS4. So this particular
 14 inspection, I was getting trained by the lead
 15 inspector, who was Max Kuker at the time, with PG
 16 Environmental.
 17 Q. Have you done other MS4 inspections since this
 18 one?
 19 A. I have conducted fifteen other MS4 inspections
 20 since.
 21 Q. And so, what was your involvement in the audits
 22 that the EPA conducted of the DOT?
 23 A. My involvement was, I was involved with day 2
 24 and day 3 of the three-day inspection.
 25 Q. For which region was that?

1 A. This was for Region 9. Region 9.
 2 Q. Okay.
 3 A. And so, I attended day 2 and day 3, and was on
 4 the inspections with Max throughout the construction.
 5 So we looked at MCM-4 and MCM-6 during that time.
 6 Q. And MCM-4, for recollection, is dealing with
 7 construction storm water management?
 8 A. That's correct.
 9 Q. And 6 deals with pollution prevention and good
 10 housekeeping?
 11 A. Yes, that's correct.
 12 Q. Thank you. And before you went on-site to do
 13 the audits, did you review any records or submissions
 14 that the DOT had provided?
 15 A. Yes. I had reviewed the pre-inspection request
 16 that we had put out to DOT. I had reviewed that
 17 prior to the site visits.
 18 Q. Okay. And so, can you tell us a little bit
 19 about the procedure or the method you followed in the
 20 beginning when you started the audit?
 21 A. Sure. Should I talk about a particular one or
 22 just in general?
 23 Q. Just in general, what was your, kind of,
 24 approach and the method that you followed, and then
 25 we will drill down to the specific sites?

1 A. Okay. So our approach, with any inspection,
 2 and the inspections that I conducted on this,
 3 typically if it's a construction inspection, what we
 4 will do is ask to meet with the engineer in charge,
 5 or the person who is responsible for the construction
 6 project. We will discuss with them, kind of, what
 7 the project is, the status of the construction
 8 project and the type of the inspection. So we will
 9 go through with them where they are at, and, you
 10 know, various phases of a construction project. We
 11 typically ask for a site map or something to show us
 12 the layout of the location or the facility. We go
 13 over what storm water controls they have in place or
 14 are planned to be in place, and at that time, if we
 15 have time, we will review the plan specs with the
 16 construction -- usually the USC.
 17 Q. Is there a name for the plan specs?
 18 A. The design specs, and that usually includes the
 19 erosion and sediment control components. So they
 20 will have plan specs, designs of the different
 21 phases, and then during those phases, there is an
 22 erosion and sediment control portion of that.
 23 Q. Great. How did you document your findings for
 24 the audit?
 25 A. So, again, using the example of construction

1 site visit, we will document in our field notebooks
 2 our interactions we are having with various
 3 individuals. We will typically note, you know, who
 4 we are talking to, what we are discussing, and the
 5 time that we are discussing those things throughout a
 6 site visit. And then, after we discuss, kind of, the
 7 layout of the facility, we will do a facility
 8 walk-through with that individual, and our facility
 9 walk-through will document, both, with our notebooks
 10 and photographs, what we are observing at the time of
 11 the site visit.
 12 Q. And then, afterwards, what do you -- how do you
 13 compile your findings? What do you do with your
 14 findings once you have completed your inspection?
 15 A. So, afterward, we will summarize our notes.
 16 There is a post-inspection summary that we will go
 17 over as a group internally at PGE. We then will
 18 discuss that with our client, where we will go over
 19 our preliminary observations, at which case -- at
 20 which time, we will, then, begin developing a draft
 21 report of our observations.
 22 Q. Okay. And do you work with the EPA in
 23 finalizing this draft report?
 24 A. No. The draft report -- really, in our initial
 25 draft, we will draft that out based on our

1 preliminary observations. We provide that to EPA for
 2 review and they can comment on what is in the report,
 3 and then, there are edits that we need to make in the
 4 record. We will make the edits and then send them
 5 their final draft, and that is really our job as
 6 contractors.
 7 Q. And did you create a report for your inspection
 8 of Region 9 DOT?
 9 A. Yes.
 10 Q. I'm going to refer to the Witness to
 11 Complainant's Exhibit 30, which is in evidence, and
 12 you have got a copy on the desk in front of you, Mr.
 13 Kirkeby.
 14 During your inspection of DOT Region 9, did you
 15 go to the site known as New York State Route 201
 16 Bridge Replacement over New York State 434 on Vestal
 17 Road.
 18 A. Yes.
 19 Q. And what date and time was that, approximately?
 20 A. So that was on June 20th, and we arrived
 21 approximately 1 p.m.
 22 Q. Okay; great. And can you describe what the
 23 site, generally, its location in relation to any
 24 water bodies?
 25 A. Yes. So this was a bridge replacement project,

1 and it was just outside of Binghamton. We worked
 2 with Bothar Construction, who was the main
 3 construction company; and so, what the status was on
 4 that, was they had built four infiltration basins
 5 around, basically, an exit ramp.
 6 Q. Okay. And with respect to the requirement that
 7 DOT inspect all temporary controls every 7 days, and
 8 within 24 hours of each rainfall of greater than .5
 9 inches, what, if anything, did you learn during this
 10 part of your inspection?
 11 A. So myself and Max, as the inspectors, talked
 12 with the engineer in charge, which was Mr. John
 13 Baylor, regarding their practices for inspections of
 14 the various controls that they had in place at the
 15 facility.
 16 Q. What did they say?
 17 A. And what we found out from that is, we reviewed
 18 approximately three months of record of their storm
 19 water inspections, and we found that there were times
 20 through that three-month period where there was a gap
 21 of longer than 7 days.
 22 Q. Okay. With respect to the requirement to
 23 ensure that all erosion and sediment control
 24 practices identified in the storm water pollution
 25 prevention plan are maintained and effective

1 operating conditions at all times, what, if anything,
 2 did you learn during this part of the audit?
 3 A. Can I go through examples?
 4 Q. Yes, please. If you would like to point me to
 5 anything in your report?
 6 A. So I can start with kind of going through the
 7 different locations. It's probably the easiest
 8 thing. So the photograph log goes in order from the
 9 way we walk through a facility. So I would like to
 10 start at the southwest infiltration basin, if I can
 11 do that. That would be Photograph 1.
 12 ALJ BIRO: What page?
 13 Q. On what page of the exhibit is this, please?
 14 A. This is Appendix G. It's under the Route
 15 201/434 Bridge Project.
 16 Q. So 636?
 17 A. Yes, 636 -- no, 638.
 18 Q. Photos begin on 638, okay.
 19 Tell us what you saw there.
 20 A. So at the southwest infiltration basin, again
 21 on the southwest corner of the cloverleaf, I noted
 22 there was a silt fence BMP that was installed, and
 23 there was basically a stockpile that had been pushed
 24 over the silt fence and was on both sides of the silt
 25 fence, adjacent to the southwest infiltration basin.

Page 141

1 Q. Why is this a problem?

2 A. Well, the BMP is designed to prevent the

3 stockpile from entering into the infiltration basin,

4 and the exposure of the stockpile entering the

5 infiltration basin is the concern.

6 Q. And what impact would that have on the

7 functioning of the infiltration basin?

8 A. Well, the issue that I'm documenting is the

9 silt fence being, basically, compromised, which would

10 then, in turn, allow stockpile material to enter the

11 infiltration basin. The infiltration basin is

12 designed to infiltrate storm water, and if you have

13 any storm water or other materials, it could effect

14 the effectiveness of the BMP.

15 Q. And what other photos did you take that show

16 concerns with the implementation of the controls?

17 A. Photograph number 5 also indicates a sand pile

18 on the southwest location of the cloverleaf that had

19 a plastic covering over the sand pile, but it was

20 compromised. Representatives noted they had some

21 wind recently and it hadn't been replaced since the

22 wind moving on.

23 Q. Let me stop you there.

24 So what is the problem or the potential harm of

25 this finding?

Page 142

1 A. So that, again, is the storage of sand. This

2 is immediately adjacent to the southwest infiltration

3 basin shown in Photographs 1 and 2. So the exposure

4 of sand has the potential to enter the southwest

5 infiltration basin.

6 Q. And limit its effectiveness?

7 A. Correct.

8 Q. And what would be the proper practice, or a

9 proper practice, for Photograph 5 be?

10 A. Well, coverage and containment are the two

11 things we look for, and in this regard, the silt

12 fence was compromised, so they don't have any

13 containment; and they attempted to have overhead

14 coverage, and that was also compromised.

15 Q. That is the little pieces of plastic there?

16 A. The plastic, yes.

17 Q. Okay. And moving on, what do we see in

18 Photograph 6?

19 A. Yes. So Photographs 6 and 7, there were some

20 storm drain drop inlets in the construction area,

21 right in the median, basically, of the cloverleaf,

22 right in the center of it. The storm drains did not

23 have any inlet protection on them. So there was

24 active construction going on in the area, so we

25 observed, you know, sediment that is shown in

Page 143

1 Photograph 7, unstabilized sediment, located around

2 the storm drain, and that sediment has the potential

3 to discharge to the northeast infiltration basin at

4 this particular location.

5 Q. And that would also limit the effectiveness of

6 the basin?

7 A. Yes.

8 Q. And what would a proper practice or BMP look

9 like in this circumstance?

10 A. So in our conversations with the EIC at this

11 location, they said they typically had sandbags as an

12 inlet protection, but they were removed because they

13 were conducting active construction in Photograph 6;

14 however, that was not documented on Photograph 7 --

15 or Photograph 8.

16 Q. So those are -- well, what is the relationship

17 -- I see the relationship between 6 and 7.

18 Is 7 a close-up of one of the drains, storm

19 drains, in 6?

20 A. So Photograph 7 is actually on the -- just

21 immediately north of Photograph 6 on the other side

22 of the road. And then if you continue north,

23 Photographs 8, 9, 10, 11 -- I'm sorry, 8, 9 and 10

24 are all northeast infiltration basins.

25 Q. Okay; I see. So those are separate. Those are

Page 144

1 all separate storm drains that have been impaired by

2 lack of BMP?

3 A. Correct.

4 Q. Okay. And is this storm drain in 8 the same as

5 the storm drain in 9, you might have just --

6 A. Yes.

7 Q. And what is the problem that you see in

8 Photograph 9?

9 A. The accumulation of sediment and debris over

10 the storm drain inlet.

11 Q. What is the problem with that?

12 A. It has the potential to discharge to the

13 northeast infiltration basin and effect the

14 effectiveness of the drop inlet.

15 Q. To reduce the amount of water that it can

16 convey?

17 A. Yes.

18 Q. Okay. And, again, what would be the proper

19 practice in that circumstance to prevent or alleviate

20 that problem?

21 A. Have some sort of structural control in place

22 to reduce the amount of sediment.

23 Q. What could that be, in this case?

24 A. In this case, the representative had identified

25 sandbags, which is what they typically use in their

Page 145

1 practices at this location.
2 Q. Was that in the plan; the erosion and sediment
3 control plan for this?
4 A. I don't recall.
5 Q. And how about Photograph 12; can you describe
6 what you observed and documented in Photograph 12?
7 A. Yes. So Photographs 11, 12, 13, 14, and 15 are
8 all on the northwest infiltration basin. So this is
9 located on the northwest side of the cloverleaf, and
10 what we had documented here in Photograph 11, you can
11 see, there was an outlet from the infiltration basin,
12 and the discussion with the EIC noted they had had
13 issues at this location with large rain events,
14 flooding in the infiltration basin. And so, they
15 created an outlet as a result, and so, number 11
16 shows this outlet on the infiltration basin side.
17 Photograph 12 shows the outfall of that infiltration
18 basin, as does Photograph 13.
19 Q. And is that a proper practice, to create a new
20 outlet from an infiltration basin?
21 A. Well, the design of the infiltration basin was
22 to infiltrate all of the storm water that would occur
23 at the location.
24 Q. So it wouldn't need an outlet like that?
25 A. You wouldn't need an outlet.

Page 146

1 Q. So this is a result of the basin not
2 functioning properly?
3 A. According to the representative.
4 Q. Okay. And what is the concern with the
5 Photograph 13; what do you see there that raises
6 concerns?
7 A. So Photographs 12 and 13, we observed that
8 there was sediment and gravel accumulation on the
9 downstream side, leading towards a creek that was
10 adjacent.
11 Q. And you indicated that creek in Photograph 13?
12 A. Correct. In addition to that, as you can see
13 on Photograph 12, the silt fence, the BMP that was
14 installed to prevent sediment from discharging into
15 the creek, was removed from that location.
16 Q. So was that silt fence intended to go across
17 the outfall?
18 A. Be continuous.
19 Q. So any flow coming out of the pipe would be
20 somewhat filtered?
21 A. I don't think the pipe was designed to be
22 there.
23 Q. That is separate?
24 A. Correct.
25 Q. Okay. What other concerns did you see in this

Page 147

1 site?
2 A. At this site, we also noted in Photographs 14
3 and 15, there were some gaps along the silt fence.
4 So it wasn't continuous, as I mentioned earlier.
5 Q. And do those both, the gap of the downhill
6 slope in 14 and 15, lead to the creek you identified
7 in Photograph 15?
8 A. Correct. This is in that same line along the
9 northwest infiltration basin.
10 Q. Okay. And would that allow sediment to, then,
11 potentially discharge into the creek?
12 A. It's basically limited the effectiveness of the
13 BMP, which is the structural control of the silt
14 fence.
15 Q. Okay. With respect to the requirements to
16 ensure that construction site contractors received
17 erosion and sediment control training, what, if
18 anything, did you learn during this part of the
19 audit; did you ask any questions about that?
20 A. Yes. We -- at every facility we asked what
21 their level of training was.
22 Q. Okay. And what kind of response did you get
23 from folks?
24 A. I don't recall at this particular location.
25 Q. Okay. And did you also do an inspection at a

Page 148

1 site known as Prospect Mountain Phase 1/Route 17
2 Reconstruction Project?
3 A. Yes.
4 Q. Okay. And when did you do that?
5 A. That was conducted on June 20th, as well, at
6 approximately 3 p.m.
7 Q. Okay. And did you document your inspection in
8 the audit report?
9 A. Yes, documented with our field notebook and
10 during our site inspection. We documented that with
11 photographs, as well.
12 Q. And is that documentation located in the
13 exhibit pages 643 to 647?
14 A. Correct, 643 to 647.
15 Q. And with respect to the requirements that the
16 DOT inspect all temporary controls every 7 days and
17 within 24 hours of each rainfall of greater than half
18 an inch, what, if anything, did you learn at this
19 site?
20 A. I don't believe we had any observations of
21 that.
22 Q. And with respect to the requirement that DOT
23 ensure that all erosion and sediment control
24 practices identified in the SWMP are maintained in
25 all operating conditions at all times, what, if

1 anything, did you learn at this site?
 2 A. At this time, we met with Tom Phillips, who was
 3 the engineer in charge, as well as some other folks
 4 with NYS DOT Mr. Larry Cutting and Ellen Hahn who is
 5 with New York State DEC, who also visited this site
 6 with us. This was a large construction project along
 7 Interstate 81, and we looked at two particular
 8 locations.
 9 If I could start with Photograph 1, the first
 10 area we looked at was an area immediately east of --
 11 Q. Hold on a second. Go ahead.
 12 A. So the first area was immediately east of
 13 Chenango River and South of 81. This is where we met
 14 the facility representatives and discussed the
 15 present status of the project, and we noted that
 16 there was active construction occurring at this site
 17 during our inspection.
 18 We also noted that, in Photograph 2, when we
 19 arrived at the site, staff were installing the silt
 20 fence around the perimeter of the construction site,
 21 along the Chenango River. This area had already been
 22 graded and the silt fence was being installed after
 23 it was being graded, instead of being installed
 24 before.
 25 Q. The proper practice is to install it prior to

1 the grading?
 2 A. Correct.
 3 Q. And you note that the Chenango River is down
 4 gradient of that graded area in Photograph 2; is that
 5 right?
 6 A. That's correct.
 7 Q. Okay. And what did you observe in Photograph
 8 3?
 9 A. So, in Photograph 3, that is basically just
 10 east of Photograph 1. It's facing west towards the
 11 Chenango River, and we noticed an area where the silt
 12 fence didn't encompass the active construction area.
 13 So the silt fence basically stopped and there was a
 14 disturbed area that did not have any containment.
 15 Q. Was that up gradient of the Chenango River?
 16 A. That is up gradient.
 17 Q. So could sediment have washed off of that into
 18 the Chenango River?
 19 MR. WINANS: Objection.
 20 ALJ BIRO: What is the basis for the
 21 objection.
 22 MR. WINANS: It calls for speculation.
 23 The question is whether it did.
 24 Q. Based on your experience with erosion and
 25 sediment control and storm water overexposed soil, do

1 you think it would be likely that soil would wash off
 2 of this exposed area?
 3 MR. WINANS: Objection; hypothetical
 4 question.
 5 ALJ BIRO: Sustained. He is not being
 6 qualified as an expert.
 7 Q. Let's move on to Photograph 4, please.
 8 What did you see there?
 9 A. So this was, again, along Interstate 81, New
 10 York State 17, over Mygatt Street. This was a bridge
 11 replacement project. What we noted here in
 12 Photographs 5, 6 and 7 were some storm drain drop
 13 inlets, and we noticed some fine sediment and debris
 14 that accumulated over the storm drain drop inlet.
 15 Q. And why is that a problem?
 16 A. Those pollutants have the potential to
 17 discharge into their MS4.
 18 Q. And what would have been the proper practice in
 19 this circumstance?
 20 A. Again, that is based on the construction
 21 specifications, but some sort of inlet protection is
 22 typically what is observed at an area that is
 23 immediately adjacent to active construction.
 24 Q. Is that something you would put around the
 25 inlet to prevent --

1 A. Yes, there are a number of designs.
 2 Q. And what do we see in Photograph 7?
 3 A. So Photograph 7 is showing where the active
 4 construction is and the adjacency of the storm drain.
 5 Q. So that is the storm drain indicated in
 6 Photograph 7, the same as the one in Photographs 5
 7 and 6?
 8 A. 5 and 6, correct.
 9 Q. Okay. And how about Photograph 8, where is
 10 that taken?
 11 A. That is immediately to the east of that
 12 intersection shown in Photographs 4 and 5, and that
 13 was an area that was recently cleared adjacent --
 14 along Prospect Street and Interstate 81, and that
 15 area did not have any erosion or sediment control BMP
 16 in place, and they had conducted active grading
 17 there.
 18 Q. Okay. And was that up gradient of the storm
 19 drain noted in Photographs 5, 6 and 7?
 20 A. Correct.
 21 Q. Does that cover both of the sites that you --
 22 both of the areas of the construction that you said
 23 you observed there?
 24 A. Yes.
 25 Q. Okay; thank you. And did you also visit a site

1 referred to as Interstate 81/86 Bridge Replacement?
 2 A. Yes.
 3 Q. And when did you do that?
 4 A. That was conducted on June 21st, approximately
 5 10:30 a.m.
 6 Q. Okay. And you can give us an overview of what
 7 was going on there?
 8 A. Yes. So that was along Interstate 81. This
 9 was east of Binghamton, near the Town of Kirkwood.
 10 ALJ BIRO: What page are we looking at?
 11 A. I'm sorry. This is page 361.
 12 Q. I'm sorry, 631?
 13 A. Yes. I'm sorry, 631 through 635, yes.
 14 So the bridge construction project, they were
 15 replacing a bridge and there is an exit ramp and
 16 interchange there. When we visited the site, they
 17 were replacing a bridge section and, basically,
 18 filling concrete into a form.
 19 Q. And these photographs, starting on page 633,
 20 these are the photographs you took of the site?
 21 A. Correct.
 22 Q. And tell us what you -- what these show about
 23 your observations?
 24 A. Okay. So Photograph 1 showed an active
 25 construction area that we had observed and silt fence

1 that was immediately up gradient of Park Creek, which
 2 is a tributary to the Susquehanna. We noticed that
 3 the silt fence had collapsed in a section, which is
 4 shown in Photograph 2, and there were large boulders
 5 that were piled up against it, and compromised the
 6 silt fence.
 7 In Photograph 1, you can see the form, the
 8 gentleman standing on a piece of wood there, that is
 9 the concrete form. That is the adjacency of the
 10 bridge project at Park Creek.
 11 Q. In Photograph 2, that is boulders on top of the
 12 silt fence?
 13 A. Correct.
 14 Q. Okay. And what about Photograph 3, what do you
 15 see there?
 16 A. Well, that was also in the same location as
 17 Photograph 2, where the silt fence was not
 18 entrenched, so it was not functioning as designed.
 19 Q. Okay. And would it -- it would allow sediment
 20 to run underneath the fence?
 21 A. It has the potential to, yes. NYS DOT has
 22 construction specs for how to entrench a silt fence,
 23 but...
 24 Q. When you say entrench?
 25 A. Standard practice is to basically bury a

1 certain height of the silt fence.
 2 Q. Underground?
 3 A. To prevent sediment from discharging through it
 4 or under or over it.
 5 Q. Thank you. And what about Photograph 4, what
 6 do we see there?
 7 A. That was just an example of a BMP that was
 8 located adjacent to I-81, that had actually fallen
 9 into Park Creek.
 10 Q. How was that -- it looks like the caption says
 11 straw bale. How is the straw bale a BMP?
 12 A. Another BMP, like a sandbag, like an
 13 un-structural control to help prevent sediment from
 14 entering the creek.
 15 Q. Okay. And why did you take a photograph of
 16 this piece of straw bale in the creek; what does that
 17 tell you about?
 18 A. It tells me that the straw bale was not
 19 functioning as it was designed to along I-81 from
 20 preventing sediment to enter the creek.
 21 Q. All right; thank you. And Photograph 5 on page
 22 634, what do we see there?
 23 A. Okay. So, let's see. Photographs 5, 6, 7, and
 24 8 are all showing the same area. This was along I-81
 25 in the construction zone, and we noted a concrete

1 washout that was not designated, per the engineering
 2 charts that they gave us at our facility tour. He
 3 was unaware that this concrete washout waste had been
 4 discharged there, and were unsure why.
 5 Q. Can you say a little bit more about what a
 6 concrete washout area is?
 7 A. A concrete washout area is, essentially, when
 8 you're done pouring your concrete, you have a
 9 designated area, typically, that is contained, that
 10 you would then wash the concrete mixer out so it
 11 doesn't stick to it, and that area is then collected
 12 and removed at a later time.
 13 Q. Allowed to dry, allowed to --
 14 A. Correct.
 15 Q. Okay. And so, this one, you said, was
 16 happening in a place where it was not planned to be
 17 happening?
 18 A. According to the representative.
 19 Q. And what is the potential problem with this,
 20 potential?
 21 A. Photograph 6 will show where the concrete
 22 washout waste was located, as shown in Photograph 5,
 23 and we observed the concrete waste leading down
 24 gradient to a storm drain drop inlet shown in
 25 Photographs 7 and 8. And in Photograph 7, you can

1 see that there was a silt fence installed to prevent
 2 anything from entering the storm drain drop inlet,
 3 but what we observed the concrete waste on both sides
 4 of -- both sides of the silt fence, as shown in
 5 Exhibit 8.
 6 Q. Meaning, it likely had washed through or
 7 around?
 8 A. It was located on both sides of it.
 9 Q. And would that, then, have the possibility to
 10 wash into the storm drain?
 11 A. Yes.
 12 MR. WINANS: Objection.
 13 ALJ BIRO: Sustained.
 14 Q. And what about 8 and 9, is that all part of the
 15 same?
 16 A. That is another location where we observed
 17 active concrete washout activities, in an uncontained
 18 area located to the east of the bridge project.
 19 Q. All right; thank you.
 20 You also looked at pollution prevention and
 21 good housekeeping practices.
 22 Did you visit a site known as Broome
 23 Residency/Barlow Road Facility?
 24 A. Yes.
 25 Q. And when did you do that?

1 A. On June 21st.
 2 Q. And tell us a little about that site; what was
 3 going on there? What was that facility; what was
 4 happening at that facility?
 5 A. So that is a -- the Broome Residency was an NYS
 6 DOT maintenance facility. They had conducted a
 7 number of different things there. It consisted of
 8 offices, vehicle maintenance garage, equipment
 9 storage area, vehicle washing area, and it included a
 10 vehicle fueling island, petroleum bulk storage,
 11 stockpiles, road paint equipment, and storage.
 12 Q. And who did you speak with there?
 13 A. At that location, we talked to the resident
 14 engineer, Jim Masser.
 15 Q. And what concerns with pollution prevention and
 16 good housekeeping did you find at this site?
 17 A. So at this location, we did a facility
 18 walk-through with the representatives. We noted, in
 19 the vehicle storage area, multiple instances where
 20 petroleum product was on the surface in the area,
 21 staining below the vehicle and staining on the
 22 impervious ground surface.
 23 Q. Let me step back for a second.
 24 You said, when you go to sites, you will talk
 25 to folks about what kind of plans or paperwork they

1 might have related to what you're inspecting. Did
 2 you do any of that at the site?
 3 A. Yes. We talked to facility representatives.
 4 So my description of what they conduct at the
 5 facility is what I put in my field notes, and that
 6 happened during our initial discussions with the
 7 representatives.
 8 Q. And what kind of written plan, if any, did they
 9 have for pollution prevention and good housekeeping
 10 at this facility?
 11 A. At this particular location, they could not
 12 provide us with a storm water solution plan.
 13 Q. Let me direct your attention to the photographs
 14 in Complainant's Exhibit 30, pages 656 through 687.
 15 Can you tell us what kind of concerns you're
 16 documenting here?
 17 A. I'm sorry, could you repeat?
 18 Q. What kind of concerns with pollution
 19 prevention/good housekeeping were you documenting
 20 with these photographs?
 21 A. So in photograph -- so, Photographs 1 and 2
 22 depict an oil water separator. That was the
 23 discussion we had with the representative, and the
 24 oil water separator is designed to take the water
 25 that is collected in the facility, and discharge it

1 to the sanitary sewer. That is all that is
 2 documenting.
 3 Q. Okay.
 4 A. And Photographs 3, 4, and 5, and 6 are all of
 5 the vehicle storage area, where we observed the
 6 petroleum product stain.
 7 Q. And what is the concern with the petroleum
 8 product stain?
 9 A. So the petroleum product stain was on an
 10 impervious service and the vehicles were stored
 11 adjacent to the ditch.
 12 Q. Is that the ditch photographed in Photograph 3?
 13 A. That is shown in Photograph 3, correct.
 14 Q. And you note that there is a -- or you
 15 indicate, but with an arrow, that the Stratton Mill
 16 Creek runs by there?
 17 A. That was per the facility representative. They
 18 explained the drainage, the ditches lead to Stratton
 19 Mill Creek.
 20 Q. And so, what would have -- what would good
 21 practice be in this -- good housekeeping/pollution
 22 prevention practice be in this circumstance?
 23 A. Typically, if there is staining on the ground,
 24 the practice is to clean it up.
 25 Q. And is there any way to prevent that from

1 happening, or to --
 2 A. No.
 3 Q. Let's turn to Photographs 7 and 8.
 4 What do those photographs indicate?
 5 A. So this was also located in that same location
 6 as the vehicle and equipment storage area, and we
 7 observed a bucket of paint that had spilled on the
 8 ground adjacent to the ditch.
 9 Q. And is that the same ditch that is indicated in
 10 Photograph 3?
 11 A. Photograph 3, correct.
 12 Q. And with the same flow to Stratton Mill Creek?
 13 A. Correct.
 14 Q. And just because I have to ask it: What would
 15 the proper practice be there?
 16 A. Yes. If there is a spill, to clean it up. If
 17 it is exposed to storm water, you should try to
 18 contain it and clean it up.
 19 Q. Okay. Let's turn to Photographs 9 through 11.
 20 I believe those document are the same areas; is
 21 that right?
 22 A. Yes. So this is a material storage area
 23 located on the east side of the residency. A few
 24 different things we are noting here, all within the
 25 same storage area. There is a number of materials

1 that are stored outside without coverage or
 2 containment. They are located immediately adjacent
 3 to the ditch and Stratton Mill Creek. And
 4 Photographs 10 and 11 are depicting millings and
 5 particular stockpiles that are collected from
 6 street-sweeping vehicles that are used to clean up
 7 the streets, and they are stored in an area with
 8 standing water, adjacent to that ditch referenced in
 9 previous photographs.
 10 Q. Okay. And you said coverage or containment,
 11 what might that look like in this circumstance?
 12 A. Well, there are no structural controls in place
 13 to prevent the millings and the different collection
 14 materials from discharging off of the site.
 15 Q. And what might be a containment practice that
 16 would prevent the discharge?
 17 A. It would have to be specified in the storm
 18 water prevention plan.
 19 Q. But silt fences and --
 20 A. A silt fence would be an example of one.
 21 Q. And why did you take Photograph 12; what are
 22 you showing there?
 23 A. Again, we document potential sources of
 24 pollutants when we do an inspection, as well as their
 25 controls. So Photograph 12 is showing that they have

1 a fueling station located on the premises.
 2 Q. And what is the concern with that?
 3 A. Fueling operations, in general, there is no
 4 overhead coverage. With fueling operations, it's
 5 something that we always document during inspection.
 6 Q. Is that because there is a potential for the
 7 fuel to spill and wash off?
 8 A. That's correct, yes.
 9 Q. Okay. And what is in -- what do we see in
 10 Photograph 13?
 11 A. So Photograph 13 is an area on the southeast
 12 corner of the facility where they had done some road
 13 paint testing in this location. And again, just
 14 noting some rusted metal buckets and materials that
 15 were stored outside without overhead coverage or any
 16 containment, and the rusted metal product contained
 17 metal products.
 18 Q. You mean, pieces of metal?
 19 A. Correct.
 20 Q. Okay. And is 15 related to 13 --
 21 A. So --
 22 Q. -- or is this all the same area?
 23 A. So same location. This is -- in Photograph 14,
 24 there was a 55 gallon drum that was sitting out in
 25 the road paint testing area, that contained some sort

1 of a black substance, and didn't have any sort of
 2 secondary containment; and Photograph 15 is the view
 3 inside of the 55 gallon drum.
 4 Q. And what was -- what does secondary containment
 5 mean?
 6 A. A secondary containment would be a device to
 7 prevent if there was a spill from the bucket to
 8 prevent it from discharging.
 9 Q. And what might that look like?
 10 A. There are various structures that you could buy
 11 that would prevent a leak from hazardous substances
 12 that you're supposed to store an exposed drum like
 13 that in.
 14 Q. And those would capture any discharges?
 15 A. Yes.
 16 Q. Okay. And how about Photograph 16 -- are 16
 17 and 17 related?
 18 A. Yes, 16 and 17 are related.
 19 Q. Okay; tell us about those.
 20 A. This was a drive-by on the -- this was located
 21 at the bridge crew facility, which we just did what
 22 we call a windshield inspection, drove by the
 23 facility due to time constraints to observe what was
 24 going on at the location. And what we noted was,
 25 again, material stockpile areas without any overhead

1 coverage or containment; and Photograph 17 shows we
 2 observed a bucket with a hazardous substance sticker
 3 on it and material stockpiles, rusted metal parts and
 4 various things that were stored outside.
 5 Q. Okay; thank you. Are there any other concerns
 6 in relation to the MCM-4/MCM-6 that you observed in
 7 your inspection that I didn't get a chance to ask you
 8 about today?
 9 A. I think we covered it all.
 10 MR. SAPORITA: Thank you for your
 11 testimony. I'm done, Your Honor.
 12 MS. McNALLY: Can we have just one
 13 minute?
 14 ALJ BIRO: Of course.
 15 MS. McNALLY: All right.
 16 *****
 17 CROSS-EXAMINATION
 18 BY MS. McNALLY:
 19 Q. I'm Alicia McNally, I'm with the DOT. I'm
 20 going to ask you some questions.
 21 If you need me to rephrase because you don't
 22 understand something, let me know and I will do so.
 23 So you stated in your testimony this was the
 24 first MS4 that you have ever dealt with; is that
 25 correct?

1 A. Yes.
 2 Q. Okay. And so, had you ever had any experience
 3 in New York State with regulatory audits?
 4 A. So my experience was, I had conducted
 5 approximately 60 industrial construction storm water
 6 inspections prior to this.
 7 Q. But none of them were for MS4 systems?
 8 A. No.
 9 Q. Okay. And so, did you have any training in
 10 non-traditional MS4 systems, like a linear
 11 transportation agency, for example?
 12 A. Yes, but NETTE training, as well as MPDS
 13 training.
 14 Q. And they specifically specialize in traditional
 15 MS4?
 16 A. Traditional and non-traditional.
 17 Q. And what was your familiarity with the general
 18 MS4 permit written by the DEC in this case?
 19 A. So my familiarity with it was, prior to
 20 conducting the inspection, I read through the permit.
 21 Q. The whole thing?
 22 A. I read through the entire permit.
 23 Q. How long did that take? That's a long permit.
 24 A. It took a while.
 25 Q. Did you discuss with the DEC or EPA regarding

1 interpretation of the permit and its application?
 2 A. No.
 3 Q. You relied on your own intuition?
 4 A. I read the permit prior to conducting the
 5 inspection.
 6 Q. Okay. What about DEC and EPA jurisdiction in
 7 New York State over non-traditional MS4s; did you
 8 discuss any of that with them, where their
 9 jurisdiction begins and ends?
 10 A. So my involvement with the inspection was that
 11 I was there to support the lead inspector, Max Kuker,
 12 who would have had the conversations with EPA prior
 13 to the inspection.
 14 Q. Okay. So is Max still employed by PGE?
 15 A. He is not.
 16 Q. That is why you are here today instead of him?
 17 A. Correct.
 18 Q. So, I'm not going to -- I'm going to have you
 19 look at some of the pictures, but as a
 20 generalization, for the items like silt fences that
 21 were down, or the stockpile on page 639 that the wind
 22 had blown the plastic off of, did you do any
 23 additional investigation as to how long those had
 24 been that way; did they happen the day before?
 25 A. So we ask those questions, it's a component of

1 our follow-up questions when we are conducting the
 2 inspection at the site. So I would have to look at
 3 my field notes, as far as the duration, but for
 4 example, how long ago had the wind blown that off, I
 5 don't have an exact number in front of me.
 6 Q. Is it a violation just to have it uncovered for
 7 ten minutes?
 8 A. I don't make those determinations. I just
 9 document site conditions at the time of the
 10 inspection.
 11 Q. Okay. So when you give your report to the EPA,
 12 they make those determinations?
 13 A. Yes. We send off our report and that is the
 14 end of our job as contractors.
 15 Q. Do you have to indicate to them how long it has
 16 been that way?
 17 A. If it's applicable.
 18 Q. In that case, it would be applicable, right?
 19 A. I would have to read the inspection report
 20 again to look it up.
 21 Q. It would be in there?
 22 A. I can't recall.
 23 Q. So, I'm going to ask you, just generally, do
 24 you recall your testimony about page 646, Photograph
 25 2; can you find that for me?

1 A. Yes.
 2 Q. And so, you said that the area to the right, it
 3 was disturbed, and you saw them putting up the silt
 4 fence, and clearly, they should have put it up before
 5 they disturbed the area?
 6 A. Yes.
 7 Q. They seem to fall all the time, as you see
 8 throughout all of the pictures?
 9 A. They require proper maintenance and operation,
 10 like everything else.
 11 Q. Of course, but would it surprise you that they
 12 had to reinstall the silt fence, that there was an
 13 issue and perhaps that is what happened?
 14 MR. GARELICK: Objection, Your Honor.
 15 Calling for speculation.
 16 ALJ BIRO: Sustained.
 17 Q. Did you ask whether or not that is what
 18 occurred?
 19 A. Can you repeat the question?
 20 Q. Did you just assume they were installing it for
 21 the first time, or did you do an investigation as to
 22 whether there was a silt fence?
 23 A. We don't assume anything. We just know what
 24 happened at the point in time we were there.
 25 Q. You know they were building silt fence?

1 A. We know they were installing it when we arrived
 2 at the site.
 3 Q. Not whether there was one there and they had to
 4 reinstall it?
 5 A. Correct.
 6 Q. Okay. How about page 647, Photograph 6; there
 7 should be some pollution prevention measures around
 8 the storm drain, correct?
 9 A. Yes. We noted that there was sediment over the
 10 storm drain.
 11 Q. And were you familiar with catch basins as a
 12 pollution prevention measure?
 13 A. Yes.
 14 Q. Did you look inside to see if there was a catch
 15 basin?
 16 A. Yes.
 17 Q. I assume there was not?
 18 A. There was not. I would have photographed it if
 19 there was.
 20 Q. Okay; great. So if you could go to page 656?
 21 You had indicated that there was a petroleum
 22 stain in Photograph 4?
 23 A. Correct.
 24 Q. And you indicated that the proper measure when
 25 there is a petroleum stain is to clean it up; is that

1 correct?
 2 A. Yes.
 3 Q. Are you aware of some type of cleaning product
 4 that does not also create a hazardous discharge into
 5 the waterway?
 6 A. I don't design them, but there are mechanisms
 7 to clean up petroleum stains that don't cause
 8 petroleum to discharge to --
 9 Q. I'm talking about the detergent, itself, which
 10 is considered an illicit discharge; is it not?
 11 A. There are other things than detergent. There
 12 is kitty litter, for example, things we will see at
 13 locations like this for cleaning up of petroleum
 14 stain.
 15 Q. Did you advise them that that would be --
 16 A. I don't do that during inspections, that's not
 17 my job.
 18 Q. Okay. Let's go to page 659, Photograph 15.
 19 Did you do any investigation as to what was in
 20 that bucket?
 21 A. We asked the facility representative that was
 22 with us if they knew what the black substance was in
 23 the bucket, they were unaware of what it was, where
 24 it came from, or what it was.
 25 Q. And that is something that you put in the

1 report to the EPA, that there is a substance, no one
 2 knows what it is, and they make a determination as to
 3 whether that substance would, then, be a potential
 4 discharge?
 5 MR. GARELICK: Objection, Your Honor.
 6 She is asking him what EPA makes as a
 7 determination when it's obviously outside of
 8 the role he played in this audit.
 9 MS. McNALLY: I'm asking where the
 10 information goes and what happens to it, to
 11 his knowledge.
 12 ALJ BIRO: Restate your question.
 13 Q. So you didn't know what it was. If you asked
 14 them the question and they told you they didn't know
 15 what it was, and you would put that in your report,
 16 yes?
 17 A. That is what we document in the report, yes.
 18 Q. Okay. And as far as you know, it would be up
 19 to EPA to determine whether or not that was a
 20 violation?
 21 A. That is -- yes, that's not my information.
 22 Q. Okay; that's it. Have you done any audits for
 23 EPA of other state agencies since the region audits
 24 here?
 25 A. Yes.

1 Q. And what state?
 2 A. What state? I do these all over the country.
 3 Q. For EPA, have you done any State DOTs?
 4 A. I have not done any other DOTs.
 5 Q. This is the only one?
 6 A. Correct.
 7 MS. McNALLY: Okay.
 8 MR. WINANS: With the Court's
 9 permission, I just wanted to clarify one
 10 thing.
 11 *****
 12 FURTHER CROSS-EXAMINATION
 13 BY MR. WINANS:
 14 Q. You know, Mr. Kirkeby, that when they are doing
 15 construction work, the State normally has a contract
 16 with the contractor that does the work, correct?
 17 A. Correct.
 18 Q. And were you familiar with the specifications
 19 of the New York State Department of Transportation in
 20 terms of the contractor's responsibility for these
 21 projects and the compliance with the MS4 permit?
 22 A. Yes, and that is described in the inspection
 23 report.
 24 Q. And so, just to summarize it, basically, you do
 25 know that the State requires of its contractors that

1 they take on these responsibilities and do the
 2 erosion control?
 3 A. They have allocated that in some instances for
 4 construction projects, yes.
 5 MR. WINANS: Thank you.
 6 ALJ BIRO: Is that everything?
 7 MR. WINANS: Yes, that's all.
 8 MR. SAPORITA: Just one follow-up
 9 question.
 10 *****
 11 REDIRECT EXAMINATION
 12 BY MR. SAPORITA:
 13 Q. You said prior to this audit, you had done, was
 14 it, 60 industrial storm water --
 15 A. Yes.
 16 Q. What is the difference between the types of
 17 control in MS4 and the types you're looking for in
 18 the industrial storm water inspections?
 19 A. We are looking at the exact same things. So
 20 construction inspections, you meet with the
 21 individual, you talk about what they are doing at the
 22 site, look at the structural controls in regard to
 23 storm water. And industrial sites, same deal, they
 24 have storm water prevention pollution plans,
 25 individual storm water permits. We do the storm

1 water inspections the same as we did here.
 2 Q. Are the types of tools used, controls used, in
 3 industrial settings different than the type in a
 4 construction site?
 5 A. No.
 6 MR. SAPORITA: Thank you. No further
 7 questions.
 8 MR. WINANS: Thank you. Nothing
 9 further.
 10 ALJ BIRO: Thank you very much. Is
 11 there any intent to recall this Witness at a
 12 later date?
 13 MR. SAPORITA: No, Your Honor.
 14 ALJ BIRO: Thank you very much.
 15 (Whereupon, the Witness excused.)
 16 ALJ BIRO: Would you like to take a
 17 break or proceed on to your next witness?
 18 MR. GARELICK: Yes. Just for timing
 19 purposes, because we haven't discussed
 20 overall timing, we have one more witness
 21 ready to proceed today. I suppose he will
 22 probably take a similar amount of time as the
 23 last witness, and then we have an additional
 24 two witnesses and Ms. Arvisu scheduled for
 25 tomorrow. So if we want to take a break now

1 and call the next witness, as long as that is
 2 acceptable, that will be the end of the
 3 testimony for today.
 4 ALJ BIRO: We can do that, because it's
 5 only 2:30. We can hopefully get everyone in
 6 by 5. That would be great.
 7 MR. GARELICK: The one witness that we
 8 have after, yes.
 9 ALJ BIRO: We have to do that; do your
 10 direct and cross, and we have to make sure we
 11 have complete time for everyone to do that
 12 and come back tomorrow.
 13 We will stand in recess until 2:45.
 14 (At which time, 2:33 p.m., a brief recess
 15 was taken until 2:47 p.m.)
 16 ALJ BIRO: All set?
 17 MR. GARELICK: The Complainant calls
 18 Bobby Jacobsen to the stand.
 19 ALJ BIRO: Madam Reporter, would you
 20 please swear the Witness in?
 21 *****
 22 ROBERT JACOBSEN,
 23 called as a witness, being duly sworn,
 24 testifies as follows:
 25 DIRECT EXAMINATION

1 BY MR. GARELICK:
 2 Q. Would you state your name for the record?
 3 A. Bobby Jacobsen. My given name was Robert
 4 Jacobsen.
 5 Q. Thank you. Who do you work for?
 6 A. PG Environmental.
 7 Q. And what is PG Environmental?
 8 A. PG Environmental is a consulting firm, and we
 9 work primarily for our regulatory partners, state and
 10 federal agencies. We do primarily water
 11 quality-related work.
 12 Q. What is your position with PGE?
 13 A. Environmental Scientist in the Colorado office,
 14 the operation manager, and
 15 staffing/scheduling/training for staff.
 16 Q. What are your duties involved as -- in both
 17 capacities?
 18 A. As an environmental scientist, you know, I have
 19 a whole slew of different projects I work on:
 20 Environmental compliance inspector, Clean Water Act
 21 inspection in different places, do training for
 22 different programs, primarily in the storm water
 23 arena, work on policy, regulatory-type development
 24 research tasks. My span of projects is wide. I have
 25 been at PGE for ten years.

1 Q. So you started in 2008?
 2 A. Yes. And in kind of the operation's manager
 3 position, primarily: Staffing, ensuring the
 4 workload, getting appropriate people on different
 5 tasks, keeping projects moving and done
 6 appropriately.
 7 Q. Do your duties include municipal separate storm
 8 sewer system work?
 9 A. They do.
 10 Q. And in what capacity?
 11 A. I'm an inspector. I do a lot of annual report
 12 reviews, hosted a couple of workshops lately about
 13 the MS4 program and program-related improvements,
 14 done training. The past four years, I have been a
 15 trainer at the MPS for EPA for the MS4 component. I
 16 do other internal staff trainings.
 17 Q. Have you done -- so how many MS4 inspections
 18 have you done prior to the DOT inspection?
 19 A. Prior to the DOT, I think I had done
 20 approximately 35. I'm not a hundred percent sure on
 21 the exact number, but I think it was my 36th MS4
 22 inspection.
 23 Q. Have you done MS4 inspections subsequent to the
 24 DOT inspection?
 25 A. I have done at least that many, maybe around

1 50. I don't know the exact number.
 2 Q. Have any of your MS4 inspections included state
 3 highways?
 4 A. Yes. Prior to doing New York inspections, I
 5 have done California, Arizona and Virginia; and then
 6 subsequent to New York, I looked at Maryland State
 7 Highway Association and the West Virginia Department
 8 of Transportation.
 9 Q. And was that a similar scope of work to what
 10 you did in this DOT case?
 11 A. Yes, similar approach, you know. They are each
 12 a little different in their scale and exact number of
 13 sites and everything, but the approach was the same.
 14 A lot of the minimum control measures we looked at
 15 were the same.
 16 Q. Okay. Can you briefly go over your education?
 17 A. Yes. For college, I went to the College of
 18 William and Mary in Virginia. I have a Bachelor's of
 19 Science in Environmental Geology. It was Geology
 20 with an environmental science-type focus,
 21 hydrology-related focus. I did the Bachelor's, did
 22 not do Master's.
 23 Q. Okay. Obviously, since we have discussed it,
 24 there came a time when you became involved in a case
 25 involving the New York State DOT?

1 A. Yes.
 2 Q. And, approximately, when was that involvement?
 3 A. I was involved on-site in the Region 8
 4 inspection in November of 2012.
 5 Q. What was your role with respect to Region 8?
 6 A. I was a support inspector. So my colleague,
 7 Max Kuker was the lead on the regional inspection,
 8 but I led one of the -- when we were in the field, we
 9 broke into two teams. I led one of the field teams
 10 with an EBA, Chris Mercozzi.
 11 Q. What minimal control measures were you
 12 responsible for evaluating?
 13 A. Primarily, in the field, we look at
 14 construction and one maintenance facility for
 15 pollution prevention/good housekeeping.
 16 Q. I will direct your attention to Complainant's
 17 Exhibit 35, page 647.
 18 Do you have that there?
 19 A. I have the audit report.
 20 Q. In particular, let's look at 648.
 21 Okay. Did there come a time when you conducted
 22 an inspection at a Sprain Brook Parkway over Route
 23 119 Construction Project.
 24 A. Yes.
 25 Q. When was that?

1 A. That was November 28th in 2012.
 2 Q. And were these observations documented in
 3 Complainant's Exhibit 35, that you have in your hand?
 4 A. I'm sorry, can you state that again?
 5 Q. Were the observations, or report of your work,
 6 documented in Complainant's Exhibit 35, the document
 7 you have in your hand?
 8 A. Yes. This was the site visit. We developed a
 9 document to document our site visit observations.
 10 Q. Did you meet with anyone when you arrived at
 11 the site?
 12 A. Yes. The folks listed here, including Aileen
 13 Helsley and Gretchen Fitzgerald, and we spoke with
 14 Jason Hilton at the site.
 15 Q. And was that the standard practice, to meet
 16 with individuals before going to the site?
 17 A. We try to -- when we go there, there are some
 18 sites that we go to where the site representatives
 19 are not available, but it's common practice to go
 20 with the site representative. That is more popular,
 21 to meet with them while they are there on the project
 22 site.
 23 Q. What is the purpose of meeting with them prior
 24 to walking around?
 25 A. Primarily, to orient ourselves with the current

1 activities and, you know, what phase of the
 2 construction, as we like to talk to them about the
 3 purpose of being there, you know. There is kind of a
 4 -- there is a, you know, scope for the MS4
 5 inspection, and it's, you know, not necessarily as
 6 detailed as if you were to go to a construction site
 7 and just do an inspection of that one site for the
 8 construction general permit. So we tend to meet with
 9 the site representatives to make sure they understand
 10 why we're there and to understand everything, the
 11 status of the construction, and a lot of times, we
 12 will meet with them to look at the site map together,
 13 because a lot of DOT projects are large, and the
 14 amount of time that we have to do the site visits, we
 15 can't visit every portion of the project. So
 16 multiple reasons that we try to meet with the site
 17 visit representatives when we get there.
 18 Q. Okay. What relevant information, if any, did
 19 you learn from the site representatives at the scene?
 20 A. Most of that information is documented in the
 21 front part of this site visit report. Basically, the
 22 status of the project, what it consisted of and what
 23 stage they were in, you know, for this project, you
 24 know. We talked about the location of the staging
 25 area, which was separate from the active construction

1 side, so that was helpful to speak with them, and,
 2 you know, get a sense for the activities that were
 3 occurring.
 4 Q. Was there information regarding when this
 5 construction project began?
 6 A. Yes.
 7 Q. Okay. And when was that?
 8 A. It looks like it started in August 2012, so
 9 about three months prior to our site visit.
 10 Q. And while at the site, did you make any
 11 observations with regard to construction site storm
 12 water run-off control and storm water drainage at the
 13 construction site?
 14 A. Yes.
 15 Q. Did you take photographs of the observations?
 16 A. I did.
 17 Q. I'm going to direct your attention to pages
 18 651, 652, 653, 654, 655, 656.
 19 Were those the photographs that you took on
 20 site at the Sprain Brook Parkway over Route 119
 21 Construction?
 22 A. Yes, I did.
 23 Q. And do they fairly and accurately represent
 24 your observations on that date?
 25 A. Yes.

1 Q. I will direct your attention to page 651.
 2 A. Okay.
 3 Q. Is this -- looking at Photographs 1 and 2, is
 4 this the staging area location for this site?
 5 A. Yes.
 6 Q. Okay. And what observations, if any, did you
 7 make with respect what was documented in Photographs
 8 1 and 2?
 9 A. One and 2 is probably about the silt fence,
 10 section of silt fence that had collapsed around the
 11 stockpile in the staging area.
 12 Q. Okay. And what were your concerns, you know,
 13 relating to these observations?
 14 A. Primarily, maintenance of the control practice
 15 that is supposed to be implemented there, that it
 16 wasn't properly maintained.
 17 Q. How could it have been properly maintained?
 18 A. That the silt fence was, you know -- there are
 19 areas of accumulated sediment in Photograph 1, that
 20 sediment is removed and that the silt fence is placed
 21 back up and it's in a vertical position.
 22 Q. I will direct your attention to Photographs 3,
 23 4 and 5.
 24 A. Okay.
 25 Q. And what observations can we see in these

Page 185

1 photographs?

2 A. I mean, again, it's collapsed silt fence, and

3 the fence had not been maintained and put back

4 properly, and there are a couple of examples where

5 materials had been placed adjacent or on top of the

6 silt fence, like in Photographs 4 or 5.

7 Q. And would the appropriate measures be similar

8 to what you just discussed with regard to Photographs

9 1 and 2?

10 A. Yes. Ensuring it's still properly installed

11 and if it's knocked over, which sometimes happen on

12 construction sites, to put it back in its original

13 place, or ensuring that the site operators are

14 knowledgeable not to place materials on top of the

15 controls.

16 Q. And that example is in Photograph 4?

17 A. 4, yes. There is an item placed directly

18 adjacent to it. 5, there is one placed on top of it.

19 Q. I will direct your attention to Photographs 6,

20 7 and 8.

21 What are your observations that are documented

22 in those photographs?

23 A. This one is just a lack of BMP installation.

24 So a stockpile that was not stabilized and there was

25 not a control or silt fence around it in the site

Page 186

1 visit. Item 3, it identifies that the NYS DOT

2 inspector had identified this issue during inspection

3 8 days prior to our site visit, that it hadn't been

4 addressed, and so that was the issue we saw, is that

5 there wasn't silt fence there. Based on the

6 contractor's plan for the area, there should have

7 been, and the NYS DOT had identified it, but not

8 corrected as of 8 days later when we did the

9 inspection.

10 Q. And what would be the appropriate practice to

11 maintain that stockpile?

12 A. Well, in this case, it would have been

13 appropriate to install silt fence, as per the plan

14 the contractor provided.

15 Q. Did you also inspect the active construction

16 area at this site?

17 A. We did.

18 Q. Okay. Were there any differences -- or what do

19 you look for in a staging area versus an active

20 construction site?

21 A. I mean, we are looking for similar things, but

22 the tendency is that, I guess, in a staging area,

23 that is a location where materials tend to be stored

24 or stockpiled. There is often more, you know --

25 other -- more pollution prevention and good

Page 187

1 housekeeping-type of issues on the construction site.

2 Waste, where you would see in the staging area, as

3 compared to the active construction area, is not

4 always due to generalization, but we are looking for

5 similar things; the BMPs that are installed,

6 potential pollutant sources, and if those pollutant

7 sources are mobilizing.

8 Q. Okay. And so, did you also make observations

9 relating to storm water run-off controls or storm

10 water drainage at the active construction site?

11 A. Yes.

12 Q. I will direct your attention to Photographs 9

13 through 12.

14 Starting with Photographs 9 and 10, what do we

15 see in the photographs?

16 A. So this was an area that was used for

17 construction vehicles to enter the site. There was

18 some sediment observed on the adjacent roadway,

19 tracked by the vehicles off-site. I'm just checking

20 to see here -- yes, one of the issues, you know. So

21 on the control plans, we expect that they identify

22 where construction site entrances are and what

23 controls might be placed there to prevent pollutants

24 from leaving the site, such as sediment. In this

25 case, we documented the sediment control plan

Page 188

1 established a construction area would be in this

2 area, and what we were shown did not encompass the

3 full area that the plan identified would be

4 installed, and there was some sediment that had been

5 tracked out into the street.

6 Q. So, now, looking at Photographs 13, 14 and 15.

7 A. Okay.

8 Q. Actually, back to Photograph 11, what is the

9 concern that you -- what is the relationship to

10 Photographs 11 and 12 to what we previously talked

11 about in Photographs 9 and 10?

12 A. So 11 is a close-up of some of the materials

13 that were used for stabilizing that entrance for

14 temporary stabilization. So that is the type of --

15 if you look in Photograph 12, there is a note or

16 call-out that says "construction entrance" with an

17 arrow pointing to an area. That is an example --

18 Photograph 11 is an example of the material that was

19 used in that area, a photo of a portion of the ground

20 in that area. One issue that I don't -- I don't

21 believe I documented here, and didn't explore

22 on-site, but often times, you know, the size of the

23 rock used is the size of the material is smaller than

24 what is called for in the plan, but I don't believe I

25 evaluated it in this one, but that is one of the

1 reasons we often take a photo of -- a close-up photo
 2 of the material at the time.
 3 Q. And what is the concern with having smaller
 4 rocks?
 5 A. That it doesn't -- it doesn't -- it may not
 6 remove as much sediment as the vehicles drive through
 7 it, might not capture as much of it. Ultimately, it
 8 is, what does the specification say that it should
 9 be.
 10 Q. Okay.
 11 A. So I'm not trying to raise that as a
 12 significant point here, because it's not something I
 13 fully evaluated on-site, but I'm telling you,
 14 generally, that is something that is often evaluated.
 15 Q. Okay. Moving forward to Photographs 13, 14 and
 16 15.
 17 A. Okay.
 18 Q. What observations or -- what is indicated in
 19 these photographs?
 20 A. So 13, 14 and 15 is the area where there is a
 21 storm drain inlet along the highway. There is silt
 22 fence around it and there are portions of the silt
 23 fence that are partially collapsed, and a little in
 24 13 and 15, I suppose, you can see where there is some
 25 material that had been pushed up against the silt

1 fence. Another issue in the site visit write-up,
 2 Observation No. 5, part of it states that there was
 3 excess sediment control plans identify that inlet
 4 protection comprised of concrete blocks should be
 5 used instead of -- it did not identify that silt
 6 fence should be used as the inlet protection.
 7 So, to me, the main couple of issues here are
 8 the BMP selection that their plan called for was a
 9 different BMP, and maintenance of the BMP that was
 10 installed.
 11 Q. And certainly, looking at 13, 14, 15, that
 12 would not be an adequate procedure to, you know,
 13 appropriately maintain that drain inlet?
 14 A. It doesn't appear to be, to me.
 15 Q. Okay. What are the concerns with failing to,
 16 you know, properly comply with BMP as to protect the
 17 drain inlets?
 18 A. In this case, the primary concern is the
 19 pollutant sediment, the main pollutant source that
 20 would get past the silt fence or BMP into the storm
 21 drain inlet and into the separate storm unit, and
 22 then to the water. So receiving sediment through the
 23 storm drain through that inlet.
 24 Q. Now, taking a look at Photograph 16, what do we
 25 observe in that photograph?

1 A. Two primary issues. One being the, again,
 2 portion of that silt fence is collapsed or collapsing
 3 and that would be accumulated sediment pushed up
 4 against the silt fence. So this would be this BMP
 5 that had not been maintained, and again, it should
 6 have been maintained to make sure it's still
 7 vertical. And also, that the accumulated material
 8 had been removed from the silt fence.
 9 Q. What is the relationship with that observation
 10 and what is depicted in Photographs 17 through 20?
 11 A. 17 through 20, these are basically additional
 12 examples of similar issues of sections of collapsed
 13 silt fence along that portion of the parkway. So it
 14 is demonstrating that there are multiple areas where
 15 the silt fence had collapsed. So they are not all
 16 photographs of the same exact length of silt fence.
 17 Q. So all photographs, 16, 17 and 18, 19 and 20,
 18 all depict various areas where there is silt fence
 19 failure, essentially?
 20 A. Yes. I'm looking at 16 and 17 -- I think they
 21 are all different, yes. I was looking at 16 and 17
 22 to see if they were similar, and I believe they are
 23 separate areas.
 24 Q. Okay.
 25 A. No, I'm sorry, 16 and 17 -- 17 is a closer view

1 of 16.
 2 Q. And 18, 19 and 20 are additional areas from 16
 3 and 17?
 4 A. 18, 19, 20 are separate additional areas, yes.
 5 Q. Okay. And did you have a conversation with
 6 anyone at that site regarding the silt fence issues?
 7 A. I'm confident we did, but I don't recall the
 8 exact people or the exact dialogue that we had, but
 9 folks like Ms. Helsley or Ms. Fitzgerald, we would
 10 have been identifying what the observations are as we
 11 went through the site.
 12 Q. I will direct your attention to Photographs 21
 13 through 23.
 14 What are we looking at in these photographs?
 15 A. This is another example of a storm drain, but
 16 different as compared to the other one. This is one
 17 that was -- just had not had inlet protection
 18 installed. So this was a lack of installation of the
 19 BMP, based upon what we documented from the site
 20 visit; and looking at the sediment control plan,
 21 there should have been inlet protection installed for
 22 this area.
 23 Q. What would be the appropriate measure to
 24 address this drain inlet protection?
 25 A. In this case, based on what they put in the

1 control plan, it would have been some sort of inlet
 2 protection consisting of concrete blocks, and there
 3 are various configurations for inlet protection that
 4 are used by different programs. So it comes down to
 5 what the plan for this site said, and whatever the
 6 specifications are that they are supposed to be
 7 following. I have --
 8 Q. Yes?
 9 A. I have one other thing I wanted to add from a
 10 previous question. I don't know if I can do that?
 11 Q. Sure.
 12 A. The one about Photos 16 through 20, you know,
 13 one of the observations from that is that, you know,
 14 we reviewed the NYS DOT inspection reports for this
 15 site. So that was an issue. These sections of
 16 collapsed silt fence displayed in 16 through 20, that
 17 was one provided by NYS DOT. They identify 8 days
 18 prior to the site visit, so it was a site condition
 19 that was observed there, but when we went on-site, it
 20 had not been corrected. I'm not aware if there was
 21 communication to the contractor to fix those things,
 22 but that was one of observations that we made based
 23 on the records, and included in this part of the site
 24 visit report.
 25 Q. Great; thanks. After the inspection, did you

1 review any records relating to this site?
 2 A. Yes, and I reviewed inspection reports provided
 3 by NYS DOT, and the control plan, and there have been
 4 other records, but I'm not certain.
 5 Q. Okay. I will direct your attention to page
 6 650, still on Complainant's 35.
 7 A. 650?
 8 Q. Yes. On page 650, in paragraph 8, which I
 9 guess are your findings -- essentially, are those
 10 your finding paragraphs?
 11 A. Yes, I mean, observations.
 12 Q. Okay. It speaks to -- can you tell us what
 13 exactly was denoted in paragraph 8?
 14 A. So, paragraph 8 basically is saying that after
 15 the inspection, we reviewed the inspection records
 16 that NYS DOT had, to see how frequently they had
 17 performed site inspections. So this observation is
 18 just documenting that there were four instances where
 19 inspections were conducted more than 7 days apart,
 20 and in each of these four instances, they were 8 days
 21 apart.
 22 Q. Are there any other observations regarding this
 23 site that you feel need to be discussed?
 24 A. I don't believe so.
 25 Q. Okay. Did there come a time when you did

1 another inspection at the Interstate 287 Interchange
 2 Construction Project?
 3 A. There was.
 4 Q. I will direct your attention to Complainant's
 5 Exhibit 35, starting on pages 658 and 659, which has
 6 the substantive information.
 7 So just to repeat my question: Did there come
 8 a time when you did an inspection at the
 9 287/Interchange 8 Construction Project?
 10 A. Yes, an afternoon on November 28, 2012.
 11 Q. And did you meet with anyone prior to
 12 conducting the inspection?
 13 A. Yes. There was several different people. They
 14 are listed on the site report.
 15 Q. And what information, generally, did you learn
 16 from interacting with them?
 17 A. From this, again, it was an overview of the
 18 product to understand what the status is, what were
 19 the phases of the project, you know, what were some
 20 of the notes with documents about significant
 21 components being a culvert crossing or for the river
 22 to flow beneath the new westbound ramp. We talked
 23 about those issues. We talked about who was,
 24 basically, involved in the project, what were the
 25 roles of the contractors or NYS DOT employees, and

1 again, probably talked about the different areas of
 2 the site to determine whether they where -- we
 3 physically wanted to visit during the site visit.
 4 Q. Did you make any observations at that site with
 5 respect to storm water run-off control and storm
 6 water drainage at this construction site?
 7 A. We did.
 8 Q. Did you document these observations in
 9 photographs, as well?
 10 A. Yes, we took photographs on-site, and then,
 11 this was documented on-site as observations in the
 12 site report, included in the appendix of the
 13 inspection report.
 14 Q. Okay. I will direct your attention to page
 15 662.
 16 A. Okay.
 17 Q. Particularly, Photographs 1 through 3. What is
 18 depicted in the photographs?
 19 A. This is showing an area of soil disturbance up
 20 gradient of the river there on the project site. The
 21 primary issue being displayed is holes in the silt
 22 fence.
 23 Q. And what is the concern of it being up gradient
 24 of the Mamaroneck River?
 25 A. Flow run-off from the site may pick up

Page 197

1 pollutants, mainly sediment, and discharge it into
 2 the river adjacent to the site.
 3 Q. Looking at Photographs 4 through 6, what is
 4 depicted in these photographs?
 5 A. This was an area where construction vehicles
 6 were entering a portion of the site -- entering or
 7 exiting a portion of the site. One of the issues or
 8 observations we had here was sediment that had been
 9 tracked from the disturbed area onto the impervious
 10 roadway surface next to it. In the site visit, we
 11 noticed another issue, or an observation was that the
 12 control plan for the erosion control plan for the
 13 site didn't indicate there was a construction
 14 entrance in this area, but you will see in
 15 Observation 2 in the site report, it shows there is a
 16 note on the erosion control plan, the entrance that
 17 is shown on the plans is minimum, and the entrances
 18 can be adjusted in the field, if necessary.
 19 So, again, an observation here was that there
 20 was not a stabilized construction entrance installed,
 21 and sediment that had been tracked onto the adjacent
 22 impervious roadway.
 23 Q. Okay. Looking at Photographs 7 through 10.
 24 A. Okay.
 25 Q. What is depicted in these photographs?

Page 198

1 A. 7 through 10, this is an area -- another
 2 disturbed area of soil disturbance up gradient of the
 3 river there, and the main issue related to the BMP
 4 installation or maintenance is that the silt fence
 5 had collapsed, similar to what we saw in other areas.
 6 A more significant issue here is that it's directly
 7 adjacent to the water body.
 8 Q. Is that the Mamaroneck River, right in the
 9 bottom of Photograph 7?
 10 A. Yes, that's correct. So in Photograph 8, that
 11 is a little closer view of what is in Photograph 7,
 12 so the river is a little beneath the photograph that
 13 you can see.
 14 Q. And what is the relationship of Photographs 9
 15 and 10 to 7 and 8?
 16 A. So these are additional photographs of sections
 17 of silt fence in adjacent areas here.
 18 Q. I notice you indicate disturbed area. Is that
 19 near the -- where the BMP should be installed?
 20 A. Are you talking about Photograph 9?
 21 Q. Yes.
 22 A. Photograph 9, there is also a call-out with the
 23 arrow that says where there is a section of collapsed
 24 silt fence, so that is down gradient of that area of
 25 disturbance.

Page 199

1 Q. I will direct your attention to Photographs 11
 2 through 14.
 3 Starting at Photograph 11, what is observed in
 4 these photographs?
 5 A. In 11 -- let's see. So 11 and 12 are
 6 photographs of the same inlet. 12 is a closer
 7 photograph of 11, but it's basically just displaying
 8 the existence of the storm drain inlet without BMP
 9 for inlet protection and sediment surrounding the
 10 inlet, and there is sediment observed within the
 11 inlet itself on 11 and 12. And Photograph 14 is a
 12 photograph taken looking, basically, up gradient from
 13 the inlet shown in 11 and 12 and 13. So this one is
 14 identifying there is sediment up gradient of the
 15 storm drain inlet without BMP for protection, and
 16 sediment stockpiles that don't have any perimeter
 17 control around them.
 18 Q. And what would be the BMP, or an appropriate
 19 BMP, with respect to Photograph 14?
 20 A. Well, for 14, itself, I don't believe -- I'm
 21 not certain whether the erosion control plan
 22 identifies the stockpiles, or a practice for them,
 23 but sometimes silt fences are used, as we saw in the
 24 other stockpiles at the other site. The fact that
 25 this is impervious surface, we will see fiber rolls

Page 200

1 or straw bales, as some people call them, or another
 2 type of BMP that can sit on top of the surface, since
 3 it wouldn't be able to be staked into the ground.
 4 For the inlet, itself, in Photograph 11 and 12, we
 5 note in Observation number 4 in the site visit
 6 report, that the erosion control plan identified
 7 storm drain inlet protection for the inlet, and silt
 8 fence was what had been proposed, or should have been
 9 installed for the inlet.
 10 Q. And in Photograph 12, what is the concern with
 11 the sediment there?
 12 A. So Photograph 12, you know, the concern is that
 13 there is sediment adjacent directly to the inlet, and
 14 it will get into the inlet, as in Photograph 13, and
 15 that sediment will be discharged to the nearby water
 16 body.
 17 Q. And that was the Mamaroneck River?
 18 A. Correct.
 19 Q. Looking at Photographs 15 through 18, what
 20 observations are depicted in these photographs?
 21 A. 15 through 18. So the primary issue in 15 --
 22 or an issue in 15 is sediment that had been tracked
 23 onto the adjacent impervious roadway from vehicles
 24 entering the location site, so the soil in this area
 25 had not been stabilized so that sediment was being

Page 201

1 mobilized and moved to the impervious surface. There
 2 is also a storm drain inlet in 15 and 16 called out
 3 with the red call-out there, and there was not inlet
 4 protection installed around that inlet.
 5 Q. What is the relationship with Photographs 17
 6 and 18?
 7 A. 17 and 18. So 17 is a close-up view of the
 8 inlet in 15 and 16. 18 is, then, a view into the
 9 storm drain inlet itself that is shown in 17, 16 and
 10 15.
 11 Q. And what would be the best management practices
 12 to resolve the issues in 15, 16, 17, 18?
 13 A. So inlet protection, installing the BMP. I
 14 don't know. I have to look at the notes here. I
 15 don't know if the sediment control plan called out a
 16 specific inlet protection.
 17 So based on observations here, it says the
 18 sediment control plan did not identify this inlet --
 19 or the BMP should be implemented for this inlet.
 20 There are different types of inlet protection that
 21 could be used for that inlet. It seems, based on the
 22 Sprain Brook Parkway, the concrete block was a spec
 23 that was used. So that could be used, or a silt
 24 fence, and stabilized construction entrance, or
 25 simply not -- you know, if you can limit the amount

Page 202

1 of vehicle access to the disturbed areas, if
 2 possible.
 3 Q. And does appropriate BMPs list all inlets at a
 4 site, or should an appropriate BMP take note of all
 5 inlets at a site?
 6 A. I'm not sure I fully understand. Should,
 7 like -- I would expect that the site has accounting
 8 for all inlets at the site and can't provide
 9 sufficient protection for all inlets that are there.
 10 Does that answer your question?
 11 Q. Yes; thank you.
 12 A. So back to Photograph 18, like 16 -- 15, 16,
 13 17, 18, again, is a series of photographs, you know,
 14 storm drain inlets in the background, and 15 a closer
 15 view, and 16 even closer view, 17 showing the
 16 sediment around it, and 18 is a view into the inlet
 17 itself, and there was sediment inside of the catch
 18 basin.
 19 Q. Moving on to Photographs 19 through 23, what is
 20 depicted in these photographs?
 21 A. So 19 through 23, this was an area of the site
 22 where there had been installed, essentially, a more
 23 permanent storm water control. So this is called
 24 their sand filter BMP, you know. The primary issue
 25 noted in this series of photographs is the erosion up

Page 203

1 gradient and leading to that BMP, and some of the
 2 sediment observed within the BMP, itself.
 3 Q. What is the concern with that failure?
 4 A. So the primary concern, if you look at -- well,
 5 Photograph 22 -- well, in 19, it showed where the
 6 outlet location is from the BMP, from the sand filter
 7 BMP, as they call it, and there was erosion up
 8 gradient from that. Photo 24 shows the sediment
 9 there, and it shows the sediment is engrained and
 10 down gradient of that area.
 11 Q. What would be an example of an appropriate BMP?
 12 A. You know, stabilizing the area of erosion is
 13 ideal. In this case, you know, I don't know when
 14 these straw bales had been installed, you know. It
 15 appears that they put in some BMP to try to slow the
 16 flow of water, but basically dissipating the velocity
 17 of flow to reduce erosion would be the primary way to
 18 reduce that situation, and then ensuring that, you
 19 know, you have perimeter control, like silt fence,
 20 making sure they are well-maintained and keeping the
 21 sediment out of the sand filter we have here.
 22 Q. Okay. We have discussed, I believe, 24. What
 23 is the relationship between Photographs 25 and 26 to
 24 the issues we just discussed?
 25 A. So I would like to, I guess, also, refer you to

Page 204

1 Photo 19 to make that relationship. So --
 2 Q. Sure.
 3 A. Photo 25 is at the far end of the area
 4 surrounded by silt fence in Photo 19, so towards the
 5 top right part of the corner in an up gradient area,
 6 and Photo 26 depicts the storm drain inlet that is
 7 kind of in the bottom left of Photo 19. So the
 8 relation is that Photograph 25 is up gradient of 26.
 9 Does that make sense?
 10 Q. Yes; thank you. And looking at Photograph 27
 11 and 28, what is depicted in these photographs?
 12 A. So 27 and 28, this is a view of another area
 13 with some disturbed soil up gradient of the river,
 14 and this is an area where there did not appear to be
 15 any BMPs installed for perimeter control, or
 16 basically, to keep the sediment from entering the
 17 river. There is also -- you can see in the photo,
 18 there is a relatively small sediment stockpile in
 19 that area, and that did not have perimeter controls
 20 directly around it, or down gradient of it.
 21 Q. So we have been talking the last couple of
 22 photographs about MCM-4 at construction sites; is
 23 that correct?
 24 A. Yes.
 25 Q. What did you also make observations with

1 respect to pollution prevention/good housekeeping
 2 issues at this site?
 3 A. We did, basically, within the context of MCM-4.
 4 Q. Okay.
 5 A. So I think you're referring to the staging area
 6 that we visited at the site.
 7 Q. Yes. Particularly moving to Photographs 29 and
 8 30.
 9 A. Yes. So the observations that we were just
 10 talking about, mainly related to sediment -- erosion
 11 and sediment control, and this is related to other
 12 construction site materials, such as oils or other
 13 materials that they use on-site as part of the
 14 process.
 15 Q. So 29 is a photograph of, essentially, the
 16 staging area?
 17 A. It's a photograph into the staging area,
 18 basically, at the entrance.
 19 Q. And I see that you note the Mamaroneck River.
 20 What is the location of the Mamaroneck River to the
 21 staging area?
 22 A. It's just behind it. I -- if I'm visualizing
 23 it, the aerial, like the location of it, I believe it
 24 is just to the north of the staging area.
 25 Q. Okay.

1 A. But it is -- you know, there is the staging
 2 area, an embankment, and a river, kind of a little
 3 bit of a wooded embankment with some trees on it.
 4 Q. Okay. And looking at Photograph 30, what is
 5 depicted in that photograph?
 6 A. So Photograph 30 shows an area where a number
 7 of different signs and containers are stored; and 30
 8 is kind of giving you the context for this area
 9 within the staging area; and 31 and 32 is giving
 10 close-ups of some containers that were observed
 11 within that area shown in 30. So 31 is just a view
 12 of a bucket there that had what appeared to be a
 13 petroleum product in it and did not have a lid, no
 14 cover on top of the bucket. 32 is a closer view of
 15 that bucket.
 16 Q. And what are the concerns with the matter of
 17 storage here and the uncovered bucket?
 18 A. Primarily, the concerns are that it could get
 19 knocked over easily if people aren't aware of it.
 20 Another concern is the time, if there is enough
 21 precipitation that falls, it could fill up the volume
 22 of the bucket and overflow. On construction sites,
 23 there are vehicles used to have materials moved over.
 24 If they use a piece of equipment to move the
 25 materials, if the bucket had material in it and was

1 not secured, that could easily be spilled on the
 2 ground and, you know, it's in close proximity to the
 3 river. I couldn't tell you exactly how or if it
 4 would flow and make it to the river, but it's in
 5 pretty close proximity.
 6 Q. Looking at Photographs 33 and 34, what is
 7 depicted in these photographs?
 8 A. 33 and 34, again, it's an area in the staging
 9 area that is used for storage of materials. So this
 10 one is just showing a few different drums that were
 11 stored up gradient of the river. You know, again,
 12 there is -- 34 is calling out that there wasn't a cap
 13 or bung on the barrel shown in 34. So, again, it's
 14 kind of the issue of if the barrel were to be knocked
 15 over or if there was enough -- somehow if there was
 16 enough water or other liquid to enter there, it could
 17 overflow. So this, again, we are calling out there
 18 is no coverage or containment in the area.
 19 Oftentimes, we will see that these areas are stored
 20 under coverage and/or in some sort of containment
 21 area, or on a modular platform that provides some
 22 level of secondary containment if there was a leak or
 23 spill.
 24 Q. Okay. Looking at Photographs 35 and 36, what
 25 is depicted in these pictures?

1 A. 35 and 36 is the entrance or exit to the
 2 staging area. You know, the observation here was
 3 that there was sediment that was tracked to the
 4 adjacent impervious roadway. So the entrance to the
 5 area wasn't stabilized. A common practice that we
 6 would see is that, you know, crush rock or something
 7 would be used to provide temporary stabilization to
 8 that area.
 9 Q. Okay. And Photographs 37 and 38, what is
 10 depicted in those?
 11 A. 37 is showing an area with a fuel tank that is
 12 under cover, but it's noting there is some staining
 13 on the adjacent ground surface. 38 is not -- I don't
 14 believe it's right next to 37, but it's a little
 15 further away, I think, to the east, if I'm
 16 envisioning the layout correctly; and 38 is primarily
 17 calling out, again, the perimeter control issue.
 18 There was a silt fence that had been installed, but
 19 subsequently has been knocked down, like the pallets
 20 or something had been placed there and knocked it
 21 down, so the fence in that area up gradient of the
 22 river.
 23 Q. I'm going to direct your attention to page 661
 24 of Complainant's Exhibit 35, particularly paragraph
 25 9.

1 Similar to the last site we discussed, you made
 2 notations regarding records in this paragraph?
 3 A. Correct.
 4 Q. And can you explain to us what you are
 5 documenting here?
 6 A. So this is documenting the fact that we
 7 reviewed the inspection reports provided by NYS DOT
 8 for a period of time, and observed that there are two
 9 occasions in which the time between the inspections
 10 that they conducted were more than 7 days. There is
 11 one example where it was 14 days apart and one
 12 example where it was 8 days apart, based on the
 13 records provided.
 14 Q. Did there come a time when you visited a
 15 residency facility?
 16 A. Yes, there was. I have one other additional
 17 thing about this site.
 18 Q. Sorry, yes. Please, go ahead.
 19 A. The one thing that was observed on the staging
 20 area -- so the second part of the site we were
 21 looking at, not the active construction area, is that
 22 that part, based on the folks that we talked to
 23 on-site, that part of the site was not part of the
 24 inspection that NYS DOT or the contractor did. So if
 25 they went on a weekly basis, that would not have been

1 part of what they were looking at as a course of the
 2 inspections.
 3 Q. So what is the significance of that?
 4 A. To me, the significance is that it's a part of
 5 the construction site where there are potential
 6 pollutants that could leave the site or enter a water
 7 body, and it was a location where there was not an
 8 inspector viewing them on a regular base to identify
 9 issues and seek corrective action to prevent any
 10 pollution from the area.
 11 Q. Thanks.
 12 Is there anything else of note at this site
 13 that you observed?
 14 A. Not -- no, I don't think so.
 15 Q. Okay. I just mentioned that there also came a
 16 time where you visited a residency site?
 17 A. That's correct.
 18 Q. And can you just explain the difference between
 19 a construction site and residency site?
 20 A. Yes. A construction site is essentially where
 21 active construction is taking place for DOT,
 22 primarily to build a road or enhance a road or
 23 replace a road. A residency is a location,
 24 essentially, where, primarily, the operations are
 25 based out of. So there could be vehicle maintenance,

1 equipment maintenance that goes on there, salt
 2 storage, you know, it could be used by some
 3 construction vehicles, potentially, to get materials
 4 or access, but primarily, in my view, it's for
 5 building -- construction is for building new projects
 6 and the residency is for the equipment and staff to
 7 go out and maintain the roadways.
 8 Q. Did there come a time when you did an
 9 inspection at the Katonah Residency Facility in
 10 Westchester County?
 11 A. Yes.
 12 Q. What date was that? I'm going to direct your
 13 attention to 726 of Complainant's Exhibit 35.
 14 A. I'm sorry, what page did you say?
 15 Q. 726.
 16 A. Yes. We visited that on November 29, 2012.
 17 Q. What was the purpose of your visit to the
 18 Katonah Facility?
 19 A. The purpose was to visit the site and visit --
 20 or meet with staff that was there, to understand
 21 what, sort of -- basically, what levels of storm
 22 water training they had, if they had a plan on-site
 23 for pollution prevention, and observe the interaction
 24 for the activities that go on there, and potential
 25 pollutants at the facility, and what sources had been

1 implemented to keep pollutants from leaving the site.
 2 Q. Did you meet with anyone when you went to the
 3 Katonah Facility?
 4 A. Yes. As noted in the site visit report, it's
 5 the highway maintenance supervisor, level 2, who was
 6 the primary site contact that we spoke with there,
 7 and we were accompanied by another environmental
 8 specialist from NYS DOT.
 9 Q. What information did you learn, if any, with
 10 regards to whether the site had a formal plan for
 11 addressing storm water pollution prevention and good
 12 housekeeping at the facility?
 13 A. We learned that the site did not have a written
 14 site-specific plan for storm water pollution
 15 prevention at the facility.
 16 Q. Okay. Was that needed?
 17 A. Pardon me?
 18 Q. Was that needed?
 19 A. In my opinion, yes, and the permit has language
 20 about developing procedures and identifying --
 21 MS. McNALLY: Objection. If he hasn't
 22 been qualified as an expert and he testified,
 23 at least from my understanding, that the EPA
 24 makes the final determination as to what
 25 violates the permit, I don't think his

Page 213

1 opinion on this matter is relevant.
 2 ALJ BIRO: Sustained.
 3 A. So they did not have a plan.
 4 Q. What formal documentation, if any, did they
 5 maintain with respect to storm water inspections?
 6 A. Based on our conversations, they really did not
 7 have documentation of storm water inspections at the
 8 facility.
 9 Q. And what information, if any, did you learn
 10 regarding their training procedure at this residency
 11 facility?
 12 A. Based on discussions there, we learned that
 13 they do have health and safety trainings there, but
 14 there was not a -- there was not a specific storm
 15 water training that occurred for the staff. There is
 16 an observation and site visit report here, number 3,
 17 that previous -- you know, in the years past, there
 18 had been an environmental staff member from NYS DOT
 19 that would discuss some environmental issues at the
 20 meetings, but at the time we did the staff visit,
 21 from what the employees told us, that staff member
 22 was no longer there and they haven't had that kind of
 23 component to the safety trainings.
 24 Q. For how long; was there a duration that they
 25 indicated?

Page 214

1 A. In the notes here that were documented, it says
 2 since that staff member left a couple of years prior
 3 to the site visit.
 4 Q. Did you make any observations at this site with
 5 respect to the pollution prevention/good housekeeping
 6 practices there?
 7 A. Yes, we did.
 8 Q. And do the photographs document those
 9 observations?
 10 A. They do.
 11 Q. I'm going to direct your attention to page 662,
 12 particularly starting at Photograph 1 -- wait, sorry.
 13 Wrong document. Page 729.
 14 A. Okay.
 15 Q. Looking at Photographs 1 and 2, what is
 16 depicted in that document?
 17 A. 1 and 2 shows the area of the facility used for
 18 fueling vehicles and equipment. The items that are
 19 called out are about the storage of containers there,
 20 that there were a couple of different fluids stored
 21 and they weren't in a contained area, and there was a
 22 bucket with no lid, also, in that area, that
 23 contained a liquid that was unidentified.
 24 Q. And what are the concerns with that?
 25 A. Concerns, again, are whether or not that

Page 215

1 material -- if that bucket were to be knocked over,
 2 if it were to be by a person or by equipment, you
 3 know, if it were -- if that bucket, in particular,
 4 filled up and overtopped, you know. Same thing with
 5 those other containers there, if they were to be
 6 knocked over, if there was a spill or leak from those
 7 materials in there...
 8 Q. Okay. And how about looking at Photographs 6
 9 through 8; what is depicted in these photographs?
 10 A. 6 through 8. So 6 through 8 is showing a piece
 11 of equipment, basically, a mowing trailer that is
 12 towed behind a tractor to cut grass, and it's
 13 identifying that there was staining underneath of
 14 that, underneath of that piece of equipment, and
 15 there was also rusted metal material that had come
 16 off of that piece of equipment that was on the ground
 17 surface.
 18 Q. And what would be the concerns with those two
 19 issues?
 20 A. The concerns are that the material coming from,
 21 you know, that caused the stain, or that piece of
 22 equipment leaked, whether hydraulic fluid or whatever
 23 the material was, you know, and the rusted metal that
 24 would come from that piece of equipment or previous
 25 piece of equipment, that those were on the ground

Page 216

1 surface, and when it rains, those pollutants could
 2 possibly be mobilized from that location at the
 3 facility.
 4 Q. Moving on to Photographs 9 and 10, what is
 5 depicted in this photograph -- or these two
 6 photographs? Sorry.
 7 A. This is showing an area in the facility where
 8 they store salt for the winter snow season. 9 is
 9 basically just giving a prospective shot, showing
 10 this is the location where they store that; and Photo
 11 10 is essentially a side view from, kind of, the left
 12 side of the salt dome on Photo 9. It was identifying
 13 there was some salt material outside of the covered
 14 area of the salt dome.
 15 Q. And what are the concerns with the exposed
 16 salt?
 17 A. Again precipitation and run-off on the ground
 18 surface could pick up materials and transport them
 19 off-site. Photo 11, also, is just a view facing away
 20 from the salt dome, showing some salt material on the
 21 ground surface.
 22 Q. What would be the BMP, or example, to control
 23 that salt?
 24 A. You know, in this case, Photographs 10 and 11,
 25 you know, simply removing it, putting it back under

Page 217

1 the covered area would be one example of an action to
 2 reduce the potential of that salt leaving the site.
 3 There are various other practices that programs use
 4 to try to minimize the occurrence of salt being
 5 stored outside of the covered area.
 6 Q. And looking at Photograph 12, what is depicted
 7 in there?
 8 A. Photograph 12 is just an area on-site with a
 9 dumpster that was used for disposing of waste at the
 10 facility, you know. The dumpster, at the time, was
 11 uncovered; has a cover on it, but was uncovered,
 12 which is a fairly common observation that we have,
 13 but the issue is just with rain water. If there is
 14 no cover on it, the water can collect in there, and
 15 oftentimes, the dumpsters are not the most
 16 leak-proof, and so, if the rain water accumulates in
 17 there, it has the potential to get out of that
 18 container and is transported.
 19 The other aspect of the photograph is this red
 20 plastic container in there, that had -- you can see
 21 in Photographs 13 and 14 a blue container labeled
 22 "kerosene" on it, and there is some collected water
 23 in the bottom of this red bin, and there appeared to
 24 be a sheen off the surface of the water, and the same
 25 with the container outside without coverage; more

Page 218

1 water could accumulate in there, or there is the
 2 potential for the container to be knocked over and
 3 those to be spilled on the ground surface.
 4 Q. And looking at Photographs 15 through 18, what
 5 is depicted in these photographs?
 6 A. 15 through 18, this is an area at the facility
 7 where there was equipment stored, and the site visit
 8 representative explained it was paving equipment and,
 9 you know, the observations shown in 17 and 18 is that
 10 there was staining adjacent to the equipment on the
 11 ground surface; and 18, it's kind of a close-up view
 12 of the equipment, itself, and it appeared that there
 13 was a material or staining on the equipment. So the
 14 concern there -- you know, the concern there is that,
 15 again, that material being exposed to rain water
 16 could potentially mobilize those pollutants on the
 17 ground surface and off-site.
 18 Q. And looking at Photographs 19 through 20, what
 19 issue is depicted there?
 20 A. 19 and 20, this is another storage area. 20 is
 21 calling out that there was lawn mower equipment that
 22 was stored there with the gas cap not on it. Similar
 23 concept to any other containers, with no coverage,
 24 accumulating rain water, potential for spilling
 25 contents out of it.

Page 219

1 Q. And Photographs 21 through 25?
 2 A. 21 through 25, this was an area where scrap
 3 metal was stored. So one of the -- in 21, it was
 4 just an overall view of it. You can see there are a
 5 couple of call-outs amongst the mass of material.
 6 It's calling out there was a mixed fuel container and
 7 diesel tank in there. Photo 23 is a close-up of the
 8 diesel tank, again, doesn't have a cap on it. I
 9 don't know if there was material inside of those or
 10 not, but the concern is that there is just, you know,
 11 potentially -- potential pollutants and hazardous
 12 materials included in the overall scrap metal pile
 13 that is uncovered and exposed to precipitation.
 14 Q. What would be an appropriate BMP with respect
 15 to the mixed fuel and diesel tank containers?
 16 A. You know, not storing it with all of the other
 17 scrap metal, having it contained, having a process in
 18 place to ensure that any materials, like that were
 19 emptied prior to being put into a location like that,
 20 and ensuring that the cover is on top of it, you
 21 know, various different things that could be done to
 22 reduce that potential. The photograph, I think, you
 23 asked me about was Photo 25?
 24 Q. Yes.
 25 A. So 24 is just showing the back corner of that

Page 220

1 scrap metal storage area, and 25 is showing a
 2 different angle of that corner, where there is a gap
 3 between the concrete -- excuse me, the concrete
 4 barriers that are there. So based on being there, it
 5 appeared that if storm water accumulated in that
 6 area, that that corner in Photograph 25 was a
 7 potential location where storm water would flow, you
 8 know, off-site or flow beyond that scrap metal
 9 storage area.
 10 Q. Looking at Photographs 26 through 31, are they
 11 all in the same -- or the vicinity of the same
 12 building?
 13 A. 26, yes.
 14 Q. And what are the issues depicted in these
 15 photographs?
 16 A. So 26 through 32 is essentially just
 17 documenting what the facility was doing to manage
 18 flows from inside the facility. And so, 26 is a
 19 little -- it's described in the site visit report,
 20 but basically, they had -- there is a trench drain in
 21 this building which collects -- could collect spills
 22 or is used to direct water if you wash the floors;
 23 and my understanding is that that -- I need to refer
 24 to my description here briefly.
 25 Yes. So 26, 27 are showing these trench drains

1 that, based on our observations on-site were
 2 connected to an underground oil/water separator that
 3 was located outside of the building, and that is what
 4 is shown in Photo 28. It's showing the access
 5 structure for the oil/water separator outside of the
 6 building. So materials on the ground surface that
 7 would enter the trench drain would go to the
 8 oil/water separator.

9 And the other part of this is that NYS DOT had
 10 a pretty interesting practice here. That in the area
 11 that they used for equipment washing, so this is
 12 Photograph 29, I know there are a lot of oil and
 13 call-outs here, but trying to depict that this area
 14 within the yellow berm is used for equipment washing
 15 and that that berm separated the equipment washing
 16 from the trench drain that went out to the oil/water
 17 separator. So my understanding, from the site visit
 18 discussions, is that the water that was actually used
 19 for vehicle washing would then be captured by this
 20 area within the berm and directed to storage tanks,
 21 an underground storage container, which 31 is showing
 22 the access structure for that outside of the
 23 building, and that this facility actually reused its
 24 water for wash water. So 32 is showing a treatment
 25 system where the water from the containment tank

1 would be pulled back in and treated, and reused for
 2 vehicle washing.

3 Q. Okay.

4 A. So this, essentially, was documenting site
 5 conditions, not necessarily conveying, you know,
 6 potential pollution issues. I found that reuse
 7 system pretty interesting.

8 MR. SAPORITA: No further questions for
 9 this Witness.

10 MS. McNALLY: Can we have one minute,
 11 Your Honor?

12 ALJ BIRO: Ms. McNally, you are a
 13 disembodied voice, so please stand.

14 MS. McNALLY: I'm sorry. Can we have
 15 one second?

16 ALJ BIRO: Yes.

17 *****

18 CROSS-EXAMINATION
 19 BY MS. McNALLY:
 20 Q. Hi. I'm Alicia McNally. I'm with the
 21 Department of Transportation. I'm going to ask you a
 22 few questions.
 23 If you need me to slow down or repeat myself,
 24 or you don't understand the question, please let me
 25 know.

1 A. Okay.

2 Q. So from your direct testimony, I understand you
 3 actually have some experience with State DOTs?

4 A. I do.

5 Q. Which is great. So you did California,
 6 Virginia, and what other State DOT?

7 A. Arizona, prior to the NYS DOT inspection.

8 Q. And when did you do those; what years, do you
 9 recall?

10 A. I don't recall the exact years. They were
 11 within the previous few years of the NYS DOT
 12 inspection.

13 Q. And so, they were fairly recent?

14 A. Yes.

15 Q. And did you find similar violations?

16 A. Well, I was not tasked with identifying
 17 violations.

18 Q. Did you find similar site conditions?

19 A. You know, I find that question hard to answer.
 20 I guess, I mean, could you be more specific?

21 Q. Well, we went through a lot of documents,
 22 pictures that had reoccurring issues at construction
 23 sites.

24 A. Sure.

25 Q. Specific, partially, to transportation

1 agencies?

2 A. Uh-huh.

3 Q. Like the unsecured entrances, things like that.
 4 I would assume that is kind of common for
 5 transportation agencies, but you would know better
 6 than I would?

7 A. I would say I have observed the issues before.
 8 I don't feel like I can really comment on how common
 9 it is or not. I have only been to three prior to
 10 this one. I have been to a couple since. I have
 11 seen issues similar to that before.

12 Q. Okay. And are those issues that you would
 13 consider common to non-traditional MS4s?

14 A. Honestly, I have a hard time answering that,
 15 that general question. You know, I would reiterate,
 16 I have seen issues relating to BMP installation and
 17 maintenance at non-traditional and traditional MS4s.

18 Q. Sure. There is separate training for MS4s and
 19 non-traditional MS4s, right?

20 A. They are different kinds of programs.

21 Q. So there would be different potential issues
 22 associated with traditional MS4s as opposed to
 23 non-traditional MS4s; you look for different things
 24 sometimes, yes?

25 A. I mean, I'm looking for -- I'm looking -- when

1 I'm tasked with the inspections, what the permit
 2 requires, and the permit requirements -- from my
 3 experience, the permit requirements are fairly
 4 similar, traditional and non-traditional, for perhaps
 5 what legal authority the entities have.
 6 Q. Did you review the permit prior to doing the
 7 audit?
 8 A. Yes.
 9 Q. Did you read it?
 10 A. Yes, I read the permit.
 11 Q. The whole thing?
 12 A. I couldn't tell you if I read every single word
 13 of it, but I'm certain that I read what the
 14 requirements of the MCM we were.
 15 Q. Did you have conversations with the DEA and EPA
 16 about the interpretation of the permit?
 17 A. We talked to the EPA about the minimum control
 18 measures we were evaluating, but I don't recall
 19 having specific discussion on EPA or DEC with sheer
 20 permit language interpretation.
 21 Q. What is your experience regarding the
 22 jurisdictional requirements with the DEC and EPA
 23 regarding MS4? You know they have jurisdictional
 24 boundaries; are you aware of that?
 25 A. In terms of their oversight on MS4?

1 Q. Yes.
 2 A. Generally.
 3 Q. So one of the things that you had indicated
 4 during your testimony is that you found it odd that
 5 there were no inspections of the off-site staging of
 6 the construction site; do you recall that?
 7 A. Yes.
 8 Q. Would it surprise you to know that the DOT has
 9 no jurisdiction to regulate its off-site staging,
 10 considering it's not on DOT property?
 11 A. I don't know if I find it surprising. I find
 12 it, I guess, interesting.
 13 Q. So let's go through some of the pictures that
 14 you talked about. Let's start at -- I think I left
 15 some of my papers over there.
 16 Let's start at page 651.
 17 A. Okay.
 18 Q. Give me one second.
 19 MS. McNALLY: Is there any chance we can
 20 put this on the screen so we can move this
 21 along? I have all of the papers over there.
 22 Can you put it on the screen, page 651?
 23 ALJ BIRO: This is page 651 of
 24 Complainant's Exhibit 35?
 25 MS. McNALLY: Yes.

1 ALJ BIRO: Do you have that in front of
 2 you?
 3 THE WITNESS: Yes; thank you.
 4 Q. Okay. Now, regarding all four of the pictures,
 5 can you show me where the access to the water is?
 6 A. I cannot show you in these photographs, no.
 7 Q. Do you recall?
 8 A. I do not recall exactly where the water flowed
 9 from the staging area.
 10 Q. So looking at just Photograph 1, there is a
 11 stockpile that is covered in grass, correct?
 12 A. Uh-huh.
 13 Q. And grass, itself, is a stabilizer; is that
 14 correct?
 15 A. Grass can be used as a -- yes, to stabilize
 16 sediment.
 17 Q. So you really wouldn't need the silt fence
 18 there if it's already stabilized by grass; is that
 19 correct?
 20 A. To prevent the sediments from leaving the
 21 grass, probably as to hold sediment there; and in
 22 this case, we were in observations that there was
 23 silt fence and grass, you know.
 24 Q. You are making observations, I get it. I'm
 25 just asking you questions.

1 A. Okay.
 2 Q. Okay. And 653, can you show me in these
 3 pictures where the water access is?
 4 A. In these photographs, I do not have the
 5 location of the closest storm drain where the water
 6 body is. I do not know where -- on Route 119, where
 7 the closest storm drain inlet is.
 8 Q. Okay. And how about -- can we go to the next
 9 page, 654?
 10 A. Okay.
 11 ALJ BIRO: What is the question here?
 12 Q. So Photo number 16, I think it is, where the
 13 silt fence is against the concrete barrier, what does
 14 silt fence normally do, catch sediment, right?
 15 A. I didn't hear the whole question. Can you
 16 repeat that, please?
 17 Q. Photograph 16, at the bottom, silt fences are
 18 meant to catch sediment, right, and prevent it from
 19 getting into waterways?
 20 A. Or prevent it from leaving the site.
 21 Q. And what is the silt fence abutting against?
 22 A. There is a concrete barrier. Some people refer
 23 to them as jersey barriers.
 24 Q. And are concrete barriers also used to prevent
 25 sediment from getting off-site?

1 A. They may be, sometimes.
 2 Q. I mean, I'm pretty sure you said in your
 3 testimony they were in the plans for pollution
 4 prevention control?
 5 A. Not highway and safety barriers. Oftentimes,
 6 we will see actual --
 7 Q. We don't want the --
 8 MR. GARELICK: She is not letting the
 9 Witness answer the questions she's asking.
 10 ALJ BIRO: Sustained.
 11 A. So I was saying, I did not come to see highway
 12 safety barriers used for preventing sediment from
 13 leaving sites. What I was referring to was the inlet
 14 protection, and some of the plans called for concrete
 15 blocks, like a concrete cinderblock kind of
 16 configuration, yes.
 17 Q. Okay. And so, this silt fence is supposed to
 18 be keeping the debris from hitting the concrete
 19 barrier, and potentially, going into the roadway; is
 20 that correct?
 21 A. You know, I wasn't tasked to look at the
 22 purpose of the silt fences. I was asked to look --
 23 one of the issues we see sometimes, where you have it
 24 abutting another item that is not for erosion or
 25 sediment control, as you see with that concrete

1 barrier, there is some junk at the bottom of it. So,
 2 I didn't fully evaluate the concrete barrier to see
 3 if there was sediment to escape that.
 4 Q. Okay. Can you go to Photographs 19, 20; okay.
 5 And can you show me in these pictures where the
 6 waterway is located?
 7 A. There is not a waterway located in those
 8 photos.
 9 Q. Do you know or recall if there was a waterway
 10 near them?
 11 A. I do not know exactly where the closest
 12 waterway was to that location.
 13 Q. Okay. Can we go to 662, please?
 14 And in Photograph 4, can you show me where the
 15 access to the water is there?
 16 A. I'm going to need a minute to find a page -- or
 17 if you can scroll down, I can't see it on my page.
 18 In Photograph 4, I do not see where the access
 19 to waterway is in that specific photograph.
 20 Q. And do you recall from being there?
 21 A. No.
 22 Q. 669 -- no, keep going. Go to 730. We already
 23 went over that aspect.
 24 Okay. And just a similar line of questioning:
 25 Can you show me where the access to the waterway is

1 at the Fairview Residency Facility, in general? I
 2 couldn't find it in any of the photos. There was an
 3 indication there was an inlet.
 4 A. I know there is an inlet in the parking area of
 5 the facility that is not pictured. The facility
 6 itself is based on a peninsula and is surrounded
 7 mostly on three sides by a reservoir.
 8 Q. That is not indicated in any of the photos; is
 9 that correct?
 10 A. It may not be in the description for the site.
 11 It says it is a peninsula and is surrounded by water
 12 on three sides, north, west and south. There are
 13 three inlet in the employee parking area in the
 14 western portion of the area.
 15 Q. And so, do you recall, in reference to where
 16 these photos were taken, where the employee parking
 17 facility is?
 18 A. I don't remember, like directionally where they
 19 were.
 20 Q. Is it downstream, the down flow?
 21 A. I don't recall.
 22 Q. Were you aware that EPA had conducted an audit
 23 prior to the Region 8 audit?
 24 A. What audit? What do you mean?
 25 Q. The Region 9 one. Were you aware that the EPA

1 conducted a Region 9 audit for the DOT?
 2 A. Yes.
 3 Q. Were you aware there were similar violations
 4 found at the Region 9 audit that were found at the
 5 Region 8 audit?
 6 MR. SAPORITA: Objection, Your Honor;
 7 relevance?
 8 ALJ BIRO: Overruled. Go ahead.
 9 A. Are you asking me, was I aware at the time I
 10 conducted the inspection, or am I aware now?
 11 Q. Either.
 12 A. Well, I'm certainly aware now, based on having
 13 read the complaint that was filed. At the time of
 14 doing the inspection, I don't recall if I was aware
 15 of site-specific observations found at the other
 16 region.
 17 Q. So you weren't, at any time, told to -- or you
 18 weren't, at any time, aware that DOT was never told
 19 of any of the violations or potential issues at the
 20 Region 9 audit prior to the Region 8 audit?
 21 A. You lost me on the question. Can you restate
 22 that, please?
 23 Q. You were never aware that DOT was not told of
 24 any violations regarding the Region 9 audit prior to
 25 the Region 8?

1 MR. SAPORITA: Objection. This is
 2 beyond the scope.
 3 ALJ BIRO: Sustained. There is a
 4 double-negative in there.
 5 MR. WINANS: With your permission, I
 6 will just follow-up.
 7 *****
 8 FURTHER CROSS-EXAMINATION
 9 BY MR. WINANS:
 10 Q. I will call you Mr. Jacobsen; is that okay?
 11 A. Sure.
 12 Q. Mr. Jacobsen, in connection with your work on
 13 behalf of the EPA, the Region 8 audit, you had one
 14 residency that you went to; is that correct?
 15 A. That's correct.
 16 Q. And you had two construction projects; is that
 17 correct?
 18 A. No, I had four.
 19 Q. Four construction projects in Region 8?
 20 A. Correct.
 21 Q. And when you went to the construction projects
 22 in Region 8, were they all active projects, projects
 23 where there was work being done?
 24 A. The first one there was not active
 25 construction, it was awaiting final stabilization.

1 The second one, we were not there in the time of day
 2 there was active construction going on. I don't
 3 recall exactly what was going on during that time.
 4 Q. Mr. Jacobsen, are you familiar with the fact
 5 that we do have a construction season?
 6 A. I'm not aware of the exact construction season.
 7 I'm aware there are generally construction seasons in
 8 different places.
 9 Q. You have one in Colorado, don't you?
 10 A. Yes.
 11 Q. You can't lay asphalt in the winter?
 12 A. Depends on the part of the state that you're
 13 in.
 14 Q. All of the inspections that you did of the
 15 construction sites in Region 8, they would have been
 16 towards the end of November; isn't that right?
 17 A. Yes.
 18 Q. And when you did your inspection of the
 19 documents, did you understand that DOT had contracts
 20 with all of those contractors; did you understand
 21 that?
 22 A. Generally, I think I understood that.
 23 Q. And did you review the DOT specifications that
 24 we have in our contracts with our contractors for the
 25 requirements on things like erosion control and slope

1 protection, and good housekeeping?
 2 A. I didn't review them with the contractors. I
 3 reviewed the manual to some level prior to
 4 inspection.
 5 Q. So you do know, as you sit here today, that DOT
 6 did have requirements for its contractors?
 7 A. I know that there was a manual that has
 8 requirements and general practices that had their
 9 requirements for contractors.
 10 Q. You said that you reviewed various records
 11 related to the four projects that you did inspections
 12 on; is that correct?
 13 A. Uh-huh.
 14 Q. And your testimony, I believe, is that in some
 15 instances, these records -- these inspection reports,
 16 which I think you testified are required to be done
 17 every 7 days, there were some lapses in them; is that
 18 correct?
 19 A. There were some instances where inspections
 20 occurred more than 7 days apart from the prior one.
 21 Q. And were there also instances where the
 22 inspections indicated findings consistent with what
 23 you found, and that had been communicated to the
 24 contractors?
 25 A. There were a couple of examples where I saw an

1 inspection report that noted issues that we then,
 2 subsequently, saw on-site at a later date. I don't
 3 know of the exact communication that was relayed to
 4 the contractor.
 5 Q. But in any event, what you saw in the DOT
 6 records and what you saw when you did your
 7 inspection, they did, in some cases, indicate the
 8 same thing?
 9 A. You're asking, in some cases, the DOT
 10 inspection report indicated a similar finding that a
 11 DOT inspector had identified previously?
 12 Q. Yes.
 13 A. Yes, there were a couple of examples of that.
 14 Q. So isn't it possible, Mr. Jacobsen, that the
 15 contractors weren't doing their job pursuant to their
 16 job contract with the DOT?
 17 MR. GARELICK: Objection, Your Honor.
 18 Possible speculation.
 19 ALJ BIRO: Sustained.
 20 MR. WINANS: Thank you. I don't have
 21 anymore questions for you, sir.
 22 ALJ BIRO: Any more redirect?
 23 MR. GARELICK: We have no redirect for
 24 this Witness.
 25 ALJ BIRO: Do we have any intention to

1 call Mr. Jacobsen at a later time?
 2 MR. SAPORITA: No, Your Honor.
 3 ALJ BIRO: You are released then.
 4 (Whereupon, the Witness is excused.)
 5 ALJ BIRO: Mr. Garelick, where is your
 6 next witness?
 7 MR. GARELICK: It's 4:21.
 8 ALJ BIRO: 40 minutes going to waste, at
 9 least.
 10 MR. GARELICK: We apologize, Your Honor,
 11 but based on travel, they all came from
 12 Colorado, and timing, when they were going to
 13 come. We figured this would be an
 14 appropriate distribution of timing, to end at
 15 4:21.
 16 ALJ BIRO: What time do you think we can
 17 start tomorrow?
 18 MR. SAPORITA: We can be available at
 19 8:30.
 20 MS. McNALLY: 8:30 is fine.
 21 ALJ BIRO: So let's plan on starting
 22 tomorrow at 8:30. I think we can get the
 23 courtroom locked up. So you can leave all of
 24 your materials here, although I wouldn't
 25 leave any expensive electronic equipment

1 because I'm not guaranteeing the safety,
 2 although I did get the light fixed.
 3 So, okay. We will stand in recess until
 4 8:30 tomorrow morning.
 5 (Whereupon, the Hearing stood in recess
 6 at 4:22 p.m.)
 7
 8
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

1
 2 CERTIFICATION
 3
 4 I, DIANA M. RUSSELL, Court Reporter and
 5 Notary Public in and for the State of New York,
 6 state that I attended the foregoing
 7 proceedings, took stenographic notes of the
 8 same, and state that the foregoing is a true
 9 and correct copy of the same, and the whole
 10 thereof, to the best of my ability.
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20 _____
 21 DIANA M. RUSSELL, Court Reporter
 22
 23
 24
 25

| A | | | | |
|--|---|---|--|--|
| a.m 1:15 50:5,6 153:5 | 35:5 ACO 6:14,15 8:10,16 10:12 | 191:11 192:2,4 198:16 209:16 | admissions 19:24 | aide 24:7 |
| ability 239:10 | ACO-CWA-0... 6:13 | address 55:19 65:24 113:14 | admit 15:14 16:22 105:19 | Aileen 181:12 |
| able 25:3 54:23 61:8 76:8 90:15 200:3 | ACO-CWA-0... 6:18 | 126:5 192:24 | admitted 5:3 6:3 7:3 8:3 9:3 | Albany 1:8 2:6 3:16 45:21 |
| above-ground 69:13 | Act 7:15 18:19 19:2 21:7,8 | addressed 186:4 | 10:3 13:17,24 | Alicia 3:13 11:16 165:19 |
| Absolutely 89:18 100:12 | 22:16 23:1 | addresses 64:10 | 14:6,7 15:11 | 222:20 |
| abutting 228:21 229:24 | 25:16 79:16,19 | addressing 53:3 212:11 | 17:10 40:5 | Alicia.Mcnull... 3:17 |
| acceptable 112:19 176:2 | 79:22 80:4,6 | adequacy 60:5 | admitting 16:12 105:17 | ALJ 11:1,14,21 12:5 13:13,18 |
| access 202:1 211:4 221:4,22 | 80:10 81:11,16 | adequate 57:21 59:17 60:10,15 | adopted 79:16 81:17 | 13:22 14:3,9 |
| 227:5 228:3 | 97:18 100:25 | 62:21 63:17 | advantage 45:2 | 14:12,18 15:5 |
| 230:15,18,25 | 101:4,8,12 | 67:21 70:9,20 | advise 12:9 171:15 | 15:8,14,19,22 |
| accompanied 212:7 | 177:20 | 71:12 72:18 | advise 12:9 171:15 | 16:8,12,21,24 |
| accounting 202:7 | acting 115:15 | 190:12 | aerial 205:23 | 17:10,13,15,18 |
| accumulate 218:1 | action 17:25 97:23 98:5 | adequately 63:9 63:24 65:16 | affluent 89:23 | 23:5,11,18 |
| accumulated 151:14 184:19 | 128:4 130:12 | adjacency 152:4 154:9 | afternoon 195:10 | 24:3 25:2,18 |
| 191:3,7 220:5 | 210:9 217:1 | adjacent 81:6 140:25 142:2 | afterward 137:15 | 25:21,24 26:11 |
| accumulates 217:16 | actions 118:18 128:7 | 146:10 151:23 | agencies 27:7 172:23 177:10 | 26:16 33:15 |
| accumulating 218:24 | active 142:24 143:13 149:16 | 152:13 155:8 | 224:1,5 | 49:24 50:3,7 |
| accumulation 144:9 146:8 | 150:12 151:23 | 160:11 161:8 | agency 1:2 3:3,6 11:9 24:20 | 73:11,15,19,23 |
| accurate 81:10 84:3 94:20 | 152:3,16 | 162:2,8 185:5 | 166:11 | 74:9,15,20,24 |
| accurately 12:8 12:16 183:23 | 153:24 157:17 | 185:18 187:18 | agenda 5:12 6:6 41:12 43:5 | 75:8,14 77:5 |
| achieve 41:16 | 182:25 186:15 | 197:2,21 198:7 | 64:2 71:19 | 80:18 83:10 |
| achieved 47:18 | 186:19 187:3 | 198:17 200:13 | 104:21 108:7 | 86:4 95:25 |
| acknowledge 35:8 | 187:10 209:21 | 200:23 208:4 | agent 82:11 83:4 84:5 | 96:2,5,15,20 |
| acknowledged 102:20 | 210:21 233:22 | 208:13 218:10 | 166:11 | 99:2 105:5,9 |
| Acknowledge... 7:19 | 233:24 234:2 | adjust 65:20 | agenda 5:12 6:6 41:12 43:5 | 105:12,15,19 |
| acknowledging 41:22 | activities 18:6 18:17 25:12 | adjusted 197:18 | 64:2 71:19 | 118:2,14 |
| acknowledgm... 33:22 34:5 | 64:15 157:17 | administrative 1:17 10:15 | 104:21 108:7 | 119:22 121:10 |
| | 182:1 183:2 | 11:5 43:22 | ago 76:5 118:13 168:4 | 123:13 125:10 |
| | 211:24 | 44:3,10,21 | agree 79:18 99:6 104:7 | 125:15 127:14 |
| | activity 50:25 54:9 | 46:21 47:2 | agreed 23:18 47:3 74:15 | 129:1,13,16,20 |
| | actual 58:1,3,5 69:10 70:22 | 48:8,19 49:2,4 | 113:19 | 129:24 130:5 |
| | 112:15 229:6 | 94:18 95:19 | agreement 16:18 104:19 | 131:19,25 |
| | add 193:9 | 96:10 98:17,19 | 104:20 111:2 | 132:8,12,18 |
| | added 26:17 82:23 | 99:12,15 100:9 | ahead 39:24 73:23 77:5 | 140:12 150:20 |
| | addition 146:12 | 100:14,20 | 95:25 118:2 | 151:5 153:10 |
| | additional 65:24 66:4 111:17 | 101:14,18,21 | 121:10 123:14 | 157:13 165:14 |
| | 167:23 175:23 | 101:22 102:8 | 149:11 209:18 | 169:16 172:12 |
| | | 103:8 112:14 | 232:8 | 174:6 175:10 |
| | | 115:1 119:6 | | 175:14,16 |
| | | 127:12 130:11 | | 176:4,9,16,19 |
| | | admissible 12:21 | | 213:2 222:12 |

| | | | | |
|--|---|---|---|--|
| 237:3,5,8,16 237:21 allegations 22:9 alleviate 144:19 allocated 174:3 allow 75:2 141:10 147:10 154:19 allowable 90:14 90:17 allowed 73:21 156:13,13 allows 61:16 ALMASE 3:25 14:21 American 22:20 85:22 86:3 amount 13:2 144:15,22 175:22 182:14 201:25 analysis 73:2 and/or 207:20 angle 220:2 annoyance 75:5 annual 34:15 35:23,25 71:10 178:11 answer 7:14 10:15 74:2 96:14 107:25 202:10 223:19 229:9 answered 62:1 96:12 119:19 answering 224:14 anybody 24:3 45:25 46:7 121:17 131:23 anymore 236:21 apart 194:19,21 209:11,12 235:20 apologize 237:10 appear 63:11 87:1 190:14 204:14 appeared 54:16 | 63:5,6 64:3 206:12 217:23 218:12 220:5 Appearing 3:2 3:11 appears 81:25 83:25 95:4 106:1,5 203:15 append 5:2 6:2 7:2 8:2 9:2 10:2 appendix 140:14 196:12 applicable 86:21 128:2 168:17 168:18 application 167:1 apply 19:5 33:23 34:7,25 applying 19:1 approach 33:13 57:4 95:17 99:1 102:6 135:24 136:1 179:11,13 appropriate 21:9 128:8 178:4 185:7 186:10,13 192:23 199:18 202:3,4 203:11 219:14 237:14 appropriately 22:24 178:6 190:13 approximately 28:20 31:4,13 31:22 45:12 47:20,22 48:8 134:10 138:19 138:21 139:18 148:6 153:4 166:5 178:20 180:2 April 1:14 35:6 54:21 55:6 area 31:20 52:2 52:17 54:10 85:8,12,16 | 93:6 142:20,24 149:10,10,12 149:21 150:4 150:11,12,14 151:2,22 152:13,15 153:25 155:24 156:6,7,9,11 157:18 158:9,9 158:19,20 160:5 161:6,22 161:25 162:7 163:11,22,25 169:2,5 182:25 184:4,11 186:6 186:16,19,22 187:2,3,16 188:1,2,3,17 188:19,20 189:20 192:22 196:19 197:5,9 197:14 198:1,2 198:18,24 200:24 202:21 203:10,12 204:3,5,12,14 204:19 205:5 205:16,17,21 205:24 206:2,6 206:8,9,11 207:8,9,18,21 208:2,5,8,11 208:21 209:20 209:21 210:10 214:17,21,22 216:7,14 217:1 217:5,8 218:6 218:20 219:2 220:1,6,9 221:10,13,20 227:9 231:4,13 231:14 areas 27:10 65:25 81:6,20 87:15 152:22 161:20 164:25 184:19 191:14 191:18,23 192:2,4 196:1 198:5,17 202:1 | 207:19 arena 177:23 argue 21:14 arisen 45:19 Arizona 179:5 223:7 arrive 74:25 75:15 arrived 138:20 149:19 170:1 181:10 arrow 160:15 188:17 198:23 article 100:22 Arvisu 23:16 24:11 25:2 75:21 76:20 79:15 80:19 81:2 89:7 92:1 95:4 96:3,6,16 96:22 105:24 112:25 114:24 116:3,13 119:23 121:8 121:13,22 123:21 125:13 127:15 129:5 131:19 175:24 Arviza 25:18 Arvizu 3:20 4:2 106:7 as-built 87:20 87:24 asked 62:14 74:12 96:11 119:19 131:21 147:20 171:21 172:13 219:23 229:22 asking 63:1 98:8 118:3 120:6 121:17 172:6,9 227:25 229:9 232:9 236:9 asleep 18:6 aspect 217:19 230:23 asphalt 234:11 asserting 119:17 assess 21:12,21 | 22:23 assessment 48:21 63:19 assigned 11:6 associated 59:10 116:10 126:16 224:22 Association 179:7 assume 169:20 169:23 170:17 224:4 Assumes 86:4 assurances 129:10 assure 101:24 attached 98:24 99:11,13 attempted 142:13 attended 135:3 239:6 attention 36:18 39:12 40:4 41:6,17 42:1 49:22 50:9 51:7 52:9,24 55:14 57:5,14 59:2,19 60:18 62:6,24 63:12 64:4 66:6,16 66:25 68:4,25 69:24 70:11,24 71:21 72:8 106:2,13 127:16,21 159:13 180:16 183:17 184:1 184:22 185:19 187:12 192:12 194:5 195:4 196:14 199:1 208:23 211:13 214:11 attorney 46:7 75:22 107:1 attorneys 92:23 audit 5:10,12,13 5:21 6:4,5,6,9 6:10,12 8:6,7,9 |
|--|---|---|---|--|

| | | | | |
|----------------------|------------------------|-------------------------|-------------------------|--------------------------|
| 20:3 27:16,17 | 39:11 44:13,15 | 125:12 130:15 | 211:21 215:11 | 36:14 64:13 |
| 28:23 29:17,18 | 52:8 76:11,21 | 131:21 132:7 | 216:9 220:20 | 65:11 201:11 |
| 29:19 31:7,16 | 79:6,10 83:22 | 158:23 176:12 | basin 88:14,16 | 239:10 |
| 32:6,11,12,13 | 85:5,18 86:14 | 184:21 185:3 | 90:11 91:12 | better 112:20 |
| 33:6 36:24 | 87:21 88:19 | 185:12 188:8 | 140:10,20,25 | 113:4 224:5 |
| 37:13,17,20 | 92:11 93:14 | 202:12 216:25 | 141:3,5,7,11 | beyond 220:8 |
| 38:5 39:17,18 | 94:21 97:5 | 219:25 222:1 | 141:11 142:3,5 | 233:2 |
| 39:21,24,25 | 133:10,21 | background | 143:3,6 144:13 | big 109:2 114:25 |
| 40:11 41:13,13 | 134:1,21 | 133:14 202:14 | 145:8,11,14,16 | bin 217:23 |
| 41:15,23,24 | 135:13 166:3 | bad 115:8 | 145:18,20,21 | Binghamton |
| 42:19,21,23 | 172:22,23 | bale 155:11,11 | 146:1 147:9 | 5:20 28:24 |
| 43:4,5,6,7,9,16 | August 183:8 | 155:16,18 | 170:15 202:18 | 30:23 39:18 |
| 44:11 48:23 | authority 56:17 | bales 200:1 | basins 80:23 | 44:14 66:2 |
| 52:16,21 54:1 | 56:20 83:5 | 203:14 | 89:2,4 139:4 | 85:8 139:1 |
| 54:4 55:2 | 84:6,7 101:11 | bare 22:9 | 143:24 170:11 | 153:9 |
| 56:14 76:10 | 107:20 108:1 | barrel 207:13,14 | basis 22:1 | biologist 133:5,7 |
| 77:7,11,16 | 225:5 | barrier 228:13 | 121:15 150:20 | Biology 133:15 |
| 78:1,22 84:10 | automatically | 228:22 229:19 | 209:25 | Biro 1:17 11:1,4 |
| 84:17 85:3,7 | 35:1,2,15,17 | 230:1,2 | Bass 6:17 46:6 | 11:14,21 12:5 |
| 85:11,14 86:10 | 35:21 81:20 | barriers 220:4 | 104:14 106:16 | 13:13,18,22 |
| 86:23 87:19 | available 39:23 | 228:23,24 | 106:18 110:25 | 14:3,9,12,18 |
| 89:1 92:14 | 62:5 70:8 72:7 | 229:5,12 | 121:14 123:2 | 15:5,8,14,19 |
| 93:5,5,16 94:2 | 73:6 181:19 | base 210:8 | Baylor 139:13 | 15:22 16:8,12 |
| 94:5,7,12,13 | 237:18 | based 13:4 21:4 | began 86:23 | 16:21,24 17:10 |
| 94:16,23 95:1 | awaiting 233:25 | 21:19 22:9 | 127:4,8 183:5 | 17:13,15,18 |
| 95:1,5,11,12 | aware 19:7 54:2 | 71:12 85:8 | beginning 23:7 | 23:5,11,18 |
| 95:19 96:8 | 61:23 79:10,21 | 86:19 110:21 | 23:10 135:20 | 24:3 25:2,18 |
| 97:22 98:9,12 | 80:11 81:2 | 137:25 150:24 | begins 97:13 | 25:21,24 26:11 |
| 109:14,24 | 83:11 103:10 | 151:20 186:5 | 167:9 | 26:16 33:15 |
| 114:6 119:4 | 103:17 116:23 | 192:19,25 | behalf 107:22 | 49:24 50:3,7 |
| 122:11,13 | 117:20 118:3 | 193:22 201:17 | 233:13 | 73:11,15,19,23 |
| 127:8 133:24 | 130:7,10,14 | 201:21 209:12 | belief 59:1 | 74:9,15,20,24 |
| 134:11 135:20 | 131:10,14 | 209:22 210:25 | believe 17:6 | 75:8,14 77:5 |
| 136:24 140:2 | 171:3 193:20 | 213:6,12 220:4 | 23:24 52:7 | 80:18 83:10 |
| 147:19 148:8 | 206:19 225:24 | 221:1 231:6 | 57:24 62:1 | 86:4 95:25 |
| 172:8 174:13 | 231:22,25 | 232:12 237:11 | 65:15 69:18 | 96:2,5,15,20 |
| 180:19 225:7 | 232:3,9,10,12 | basement 90:20 | 78:24 79:12,20 | 99:2 105:5,9 |
| 231:22,23,24 | 232:14,18,23 | basically 39:19 | 82:17 92:12 | 105:12,15,19 |
| 232:1,4,5,20 | 234:6,7 | 39:20 40:17 | 102:22 104:13 | 118:2,14 |
| 232:20,24 | awful 104:6 | 46:12 134:5 | 114:12 148:20 | 119:22 121:10 |
| 233:13 | | 139:5 140:23 | 161:20 188:21 | 123:13 125:10 |
| audited 76:17 | B | 141:9 142:21 | 188:24 191:22 | 125:15 127:14 |
| 76:23 84:16,24 | Bachelor's | 147:12 150:9 | 194:24 199:20 | 129:1,13,16,20 |
| 95:5 | 28:11 179:18 | 150:13 153:17 | 203:22 205:23 | 129:24 130:5 |
| audits 19:13 | 179:21 | 154:25 173:24 | 208:14 235:14 | 131:19,25 |
| 25:14 27:15,19 | back 26:2 32:8 | 182:21 191:11 | beneath 195:22 | 132:8,12,18 |
| 30:4,10,18,19 | 75:16 102:12 | 194:14 195:24 | 198:12 | 140:12 150:20 |
| 32:1,2,3,4,5,21 | 110:15 112:17 | 199:7,12 | berm 221:14,15 | 151:5 153:10 |
| 36:24 37:5,9 | 112:24 113:3 | 203:16 204:16 | 221:20 | 157:13 165:14 |
| 37:16 38:1 | 114:11 119:13 | 205:3,18 | best 12:12 26:13 | 169:16 172:12 |

| | | | | |
|---|--|---|---|---|
| 174:6 175:10 175:14,16 176:4,9,16,19 213:2 222:12 222:16 226:23 227:1 228:11 229:10 232:8 233:3 236:19 236:22,25 237:3,5,8,16 237:21 bit 49:19 130:23 135:18 156:5 206:3 black 164:1 171:22 blank 40:12 blinking 75:2 blinks 132:3 block 201:22 blocks 190:4 193:2 229:15 blown 167:22 168:4 blue 217:21 BMP 140:22 141:2,14 143:8 144:2 146:13 147:13 152:15 155:7,11,12 185:23 190:8,9 190:9,16,20 191:4 192:19 198:3,19 199:8 199:15,18,19 200:2 201:13 201:19 202:4 202:24 203:1,2 203:6,7,11,15 216:22 219:14 224:16 BMPs 64:13 65:8,20 66:14 74:4 187:5 202:3 204:15 Bobby 176:18 177:3 bodies 138:24 body 92:7 198:7 200:16 210:7 | 228:6 boilerplate 101:20 boss 75:6 bosses 115:9 Bothar 139:2 bottom 198:9 204:7 217:23 228:17 230:1 boulders 154:4 154:11 boundaries 225:24 branch 100:1 break 12:6 17:4 25:19 26:7 49:15,25 50:2 74:24 75:1,8 75:15 104:17 131:25 175:17 175:25 bridge 138:16 138:25 140:15 151:10 153:1 153:14,15,17 154:10 157:18 164:21 bridges 84:14 brief 50:5 176:14 briefly 28:8 42:20 179:16 220:24 bring 61:21 BROADWAY 2:5 3:7 broke 180:9 broken 40:15,17 Brook 180:22 183:20 201:22 Broome 157:22 158:5 bucket 161:7 164:7 165:2 171:20,23 206:12,14,15 206:17,22,25 214:22 215:1,3 buckets 163:14 Buffalo 30:25 | 44:15 66:1 69:8 71:6 build 210:22 building 132:5 169:25 211:5,5 220:12,21 221:3,6,23 built 139:4 bulk 68:16,24 158:10 bunch 114:25 bung 207:13 burden 22:7 bury 154:25 buy 164:10 <hr/> C <hr/> C 3:1 239:2,2 cafeteria 132:4 California 179:5 223:5 call 23:12,14 32:10 37:21 39:23 69:17 112:9 116:4 132:16 164:22 176:1 200:1 203:7 233:10 237:1 call-out 188:16 198:22 201:3 call-outs 219:5 221:13 called 24:12 44:24 87:5 132:22 176:23 188:24 190:8 201:2,15 202:23 214:19 229:14 calling 169:15 207:12,17 208:17 218:21 219:6 calls 23:16 47:23 47:23 83:8 109:19 119:20 150:22 176:17 cap 207:12 218:22 219:8 | capacities 177:17 capacity 121:23 178:10 Capeller 107:1 caption 155:10 capture 164:14 189:7 captured 221:19 carcass 65:1 Carl 107:5 Carol 46:4 carries 90:6 case 11:6 18:1 20:22 21:17,23 23:8,10 28:14 28:17 29:4 30:17 32:19 34:6 36:2 48:12,20 88:19 102:7 129:14 129:21,22 130:6 137:19 144:23,24 166:18 168:18 179:10,24 186:12 187:25 190:18 192:25 203:13 216:24 227:22 cases 236:7,9 catch 80:23 88:14,16 89:2 89:4 90:11 91:12 170:11 170:14 202:17 228:14,18 categories 90:14 category 40:17 cause 18:17 171:7 caused 215:21 CEI 134:8 center 142:22 central 21:19 certain 49:12 90:13 155:1 194:4 199:21 225:13 certainly 116:4 | 116:7 190:11 232:12 cetera 52:19 CFR 101:4 challenges 111:18 chance 65:3 165:7 226:19 changed 110:22 111:24 changes 27:11 110:19 111:5,9 111:13,21 Chapter 64:19 Characterizing 123:12 charge 136:4 139:12 149:3 charts 156:2 check 13:19 124:25 checking 187:19 checklist 68:17 Chenango 149:13,21 150:3,11,15,18 chief 11:5 46:4 99:23 107:10 111:12 Chris 180:10 Christopher 3:4 11:11 17:23 Christy 3:20 4:2 23:16 24:11 106:7 cinderblock 229:15 circumstance 143:9 144:19 151:19 160:22 162:11 cite 87:25 cited 63:5,24 88:4 92:13 Citizen 90:10 City 53:20 civil 101:2,11 128:7 claims 21:21 clarification |
|---|--|---|---|---|

| | | | | |
|---|--|---|---|--|
| 12:7 112:22 113:9,13 clarify 29:5,15 78:10,12 112:23 173:9 clarifying 46:11 clean 7:15 18:19 19:2 21:7,8 22:15,25 25:16 79:16,19,21 80:4,10 81:10 81:16 97:18 100:25 101:3,8 101:12 160:24 161:16,18 162:6 170:25 171:7 177:20 cleaning 171:3 171:13 clear 18:3 21:19 22:19 78:13 84:21 109:18 125:8 cleared 152:13 clearly 22:13 169:4 clerk 3:25 124:9 124:25 client 137:18 close 15:8 99:12 207:2,5 close-up 143:18 188:12 189:1 201:7 218:11 219:7 close-ups 206:10 closer 191:25 198:11 199:6 202:14,15 206:14 closest 228:5,7 230:11 closing 94:3 122:12 cloverleaf 140:21 141:18 142:21 145:9 Cochesberger 107:5 codes 63:7 | collapsed 154:3 184:10 185:2 189:23 191:2 191:12,15 193:16 198:5 198:23 collapsing 191:2 colleague 17:24 180:6 collect 129:25 217:14 220:21 collected 90:1 156:11 159:25 162:5 217:22 collecting 119:24 collection 134:8 162:13 collects 220:21 college 28:10 133:16 179:17 179:17 colleges 97:10 Colorado 177:13 234:9 237:12 column 56:3 71:9 come 22:5 28:13 28:16 45:12 75:10,16 86:25 104:24 105:14 113:16 118:10 125:12 131:21 132:2 176:12 180:21 194:25 195:7 209:14 211:8 215:15 215:24 229:11 237:13 comes 12:22,25 58:9 107:23 116:5 129:6 193:4 coming 40:1 58:18 91:8,23 92:7 122:14,25 132:7 146:19 215:20 commensurate | 22:23 comment 71:8 113:14 125:2 138:2 224:8 comments 22:11 32:15,16 109:9 109:13 111:19 124:6,10,24 125:6,9 Comments-C... 7:19 Commissioner 99:7 common 181:19 208:5 217:12 224:4,8,13 communicated 235:23 communication 193:21 236:3 company 139:3 compared 187:3 192:16 comparison 83:1 compelling 19:5 compile 137:13 Complainant 5:3 6:3 7:3 176:17 Complainant's 13:16,24 15:1 17:2 33:10,20 36:4,19 39:12 40:6 41:7,18 42:3,15 43:24 46:23 50:10 51:8 52:10,24 55:15 57:5,15 59:3,6,19 60:18 61:11 62:6,24 63:13 64:5 66:16 67:1 68:4,25 69:24 70:11,24 71:22 98:22 120:20 138:11 159:14 180:16 181:3,6 194:6 195:4 208:24 | 211:13 226:24 COMPLAIN... 3:2 Complainants 23:16 complaint 7:14 10:15 48:11,14 48:18,21,25 49:7,9,11 88:1 88:5 119:15 120:4,12,15,19 124:17,19 126:20 130:8 232:13 Complaint's 66:6 complaints 59:14,23,25 60:12,16,23 61:2 62:15 complete 32:13 55:8 68:2 113:23,23,25 131:12 176:11 completed 43:8 43:16,19 55:6 137:14 completing 54:6 54:8 74:5 compliance 5:21 6:19,20,21,22 6:23,24 7:4,5,6 7:7,8,9 19:17 22:2,6 24:25 25:9,10,11,12 27:2,13,14 29:1,9,12,13 30:6 43:22 44:3,10,21 45:22 46:11,12 46:21 47:2,5,6 47:10,11,12,17 48:8,19,23 49:3,4 76:11 76:18,24 77:8 77:11 78:2,22 79:11 86:24 90:12 92:16 94:18 95:5,14 95:18,20 96:7 | 96:23,25 97:13 97:17 98:12,18 98:19 99:13,15 99:23 100:6,9 100:14,16,20 101:1,10,13,15 101:18,21,23 101:25 102:2,3 102:8,10,15,19 103:8 106:19 106:22 107:10 107:17 109:25 110:12,15,16 110:20 111:11 111:16,23 112:1,5,14 113:18 114:2 114:13 115:2 116:12 118:6,9 119:7 121:1,23 122:8,10,18 123:3,15 127:12,25 128:5,10 130:11 133:9 173:21 177:20 compliant 131:7 complied 37:3 48:7 121:3 comply 19:21 23:3 46:15 54:25 100:25 101:9 103:22 103:23 109:20 109:22 111:6 112:13 119:13 126:1 190:16 component 68:1 68:21 85:1 167:25 178:15 213:23 components 71:17 136:19 195:21 composting 65:2 comprehensive 19:13 comprised 77:20 190:4 comprises 80:16 |
|---|--|---|---|--|

| | | | | |
|---|--|--|---|---|
| compromised 141:9,20 142:12,14 154:5 | 53:2 63:22 126:12 159:4 | 98:15 104:5 109:24 233:12 | 142:24 143:13 147:16 149:6 149:16,20 | 217:18,20,21 217:25 218:2 219:6 221:21 |
| concept 218:23 | conducted 54:2 69:20 72:1 134:2,5,9,19 | connections 90:4,8,25 91:3 92:3,6,10 | 150:12 151:20 151:23 152:4 152:22 153:14 153:25 154:22 155:25 166:5 173:15 174:4 174:20 175:4 180:14,23 182:2,6,8,11 182:25 183:5 183:11,13,21 185:12 186:15 186:20 187:1,3 187:10,17,22 188:1,16 195:2 195:9 196:6 197:5,13,20 201:24 204:22 205:12 206:22 209:21 210:5 210:19,20,21 211:3,5 223:22 226:6 233:16 233:19,21,25 234:2,5,6,7,15 | containers 206:7,10 214:19 215:5 218:23 219:15 |
| concern 64:12 66:5 141:5 146:4 160:7 163:2 188:9 189:3 190:18 196:23 200:10 200:12 203:3,4 206:20 218:14 218:14 219:10 | 134:22 136:2 148:5 152:16 153:4 158:6 166:4 180:21 194:19 209:10 231:22 232:1 232:10 | connectivity 51:1 | 155:25 166:5 173:15 174:4 174:20 175:4 180:14,23 182:2,6,8,11 182:25 183:5 183:11,13,21 185:12 186:15 186:20 187:1,3 187:10,17,22 188:1,16 195:2 195:9 196:6 197:5,13,20 201:24 204:22 205:12 206:22 209:21 210:5 210:19,20,21 211:3,5 223:22 226:6 233:16 233:19,21,25 234:2,5,6,7,15 | containment 142:10,13 150:14 162:2 162:10,15 163:16 164:2,4 164:6 165:1 207:18,20,22 221:25 |
| concerned 115:4 | conducting 33:6 37:5,9,20 56:4 56:10 57:25 58:4 143:13 166:20 167:4 168:1 195:12 | considers 91:13 | 186:20 187:1,3 187:10,17,22 188:1,16 195:2 195:9 196:6 197:5,13,20 201:24 204:22 205:12 206:22 209:21 210:5 210:19,20,21 211:3,5 223:22 226:6 233:16 233:19,21,25 234:2,5,6,7,15 | contains 19:4 37:2 86:14 |
| concerning 38:2 116:25 | confer 44:25 | consist 80:20 85:4 | 186:20 187:1,3 187:10,17,22 188:1,16 195:2 195:9 196:6 197:5,13,20 201:24 204:22 205:12 206:22 209:21 210:5 210:19,20,21 211:3,5 223:22 226:6 233:16 233:19,21,25 234:2,5,6,7,15 | contemplate 81:11 |
| concerns 46:13 61:17,22 65:21 65:25 66:1,2 67:12 94:4 141:16 146:6 146:25 158:15 159:15,18 165:5 184:12 190:15 206:16 206:18 214:24 214:25 215:18 215:20 216:15 | confer 44:25 | consisted 80:13 158:7 182:22 | 186:20 187:1,3 187:10,17,22 188:1,16 195:2 195:9 196:6 197:5,13,20 201:24 204:22 205:12 206:22 209:21 210:5 210:19,20,21 211:3,5 223:22 226:6 233:16 233:19,21,25 234:2,5,6,7,15 | contents 82:14 84:23 218:25 |
| conclusion 21:4 119:21 | conference 37:21 39:23 47:23 69:16 94:3 108:11 109:3 115:1 | consistent 80:5 118:22 128:11 235:22 | 186:20 187:1,3 187:10,17,22 188:1,16 195:2 195:9 196:6 197:5,13,20 201:24 204:22 205:12 206:22 209:21 210:5 210:19,20,21 211:3,5 223:22 226:6 233:16 233:19,21,25 234:2,5,6,7,15 | context 205:3 206:8 |
| Concordia 133:15 | conferences 28:2,3 37:11 122:12 | consisting 105:6 193:2 | 186:20 187:1,3 187:10,17,22 188:1,16 195:2 195:9 196:6 197:5,13,20 201:24 204:22 205:12 206:22 209:21 210:5 210:19,20,21 211:3,5 223:22 226:6 233:16 233:19,21,25 234:2,5,6,7,15 | continue 35:11 143:22 |
| concrete 153:18 154:9 155:25 156:3,6,7,8,10 156:21,23 157:3,17 190:4 193:2 201:22 220:3,3 228:13 228:22,24 229:14,15,18 229:25 230:2 | confident 192:7 | consists 80:21 105:20 | 186:20 187:1,3 187:10,17,22 188:1,16 195:2 195:9 196:6 197:5,13,20 201:24 204:22 205:12 206:22 209:21 210:5 210:19,20,21 211:3,5 223:22 226:6 233:16 233:19,21,25 234:2,5,6,7,15 | continuously 17:8 |
| condition 193:18 | configuration 229:16 | Consolidated 12:20 | 186:20 187:1,3 187:10,17,22 188:1,16 195:2 195:9 196:6 197:5,13,20 201:24 204:22 205:12 206:22 209:21 210:5 210:19,20,21 211:3,5 223:22 226:6 233:16 233:19,21,25 234:2,5,6,7,15 | contract 173:15 236:16 |
| conditions 84:14 128:1 140:1 148:25 168:9 222:5 223:18 | configurations 193:3 | constitute 127:24 | 186:20 187:1,3 187:10,17,22 188:1,16 195:2 195:9 196:6 197:5,13,20 201:24 204:22 205:12 206:22 209:21 210:5 210:19,20,21 211:3,5 223:22 226:6 233:16 233:19,21,25 234:2,5,6,7,15 | contractor 33:1 33:4 42:22,23 173:16 186:14 193:21 209:24 236:4 |
| conduct 37:13 | confine 116:14 confined 74:18 confirm 13:9 confirmation 5:13 43:6,9,11 43:12 confused 12:6 77:18 connect 81:4,8 90:11 connected 91:17 221:2 connecting 90:25 connection 89:22 91:4,6,8 91:24 92:5,8,9 93:20 97:5 | construction 5:16 18:14 20:15 29:25 38:6,7,8,10,11 38:12 40:23 51:24 60:24 61:3,19 62:16 62:20 63:6 93:18,22 95:6 96:24 134:4,7 134:10 135:4,7 136:3,5,7,10 136:16,25 139:2,3 142:20 | 186:20 187:1,3 187:10,17,22 188:1,16 195:2 195:9 196:6 197:5,13,20 201:24 204:22 205:12 206:22 209:21 210:5 210:19,20,21 211:3,5 223:22 226:6 233:16 233:19,21,25 234:2,5,6,7,15 | contractor's 52:20 173:20 186:6 |
| | | | 186:20 187:1,3 187:10,17,22 188:1,16 195:2 195:9 196:6 197:5,13,20 201:24 204:22 205:12 206:22 209:21 210:5 210:19,20,21 211:3,5 223:22 226:6 233:16 233:19,21,25 234:2,5,6,7,15 | contractors 18:22 19:19 30:11,15 32:3 32:5,9,11,13 32:18,19 37:7 37:8,12 138:6 147:16 168:14 173:25 195:25 234:20,24 235:2,6,9,24 236:15 |

| | | | | |
|---|--|--|--|--|
| contracts 234:19,24 | conversation 69:19 192:5 | 110:17,18 112:5,11 | country 133:11 173:2 | 141:19 |
| contribute 64:11,11 | conversations 37:6,8,10,12 37:15 113:16 143:10 167:12 213:6 225:15 | 114:21,23 116:19 124:24 126:24 127:19 130:17 131:3,8 135:8,11 142:7 144:3 146:12 146:24 147:8 148:14 150:2,6 152:8,20 153:21 154:13 156:14 160:13 161:11,13 163:8,19 165:25 167:17 170:5,8,23 171:1 173:6,16 173:17 198:10 200:18 204:23 209:3 210:17 227:11,14,19 229:20 231:9 233:14,15,17 233:20 235:12 235:18 239:9 | County 53:20 55:11 85:15 211:10 couple 32:18 125:19 128:24 178:12 185:4 190:7 204:21 214:2,20 219:5 224:10 235:25 236:13 course 19:19 49:2 92:11 133:17 165:14 169:11 210:1 Court 2:9 12:3 25:3 101:5,7 101:10 127:23 132:18 134:3 239:4,21 Court's 173:8 courtesy 73:22 COURTHOU... 2:4 courtroom 2:5 11:23,24 24:4 237:23 cover 108:5 152:21 206:14 208:12 217:11 217:14 219:20 coverage 19:1,6 19:20 33:24 34:7,7,24,25 35:2,5,6,15,20 35:21,24 142:10,14 162:1,10 163:4 163:15 165:1 207:18,20 217:25 218:23 covered 35:9,14 35:19 71:17 84:10,17 125:25 126:19 126:23 165:9 216:13 217:1,5 227:11 covering 92:24 | create 138:7 145:19 171:4 created 18:8 83:3,3 145:15 creating 82:6 creation 100:9 credential 27:23 credible 20:1 creek 146:9,11 146:15 147:6 147:11 154:1 154:10 155:9 155:14,16,20 160:16,19 161:12 162:3 crew 164:21 Crime 76:7 criminal 128:7 130:4 Criteria 7:17 cross 176:10 cross-examina... 74:21 75:19 165:17 173:12 222:18 233:8 crossing 195:21 crowd 108:5 crush 208:6 culminated 98:16 culpability 22:21 culvert 195:21 current 67:8 68:10 69:7 181:25 currently 53:13 cut 75:3 215:12 Cutting 149:4 CWA 128:1,9 CWA's 128:5 CWA-02-2014... 8:21,22 9:8,12 9:15,16,19 CWA-02-2014... 6:19,20,21,22 6:23,24 7:4,5,6 7:7,8,9 9:22,24 |
| control 5:15 18:5,24 20:14 20:16 29:23 37:3,22 38:2,4 38:6,8,11,13 38:17,21 39:1 40:19,23,24 41:1,3 44:17 49:10 51:1 64:22 67:18,25 68:15,24 69:12 69:13 79:23 84:25 85:1 93:17,21 95:6 95:10 96:7,24 136:19,22 139:23 144:21 145:3 147:13 147:17 148:23 150:25 152:15 155:13 174:2 174:17 179:14 180:11 183:12 184:14 185:25 187:21,25 190:3 192:20 193:1 194:3 196:5 197:12 197:12,16 199:17,21 200:6 201:15 201:18 202:23 203:19 204:15 205:11 208:17 216:22 225:17 229:4,25 234:25 | convey 144:16 conveyance 27:8 51:25 58:16 conveying 222:5 cooperate 93:10 93:13 121:2 cooperative 93:6 coordinate 56:24 coordinated 32:4 coordinating 32:3 56:23 copies 67:6 copy 61:9 99:5 138:12 239:9 corner 140:21 163:12 204:5 219:25 220:2,6 correct 13:25 14:18,25 15:4 15:7 16:9,10 23:20,21,22 29:2 31:3,6,9 31:15,18,24 33:6 37:24 40:3 50:17 53:15 55:10 66:11 74:13,14 76:3 77:21,24 81:5,23 82:18 83:16 84:22 85:5,10,12,13 85:16,17 87:17 89:20 91:4,5 92:17 93:23 94:10,24 95:16 97:13,15 98:13 98:14,21 99:13 99:14 103:16 105:22,23 106:23 108:12 | corrected 186:8 193:20 corrective 210:9 correctly 77:19 111:1 208:16 correspondence 8:12,16 9:4,10 9:14,17,18,23 10:8,13,14,16 10:17 48:4,6 corroborates 13:4 cost 131:11 costs 22:2 coughing 89:12 counsel 11:8 99:19 counted 100:15 Counter-meas... 64:23 countermeasure 67:19,25 68:15 69:13 counties 97:11 | | |
| controls 18:16 20:20 64:21 136:13 139:7 139:14 141:16 148:16 162:12 162:25 174:22 175:2 185:15 187:9,23 204:19 | | | | |

| | | | | |
|-------------------------|-------------------------|------------------------|------------------------|--------------------------|
| 10:4,7,9,11,12 | deadlines 34:9 | 20:22 22:14 | description 5:3 | 117:25 |
| CWA-02-2016... | 47:3,13 110:11 | 52:16 | 6:3 7:3 8:3 9:3 | develop 20:9,23 |
| 1:11 7:10,11 | 110:22,23,25 | demonstrating | 10:3 159:4 | 50:14 55:18 |
| 7:12,13 11:3 | 111:5,13,16,21 | 191:14 | 220:24 231:10 | 60:21 63:16 |
| CX 120:11 | deaf 25:6 | demonstration | design 136:18 | 64:8 126:9 |
| CX-1 14:10 | deal 174:23 | 50:23 51:19 | 145:21 171:6 | developed 64:14 |
| CX-2 14:10 | dealing 135:6 | DENISE 3:21 | designated 35:1 | 85:20 86:1,19 |
| CX-3 14:10 | dealings 107:15 | denoted 194:13 | 35:3 81:20 | 181:8 |
| CX-4 14:10 | deals 135:9 | DEP 53:20 | 156:1,9 | developing |
| CX-5 14:11 | dealt 165:24 | department 1:6 | Designation | 137:20 212:20 |
| CX-6 14:11 | debris 144:9 | 2:2 3:11 11:2 | 7:17 | development |
| CX-8 14:11 | 151:13 229:18 | 11:15,17,20 | designed 22:19 | 177:23 |
| CX-9 14:11 | DEC 7:17 33:23 | 18:2 44:6 | 141:2,12 | device 164:6 |
| | 34:6,23 35:4 | 56:16,16 75:22 | 146:21 154:18 | devotion 110:1 |
| | 35:25 36:16 | 76:17,22,23 | 155:19 159:24 | dialogue 113:12 |
| D | 46:4 57:3 82:5 | 77:7,17 78:8 | designs 136:20 | 192:8 |
| Dan 46:6 102:22 | 82:6,9,14 83:3 | 78:19 80:12,20 | 152:1 | Diana 2:8 239:4 |
| 102:24 103:6 | 83:12 84:4 | 80:25 81:5 | desk 138:12 | 239:21 |
| 103:17,21 | 97:19,20 98:1 | 88:21 97:3 | despite 18:3 | diesel 219:7,8,15 |
| 104:9 107:2 | 98:6 106:15,17 | 116:24 133:22 | 21:20 | differ 48:19 |
| 109:1,18,21,23 | 107:5 108:24 | 173:19 179:7 | detail 10:18 | difference 29:11 |
| 115:25 | 117:3,8,12,20 | 222:21 | 65:24 109:12 | 58:2,7 76:5 |
| data 55:1,5 | 117:24 118:4,7 | Departments | detailed 29:20 | 125:3 174:16 |
| date 32:6 45:8,9 | 126:24 131:2 | 97:4 | 56:11,12,13 | 210:18 |
| 54:18,21 94:13 | 149:5 166:18 | depend 72:20 | 100:15 182:6 | differences 47:6 |
| 99:9 114:2,5 | 166:25 167:6 | depends 30:15 | details 66:13 | 186:18 |
| 118:9 138:19 | 225:19,22 | 72:19,21,24 | detect 55:19 | different 26:22 |
| 175:12 183:24 | DEC's 110:4,5 | 234:12 | 126:5 | 27:25 32:24 |
| 211:12 236:2 | 116:25 117:15 | depict 159:22 | detecting 58:5 | 47:13 66:1,3,4 |
| dated 64:2 | 118:4 | 191:18 221:13 | detection 40:20 | 82:25 87:3,5 |
| dates 47:5 94:6 | DEC-delegated | depicted 87:23 | 53:19 55:23 | 99:24 112:20 |
| 94:8 | 83:5 | 191:10 196:18 | 58:24 113:13 | 113:7 118:7,24 |
| David 3:14 | decision 123:8 | 197:4,25 | 125:25 | 133:8 136:20 |
| 11:19 75:21 | decisions 107:23 | 200:20 202:20 | deter 22:25 | 140:7 158:7 |
| day 101:3 | deemed 128:6 | 204:11 206:5 | detergent 171:9 | 161:24 162:13 |
| 110:24 134:23 | deer 65:1 | 207:7,25 | 171:11 | 175:3 177:19 |
| 134:24 135:3,3 | deficiencies | 208:10 214:16 | determination | 177:21,22 |
| 167:24 234:1 | 93:20,25 95:10 | 215:9 216:5 | 54:23 88:20 | 178:4 179:12 |
| days 19:19 21:5 | deficient 87:16 | 217:6 218:5,19 | 172:2,7 212:24 | 190:9 191:21 |
| 35:24 44:25 | 90:24 | 220:14 | determinations | 192:16 193:4 |
| 139:7,21 | define 79:25 | depicting 162:4 | 133:12 168:8 | 195:13 196:1 |
| 148:16 186:3,8 | definitely 12:10 | depicts 204:6 | 168:12 | 201:20 206:7 |
| 193:17 194:19 | definitions | depth 45:5 | determine 21:9 | 207:10 214:20 |
| 194:20 209:10 | 113:7 | describe 50:19 | 30:5 172:19 | 219:21 220:2 |
| 209:11,12 | degree 28:10,11 | 138:22 145:5 | 196:2 | 224:20,21,23 |
| 235:17,20 | delegated 82:12 | described 101:8 | determined 13:3 | 234:8 |
| DC 28:1 | 84:5,6,7 | 173:22 220:19 | 43:20 49:3 | differently |
| DEA 225:15 | delivery 94:5 | describes 60:22 | determines | 113:4 |
| deadline 34:10 | Demer 36:14 | describing | 101:7 | direct 24:15 |
| 34:12,12 54:22 | demonstrate | 63:10 | determining | 36:18 39:12 |
| 54:24 111:20 | | | | |

| | | | | |
|------------------------|------------------------|-------------------------|-----------------------|----------------------|
| 40:4 41:6,17 | 143:3 144:12 | displayed | 181:9 196:8 | 100:22 |
| 42:1 49:22 | 147:11 151:17 | 193:16 196:21 | 214:8,13,16 | DOT 3:19 5:21 |
| 50:9 51:7 52:9 | 159:25 162:16 | displaying 199:7 | documentary | 7:18,19 8:4 |
| 52:23 55:14 | 171:4,8,10 | disposal 59:11 | 12:21,24 | 18:1,11,18,25 |
| 57:5,14 59:2 | 172:4 197:1 | disposing 217:9 | documentation | 19:10,15,21 |
| 59:19 60:18 | discharged | dispute 109:3 | 20:2 42:25 | 20:8,12,17,23 |
| 62:6,24 63:12 | 18:12 38:24 | disregard 18:9 | 46:19 49:6 | 21:4,14,25 |
| 64:4 66:6,16 | 39:7,9 58:12 | 22:19 | 51:4,17,21 | 22:3,9,17 |
| 66:25 68:4,25 | 58:13 156:4 | dissipating | 53:6 56:6 59:8 | 28:14,18,23 |
| 69:24 70:11,24 | 200:15 | 203:16 | 60:7,14 61:24 | 29:17 30:18,21 |
| 71:21 72:8 | discharges 30:9 | distinct 85:5 | 62:4 63:21,24 | 31:2,17 32:7,8 |
| 73:8 74:12 | 38:23 55:20 | distribution | 66:22 67:3,6 | 32:10 34:6 |
| 81:3,21 96:20 | 56:15 58:6,8 | 237:14 | 68:9,12 69:5 | 35:2,16 36:6 |
| 103:25 106:2 | 58:10 59:11 | District 101:5 | 70:1 148:12 | 37:16 38:2,9 |
| 106:13 127:16 | 79:23 88:9,22 | 101:10 | 213:4,7 | 39:6,18 41:15 |
| 127:21 132:24 | 89:10,23 90:15 | disturbance | documented | 41:22 42:8,11 |
| 159:13 176:10 | 90:17,18 92:2 | 196:19 198:2 | 71:19 112:12 | 42:19 43:20 |
| 176:25 180:16 | 119:18 126:6 | 198:25 | 143:14 145:6 | 44:13 45:2,4 |
| 183:17 184:1 | 126:17 164:14 | disturbed | 145:10 148:9 | 45:14 46:5,7 |
| 184:22 185:19 | discharging | 150:14 169:3,5 | 148:10 181:2,6 | 46:14,17 47:4 |
| 187:12 192:12 | 61:20 146:14 | 197:9 198:2,18 | 182:20 184:7 | 47:12,24 48:4 |
| 194:5 195:4 | 155:3 162:14 | 202:1 204:13 | 185:21 187:25 | 48:7 49:5 |
| 196:14 199:1 | 164:8 | ditch 160:11,12 | 188:21 192:19 | 50:13,14 51:3 |
| 208:23 211:12 | discuss 47:25 | 161:8,9 162:3 | 196:11 214:1 | 51:17 53:1,17 |
| 214:11 220:22 | 131:22 136:6 | 162:8 | documenting | 54:2,4,21,24 |
| 223:2 | 137:6,18 | ditches 160:18 | 141:8 159:16 | 55:18 56:14 |
| directed 221:20 | 166:25 167:8 | Division 44:9 | 159:19 160:2 | 57:18 59:9 |
| direction 122:9 | 213:19 | Docket 1:11 | 194:18 209:5,6 | 60:20 63:5,7 |
| directionally | discussed 39:11 | 11:3 | 220:17 222:4 | 63:15,21 64:1 |
| 231:18 | 43:1 44:18 | document 17:7 | documents 13:9 | 64:8,15,16 |
| directive 69:10 | 46:8,10 49:9 | 20:9 33:21 | 20:21 47:7 | 65:20 66:23 |
| directly 41:3 | 52:12 54:4 | 34:1,4,11 | 49:8 62:9 63:1 | 67:4,7 68:9,11 |
| 185:17 198:6 | 66:10,20 | 36:20,22 39:14 | 63:10 64:7,16 | 69:6,7,20,21 |
| 200:13 204:20 | 126:22 149:14 | 39:16 40:7,9 | 64:18 65:4,6 | 70:16 71:5 |
| Director 44:9 | 175:19 179:23 | 41:2,9,11,14 | 65:12,15,19 | 72:1,10 73:5 |
| 107:3 115:15 | 185:8 194:23 | 41:19,21 42:4 | 67:22 113:1 | 75:24 76:10,13 |
| disagreements | 203:22,24 | 42:6,16,18 | 120:8 195:20 | 76:14,19 78:4 |
| 109:13 | 209:1 | 43:25 44:2 | 223:21 234:19 | 78:5,13,13,23 |
| discharge 20:11 | discussing | 46:24 47:1 | DOH 57:3 | 79:1,6 82:14 |
| 20:14 27:3,9 | 127:13 137:4,5 | 50:20 56:10 | doing 27:13,15 | 83:7,12 85:7 |
| 30:1 38:22 | discussion 48:2 | 58:22 63:13 | 30:3,16 73:12 | 85:11,15,22 |
| 40:20 52:18 | 102:15 110:3,6 | 64:1 67:14,17 | 115:3 131:12 | 86:10,24,25 |
| 53:19 56:18 | 110:9,21 111:2 | 72:9 105:21 | 133:24 173:14 | 87:16 88:5 |
| 58:11,15,18,24 | 114:13 145:12 | 109:9 111:22 | 174:21 179:4 | 89:8,14,16 |
| 88:10,11,17,24 | 159:23 225:19 | 121:5 127:17 | 220:17 225:6 | 93:4,6,9,12 |
| 89:15,25 90:2 | discussions | 127:19 136:23 | 232:14 236:15 | 94:1,12,22 |
| 91:22 92:4 | 159:6 213:12 | 137:1,9 148:7 | dollars 21:12 | 95:10 96:6,22 |
| 97:24 98:3,10 | 221:18 | 161:20 162:23 | dome 216:12,14 | 97:6 100:16 |
| 100:2 113:12 | disembodied | 163:5 168:9 | 216:20 | 101:15 102:20 |
| 125:24 126:2 | 222:13 | 172:17 181:6,9 | Dore 44:9 | 103:1,4,19,22 |

| | | | | | |
|---|---|---|--|---|---|
| 106:25 107:15 108:14,24 109:9,10,20,22 111:4,6,12,16 111:16,22 112:17 113:9 113:12 115:12 116:24 117:1,4 117:9 118:8 119:16,17 120:13 121:1 121:25 122:4 122:22 123:10 123:25 124:13 126:23 127:4 128:14 129:20 129:22 134:22 135:14,16 138:8,14 139:7 148:16,22 149:4 154:21 158:6 165:19 178:18,19,24 179:10,25 182:13 186:1,7 193:14,17 194:3,16 195:25 209:7 209:24 210:21 212:8 213:18 221:9 223:6,7 223:11 226:8 226:10 232:1 232:18,23 234:19,23 235:5 236:5,9 236:11,16 DOT's 19:24 22:7,14,18 45:19 46:13 52:14 53:23 56:1 57:11 59:15 60:1 62:3,12,18 63:4 67:16 70:7 71:7 72:6 72:15,22 74:2 91:2 109:12 110:24 112:12 113:18 131:12 | DOT/DEC 64:25 DOTs 78:15 79:10 173:3,4 223:3 double-check 15:3 double-negative 233:4 Doug 99:21 100:7 downhill 147:5 downspout 89:25 90:4 downstream 146:9 231:20 dozens 18:13 19:14 20:3 draft 43:21 137:20,23,24 137:25,25 138:5 drafted 42:23 111:3 dragged 76:6 drain 50:23,24 51:1,24,25 142:20 143:2 144:4,5,10 151:12,14 152:4,5,19 156:24 157:2 157:10 170:8 170:10 189:21 190:13,17,21 190:23 192:15 192:24 199:8 199:15 200:7 201:2,9 202:14 204:6 220:20 221:7,16 228:5 228:7 drainage 160:18 183:12 187:10 196:6 drains 142:22 143:18,19 144:1 220:25 drawings 5:23 87:20,24 | drill 135:25 drive 18:3 189:6 drive-by 164:20 drop 142:20 144:14 151:12 151:14 156:24 157:2 drove 164:22 drum 163:24 164:3,12 drums 207:10 dry 53:8 156:13 due 17:2 164:23 187:4 duly 24:12 132:22 176:23 dumped 88:12 dumpster 217:9 217:10 dumpsters 217:15 duration 168:3 213:24 duties 28:25 133:6,9 177:16 178:7 duty 18:3 19:6 19:12 dynamic 33:12 | <hr/> E <hr/> e 3:1,1,9,17 239:2 e-mail 5:24 7:20 7:21 8:11,13 8:15,17,19,22 9:5,6,7,9,11,20 9:21 10:5,6 43:10 45:1 106:10 109:21 E-mail-1/26/1... 6:17 E-mail/Corres... 9:13 10:10 e-mails 106:21 earlier 27:5 126:22 147:4 early 111:4 easiest 140:7 easily 206:19 | 207:1 east 53:20 149:10,12 150:10 152:11 153:9 157:18 161:23 208:15 Eastern 55:4 EBA 180:10 edits 138:3,4 education 28:9 179:16 educational 133:14 effect 36:23 54:17 83:24 128:3 141:13 144:13 effective 18:21 20:19 127:25 139:25 effectiveness 141:14 142:6 143:5 144:14 147:12 efficient 33:15 effort 75:4 111:23,23 efforts 18:23 22:2 112:13 EIC 143:10 145:12 either 37:6 90:4 98:1 232:11 election 128:6 electronic 17:3 237:25 eleven 121:24 122:1 eliminate 20:10 75:4 eliminating 58:5 elimination 27:4 30:1 38:22 40:20 52:18 53:19 58:25 100:2 113:13 Ellen 46:6 107:4 149:4 embankment 206:2,3 | emotional 26:13 emphasized 50:24 employed 133:4 167:14 employee 70:4 70:18 93:12 106:25 121:23 231:13,16 employees 22:10 37:6,9 93:6,10 94:1 115:12 121:2 122:4,23 195:25 213:21 emptied 219:19 encompass 150:12 188:2 ends 27:3 167:9 enforce 60:21 63:16 98:6,7 enforced 98:1 enforcement 25:13 27:2 29:8,9,12,14 95:23 97:19,20 97:22 117:1,3 118:17,23 120:1 123:16 128:4,11 Eng 111:12 engage 89:9 engaged 77:10 78:1 engaging 88:21 engineer 111:12 136:4 139:12 149:3 158:14 engineering 133:18 156:1 engrained 203:9 enhance 210:22 ensure 18:23 20:18,24 30:6 38:11 39:6,7 63:17,19 97:17 98:12 128:4 139:23 147:16 148:23 219:18 ensuring 178:3 185:10,13 |
|---|---|---|--|---|---|

| | | | | |
|---|--|--|---|---|
| 203:18 219:20 enter 32:10 81:12 88:18 141:10 142:4 155:20 187:17 207:16 210:6 221:7 entering 88:12 141:3,4 155:14 157:2 197:6,6 200:24 204:16 enters 88:16 entire 54:3 80:9 80:15 84:23 166:22 entities 225:5 entity 56:25 82:12 126:1 entrance 188:13 188:16 197:14 197:16,20 201:24 205:18 208:1,4 entrances 187:22 197:17 224:3 entrench 154:22 154:24 entrenched 154:18 enumerated 17:5,8 environment 66:3 115:16 environmental 1:2 3:2,6 19:17 24:20,22,23,24 26:25 28:11 32:20,21 33:3 56:17 61:17 64:19 67:11,13 71:17 76:4 103:4 106:9 107:3 115:11 116:25 133:5,6 133:16,17 134:16 177:6,7 177:8,13,18,20 179:19,20 212:7 213:18 | 213:19 envisioning 208:16 EPA 3:20 6:19 6:20,21,22,23 6:24 7:4,5,6,7 7:8,9,15,16 11:5,11,13 17:25 18:10 19:19 20:4 21:6,12,21,23 24:21 26:20,21 26:24 27:15,21 27:24 28:5,7 28:17 30:14 33:1,4 37:6,8 44:8 45:23 46:3,17 51:6 56:5 67:20 72:10 76:12,22 79:4,9 82:11 83:4 84:5 90:2 92:24 94:20 97:2,3,19,22 98:1,6 99:24 100:15 101:5 101:19,24,25 102:7 103:6,18 103:21 106:8 107:12,19,21 107:23 109:20 109:24 111:7 111:19 112:4 113:8,17 117:25 118:7 118:21 121:23 123:17 124:20 128:4,6,10 129:25 130:12 130:25 131:1 133:10,21 134:22 137:22 138:1 166:25 167:6,12 168:11 172:1,6 172:19,23 173:3 178:15 212:23 225:15 225:17,19,22 231:22,25 | 233:13 EPA's 22:13 93:4 95:17,22 110:11 124:4 125:1 EPA-certified 134:3 equals 108:2 equipment 158:8,11 161:6 206:24 211:1,6 214:18 215:2 215:11,14,16 215:22,24,25 218:7,8,10,12 218:13,21 221:11,14,15 237:25 Erie 85:15 erosion 5:15 136:19,22 139:23 145:2 147:17 148:23 150:24 152:15 174:2 197:12 197:16 199:21 200:6 202:25 203:7,12,17 205:10 229:24 234:25 escape 230:3 ESQ 3:4,5,13,14 essentially 40:1 48:15 49:9 54:24 156:7 191:19 194:9 202:22 205:15 210:20,24 216:11 220:16 222:4 establish 20:13 established 125:9 188:1 et 52:19 evaluate 60:5 74:3 230:2 evaluated 53:23 188:25 189:13 189:14 evaluating 39:6 | 180:12 225:18 evaluation 43:20 event 97:24 236:5 events 145:13 evidence 12:19 12:22,25 13:1 13:10,14,17 20:8,12,16 22:13 33:9,20 36:19 39:13 40:5 41:7,18 42:2,15 43:24 46:23 50:10,20 51:8 62:7 64:5 66:7,17 67:1 68:5 69:1,25 70:12 71:22 83:19 86:5 88:20,24 105:1 108:8 138:11 exact 44:23 168:5 174:19 178:21 179:1 179:12 191:16 192:8,8 223:10 234:6 236:3 exactly 45:2,6 194:13 207:3 227:8 230:11 234:3 EXAMINATI... 4:1,3,9,15 24:15 73:8 125:22 132:24 174:11 176:25 example 34:12 51:6 56:5 87:8 136:25 155:7 162:20 166:11 168:4 171:12 185:16 188:17 188:18 192:15 203:11 209:11 209:12 216:22 217:1 examples 67:20 140:3 185:4 191:12 235:25 | 236:13 excess 190:3 exclusively 90:6 excuse 95:1 98:19 220:3 excused 175:15 237:4 exemptions 90:18 exercised 93:21 exhibit 5:4,5,6,7 5:8,9,10,11,12 5:13,14,15,16 5:17,18,19,20 5:21,22,23,24 6:4,5,6,7,8,9 6:10,11,12,13 6:14,15,16,17 6:18,19,20,21 6:22,23,24 7:4 7:5,6,7,8,9,10 7:11,12,13,14 7:15,16,17,18 7:19,20,21,22 8:4,4,5,6,7,8,9 8:10,11,12,13 8:14,15,16,17 8:18,19,20,21 8:22 9:4,5,6,7 9:8,9,10,11,12 9:13,14,15,16 9:17,18,19,20 9:21,22,23,24 10:4,5,6,7,8,9 10:10,11,12,13 10:14,15,16,17 10:18 17:4,11 33:10,20 36:4 36:19 39:12 40:6 41:8,18 42:3,15 43:24 46:23 50:10 51:7,8 52:10 52:24 55:15,16 57:6,15 59:3,6 59:20 60:19 61:11 62:7,25 63:13 64:5 66:7,17 67:1 68:5 69:1,25 |
|---|--|--|---|---|

| | | | | |
|---|--|--|---|---|
| 70:12,25 71:22 81:25 82:20 83:19 98:22,25 99:6 100:13 104:16,18,19 104:25 105:5 105:20,25 120:20 127:11 129:11,17,18 138:11 140:13 148:13 157:5 159:14 180:17 181:3,6 195:5 208:24 211:13 226:24 exhibits 5:1 13:17,25 15:1 15:11,24 16:13 16:21 21:22 49:22 86:13 92:24 99:4 EXHIBITS-co... 6:1 7:1 8:1 9:1 10:1 existed 114:7 existence 199:8 exit 139:5 153:15 208:1 exiting 197:7 expect 131:16 187:21 202:7 expensive 237:25 experience 150:24 166:2,4 223:3 225:3,21 experienced 19:25 expert 151:6 212:22 expired 35:12 35:12 explain 33:25 34:3,18,22 49:1 58:2 109:23 122:17 209:4 210:18 explained 160:18 218:8 explicit 19:4 | explore 188:21 exposed 151:2 161:17 164:12 216:15 218:15 219:13 exposure 67:13 141:4 142:3 express 109:18 expressed 46:14 extend 111:20 extended 110:23 extension 6:14 6:15 29:25 104:2,9 extensive 18:18 20:2 110:1 extent 103:24 113:15 eyes 18:7 <hr/> F F 239:2 face-to-face 45:21 46:1 facilities 18:14 18:17 21:1 52:19 64:10,15 65:22 67:7 68:10 69:6,21 facility 67:11 71:11,18 72:1 136:12 137:7,7 137:8 139:15 140:9 147:20 149:14 156:2 157:23 158:3,4 158:6,17 159:3 159:5,10,25 160:17 163:12 164:21,23 171:21 180:14 209:15 211:9 211:18,25 212:3,12,15 213:8,11 214:17 216:3,7 217:10 218:6 220:17,18 221:23 231:1,5 231:5,17 | facing 150:10 216:19 fact 12:25 18:25 49:5 76:20 117:16 199:24 209:6 234:4 factors 21:7 facts 76:3 86:4 failed 19:11,21 20:4,9,12,17 20:23 101:9 failing 190:15 failure 19:8 92:15 98:5,7 100:24 191:19 203:3 failures 65:21 fair 41:2 66:13 84:8,18 87:13 107:13 116:3 116:17,23 121:19 125:25 127:3,7 fairly 183:23 217:12 223:13 225:3 Fairview 231:1 faith 23:2 111:23 fall 169:7 fallen 155:8 falls 31:20 206:21 familiar 120:12 128:20 170:11 173:18 familiarity 166:17,19 Families 76:7 far 168:3 172:18 204:3 far-reaching 19:11 fast-learned 99:3 faster 113:5 February 47:18 48:9,13 53:22 112:6 113:24 114:3,8 118:10 | 118:14,15,19 123:4 federal 12:17,18 177:10 feel 194:23 224:8 fence 140:22,24 140:25 141:9 142:12 146:13 146:16 147:3 147:14 149:20 149:22 150:12 150:13 153:25 154:3,6,12,17 154:20,22 155:1 157:1,4 162:20 169:4 169:12,22,25 184:9,10,18,20 185:2,3,6,25 186:5,13 189:22,23 190:1,6,20 191:2,4,8,13 191:15,16,18 192:6 193:16 196:22 198:4 198:17,24 200:8 201:24 203:19 204:4 208:18,21 227:17,23 228:13,14,21 229:17 fences 162:19 167:20 199:23 228:17 229:22 fiber 199:25 field 23:1 53:8 55:21 57:9,19 58:23 137:1 148:9 159:5 168:3 180:8,9 180:13 197:18 fifteen 134:19 figure 58:17 figured 237:13 file 111:22 123:18 125:6 filed 124:14,17 | 124:17,19 125:4 126:23 232:13 filing 17:3 fill 206:21 filled 42:9,10 56:2 215:4 filled-out 42:7 filling 153:18 filter 202:24 203:6,21 filtered 146:20 final 7:16,17 39:1 40:24 47:17 48:10 113:24 114:10 138:5 212:24 233:25 finalize 32:9 42:22 finalized 111:14 finalizing 137:23 finally 20:21 22:5 find 22:17 88:20 92:4,6,6,8,9,10 93:20 158:16 168:25 223:15 223:18,19 226:11,11 230:16 231:2 finding 98:3 141:25 194:10 236:10 findings 43:20 44:11 48:22 109:13 136:23 137:13,14 194:9 235:22 fine 13:13 17:14 37:5 49:13,15 49:18 103:9 114:14 122:8 125:11 151:13 237:20 finer 115:2,12 128:7 finish 29:21 73:17 |
|---|--|--|---|---|

| | | | | |
|-------------------------|------------------------|-------------------------|-------------------------|--------------------------|
| finished 123:3 | 62:15 71:11 | frame 41:15 | 33:11,18 50:1 | GIS 52:2,16 |
| firm 177:8 | 125:19 128:25 | 54:5 | 50:8 71:20 | gist 37:13 |
| first 11:9 20:8 | 168:1 174:8 | frames 46:10 | 80:14 83:8 | give 14:19 111:6 |
| 23:12,14 26:24 | 233:6 | 131:5 | 85:24 95:21 | 153:6 168:11 |
| 27:16 30:23 | followed 85:3 | frequently | 119:20 121:9 | 226:18 |
| 34:14,17 35:12 | 123:20 135:19 | 194:16 | 123:11,15 | given 5:2 6:2 7:2 |
| 40:17 54:16 | 135:24 | front 138:12 | 125:7,18,23 | 8:2 9:2 10:2 |
| 64:18 81:22 | following 84:19 | 168:5 182:21 | 128:23 130:2 | 13:2,3 85:20 |
| 85:7 88:18 | 91:15 110:16 | 227:1 | 132:7,12,14 | 85:25 100:24 |
| 93:3,5 104:1 | 130:8 193:7 | fuel 64:24 163:7 | 169:14 172:5 | 177:3 |
| 106:3 127:8 | follows 24:13 | 208:11 219:6 | 175:18 176:7 | gives 131:5 |
| 130:20 134:13 | 132:23 176:24 | 219:15 | 176:17 177:1 | giving 206:8,9 |
| 149:9,12 | force 128:3 | fueling 158:10 | 229:8 236:17 | 216:9 |
| 165:24 169:21 | forego 22:11 | 163:1,3,4 | 236:23 237:5,7 | go 15:9 26:1 |
| 233:24 | 128:6 | 214:18 | 237:10 | 33:13 45:18 |
| fisheries 133:13 | foregoing 239:6 | full 104:19 | Garelick.Jaso... | 49:16 73:23 |
| Fitzgerald | 239:8 | 128:3 188:3 | 3:9 | 77:5 78:17 |
| 181:13 192:9 | form 57:24 58:3 | fullest 103:24 | gas 218:22 | 87:1 90:10 |
| five 54:18,20,21 | 69:15 119:11 | fully 19:7 34:14 | general 30:10 | 94:6 95:25 |
| 131:6,8 | 153:18 154:7,9 | 109:22 131:14 | 65:19 78:3,12 | 102:12 104:6 |
| fix 55:24 67:14 | formal 43:11 | 189:13 202:6 | 117:15 135:22 | 108:9 112:17 |
| 75:2 125:16 | 212:10 213:4 | 230:2 | 135:23 163:3 | 117:4 118:2 |
| 132:2 193:21 | formalize | fun 100:5 | 166:17 182:8 | 119:13 121:10 |
| fixed 75:9 238:2 | 110:10 | functioning | 224:15 231:1 | 121:15 122:1,2 |
| flooding 145:14 | formed 50:25 | 141:7 146:2 | 235:8 | 123:13 125:1 |
| FLOOR 3:7 | formulated 84:4 | 154:18 155:19 | generalization | 125:16 129:18 |
| floors 220:22 | 110:17 | fundamental | 167:20 187:4 | 130:15 136:9 |
| flow 146:19 | formulating | 19:11 | generally 12:22 | 136:12 137:16 |
| 161:12 195:22 | 82:14 83:13 | furnish 94:12 | 30:13 36:25 | 137:18 138:15 |
| 196:25 203:16 | formulation | further 12:7 | 38:16 40:9 | 140:3 146:16 |
| 203:17 207:4 | 120:19 | 20:16 73:8 | 46:8 95:22 | 149:11 158:24 |
| 220:7,8 231:20 | forth 112:24 | 74:7 106:18 | 129:16 138:23 | 170:20 171:18 |
| flowed 227:8 | forward 48:14 | 125:14 128:23 | 168:23 189:14 | 179:16 181:17 |
| flows 220:18 | 111:3 113:25 | 173:12 175:6,9 | 195:15 226:2 | 181:18,19 |
| fluid 215:22 | 189:15 | 208:15 222:8 | 234:7,22 | 182:6 209:18 |
| fluids 214:20 | forwarded 60:2 | 233:8 | gentleman | 211:7,24 221:7 |
| focus 179:20,21 | found 52:1 | future 129:12 | 154:8 | 226:13 228:8 |
| focusing 54:7 | 56:14,15 90:23 | | geographic | 230:4,13,22 |
| 55:4 | 95:11 98:16 | G | 31:10 | 232:8 |
| FOLEY 2:4 | 114:6 139:17 | G 140:14 | geographical | goal 95:14 |
| folks 147:23 | 139:19 222:6 | gallon 163:24 | 31:19 | 101:23 102:1 |
| 149:3 158:25 | 226:4 232:4,4 | 164:3 | Geology 179:19 | goals 20:13 |
| 181:12 192:9 | 232:15 235:23 | gap 139:20 | 179:19 | 79:22 |
| 209:22 | four 20:5 26:24 | 147:5 220:2 | getting 19:20 | goes 90:5 140:8 |
| follow 12:17,18 | 38:4 139:4 | gaps 147:3 | 35:1 58:19 | 172:10 211:1 |
| 12:20 43:1 | 178:14 194:18 | garage 158:8 | 61:19 66:12 | going 11:1 13:1 |
| 123:21 | 194:20 227:4 | Garelick 3:5 4:4 | 76:6 96:18 | 15:9 23:14 |
| follow-up 52:4,5 | 233:18,19 | 4:16 11:12,13 | 115:1 122:18 | 25:24,25 26:3 |
| 52:7,20 57:4 | 235:11 | 17:24 23:13,15 | 134:14 178:4 | 26:3 36:18 |
| 60:23 61:2,17 | fourth 126:15 | 23:24 24:16 | 228:19,25 | 39:10,20,22 |

| | | | | |
|------------------------|-------------------------|-------------------------|-------------------------|-------------------------|
| 41:17 42:1 | 203:10 204:5,8 | guys 120:9 | 15:9 19:23 | 237:10 |
| 49:16,22 54:5 | 204:13,20 | | 22:16 23:20 | hope 132:1 |
| 54:9,11,22 | 207:11 208:21 | <hr/> H <hr/> | 26:1 101:7 | hoped 41:16 |
| 55:2,3 57:14 | grading 150:1 | Hahn 149:4 | 124:25 238:5 | hopefully 76:8 |
| 64:4 74:24 | 152:16 | half 55:9 148:17 | hearsay 12:21 | 176:5 |
| 75:15 99:5 | graduated 28:10 | hand 12:9 181:3 | height 155:1 | hosted 178:12 |
| 100:23 105:24 | 133:17 | 181:7 | held 1:14 2:2 | hours 139:8 |
| 110:15 113:3 | granted 6:15 | handbook 8:4 | Hello 50:9 | 148:17 |
| 114:11 116:4 | 35:24 45:3 | 60:3,4 64:19 | help 61:12 | housekeeping |
| 121:1,4 122:24 | granting 35:5 | handing 57:3 | 155:13 | 20:25 29:24 |
| 123:4 127:21 | grants 34:7 | handle 95:23 | helped 27:17 | 39:3 40:22 |
| 129:9 131:20 | grass 215:12 | handled 118:23 | helpful 183:1 | 64:9 70:3,6,16 |
| 131:25 138:10 | 227:11,13,15 | hands-on | Helsley 181:13 | 71:5 135:10 |
| 140:6 142:24 | 227:18,21,23 | 107:14 | 192:9 | 157:21 158:16 |
| 153:7 158:3 | gravel 146:8 | handwriting | Hi 222:20 | 159:9,19 |
| 164:24 165:20 | great 13:2 22:21 | 106:6 | highly 20:1 | 180:15 205:1 |
| 167:18,18 | 50:2 61:10 | happen 25:24 | highway 87:20 | 212:12 214:5 |
| 168:23 181:16 | 136:23 138:22 | 36:2 58:6 | 131:13 179:7 | 235:1 |
| 183:17 208:23 | 170:20 176:6 | 125:1 167:24 | 189:21 212:5 | housekeeping-... |
| 211:12 214:11 | 193:25 223:5 | 185:11 | 229:5,11 | 187:1 |
| 222:21 229:19 | greater 139:8 | happened 43:18 | highways 179:3 | housekeeping/... |
| 230:16,22 | 148:17 | 44:20 47:9 | Hilton 181:14 | 160:21 |
| 234:2,3 237:8 | Gretchen | 48:11 159:6 | history 116:24 | Hudson 31:12 |
| 237:12 | 181:13 | 169:13,24 | hit 120:23 | 53:21 54:8,11 |
| good 11:4,10,12 | ground 90:6 | happening | Hitt 46:6 102:22 | 55:4 |
| 11:14,21 20:25 | 158:22 160:23 | 61:18 156:16 | 102:24 107:2 | hundred 54:6 |
| 23:2 24:17,18 | 161:8 188:19 | 156:17 158:4 | 115:25 116:4 | 178:20 |
| 25:20 26:9 | 200:3 207:2 | 161:1 | hitting 229:18 | hundreds 18:14 |
| 29:24 39:3 | 208:13 215:16 | happens 172:10 | hold 149:11 | hydraulic |
| 61:21 64:8 | 215:25 216:17 | hard 223:19 | 227:21 | 215:22 |
| 70:3,16 75:17 | 216:21 218:3 | 224:14 | holes 196:21 | hydrology-rel... |
| 111:23,23 | 218:11,17 | harm 22:21 | honest 26:5,14 | 179:21 |
| 112:1 118:10 | 221:6 | 141:24 | 92:23 | hypothetical |
| 135:9 157:21 | groundwater | hazardous | Honestly 224:14 | 151:3 |
| 158:16 159:9 | 90:1 | 164:11 165:2 | Honor 11:10,12 | |
| 160:20,21 | group 12:24 | 171:4 219:11 | 13:8,15 14:1,8 | <hr/> I <hr/> |
| 186:25 212:11 | 137:17 | hazards 59:10 | 14:13,20 15:18 | I-81 155:8,19,24 |
| 235:1 | groupings 14:14 | 126:16 | 16:11,23 17:1 | ice 60:3 |
| government | groups 49:9 | head 70:23 | 17:20,22 23:4 | IDDE 55:23 |
| 22:8 27:7,10 | guaranteeing | 78:13 79:14 | 23:13,15,23 | 57:10,20 58:1 |
| GP-0-10-002 8:6 | 238:1 | 89:6 | 25:8 26:10 | 58:24 91:18 |
| graded 149:22 | guess 93:2 | headquarters | 71:20 77:3 | idea 41:15 |
| 149:23 150:4 | 186:22 194:9 | 27:25 28:7 | 80:14 85:24 | ideal 203:13 |
| gradient 150:4 | 203:25 223:20 | health 56:16 | 95:21 104:15 | identical 47:8 |
| 150:15,16 | 226:12 | 213:13 | 117:24 121:9 | identified 33:17 |
| 152:18 154:1 | guidance 7:16 | hear 11:6 26:5 | 123:11 125:7 | 44:13 86:20 |
| 156:24 196:20 | 21:8 64:23 | 89:11 93:12 | 165:11 169:14 | 93:25 139:24 |
| 196:23 198:2 | 71:11 | 114:24 116:20 | 172:5 175:13 | 144:24 147:6 |
| 198:24 199:12 | guidances 65:19 | 128:13 228:15 | 222:11 232:6 | 148:24 186:2,7 |
| 199:14 203:1,8 | 65:22 | hearing 2:1 11:7 | 236:17 237:2 | 188:3 200:6 |

| | | | | |
|-------------------------|------------------------|--------------------------|--------------------------|------------------------|
| 236:11 | implemented | 10:1 | 61:2 62:15 | 147:25 148:7 |
| identifies 186:1 | 21:1 34:14 | indicate 12:9 | 94:11 112:23 | 148:10 149:17 |
| 199:22 | 38:9 67:15 | 103:22 124:20 | 113:11 172:10 | 162:24 163:5 |
| identify 11:8 | 184:15 201:19 | 160:15 161:4 | 172:21 182:18 | 164:22 165:7 |
| 52:2 86:17 | 212:1 | 168:15 197:13 | 182:20 183:4 | 166:20 167:5 |
| 90:19 93:1 | implementing | 198:18 236:7 | 195:6,15 212:9 | 167:10,13 |
| 187:21 190:3,5 | 30:5,8 | indicated 70:18 | 213:9 | 168:2,10,19 |
| 193:17 201:18 | implies 128:1 | 81:21 146:11 | infrastructure | 173:22 177:21 |
| 210:8 | importance 61:5 | 152:5 161:9 | 18:16 | 178:18,22,24 |
| identifying | 61:7 | 170:21,24 | initial 31:1 86:8 | 180:4,7,22 |
| 192:10 199:14 | important 12:11 | 189:18 213:25 | 102:14 130:16 | 182:5,7 186:2 |
| 212:20 215:13 | 25:3 61:14 | 226:3 231:8 | 137:24 159:6 | 186:9 193:14 |
| 216:12 223:16 | impose 101:6,11 | 235:22 236:10 | initially 103:6 | 193:25 194:2 |
| illegal 20:10 | imprisonment | indicates 141:17 | inlet 142:23 | 194:15,15 |
| 59:11 126:16 | 128:8 129:11 | indicating 116:9 | 143:12 144:10 | 195:1,8,12 |
| illicit 29:25 | 130:1,13 | indication 85:25 | 144:14 151:14 | 196:13 209:7 |
| 38:22,22 40:20 | improper 59:11 | 231:3 | 151:21,25 | 209:24 211:9 |
| 53:19 55:19,22 | improvement | individual 39:11 | 156:24 157:2 | 223:7,12 |
| 56:15,18 58:8 | 132:4 | 137:8 174:21 | 189:21 190:3,6 | 232:10,14 |
| 58:11,15,24 | improvements | 174:25 | 190:13,21,23 | 234:18 235:4 |
| 88:9,10,11,17 | 178:13 | individuals | 192:17,21,24 | 235:15 236:1,7 |
| 88:22,24 89:9 | in-between | 45:13 52:5 | 193:1,3 199:6 | 236:10 |
| 89:15,22 90:2 | 47:23 | 137:3 181:16 | 199:8,9,10,11 | inspections |
| 91:3 92:2,4,5 | in-depth 29:19 | industrial 134:3 | 199:13,15 | 19:17 20:18 |
| 92:10 97:24 | inadequate | 134:6,10 166:5 | 200:4,7,7,9,13 | 25:1,11,13,16 |
| 98:3,9 113:12 | 57:24 64:3 | 174:14,18,23 | 200:14 201:2,3 | 27:14 29:14 |
| 119:18 125:24 | 112:22 | 175:3 | 201:4,8,9,13 | 53:8 56:4 58:1 |
| 126:2,5 171:10 | inch 148:18 | infiltrate 141:12 | 201:16,18,19 | 58:4 71:11,18 |
| imagine 78:16 | inches 139:9 | 145:22 | 201:20,21 | 72:1 74:1,5 |
| immaterial | inclined 121:2 | infiltration | 202:16 204:6 | 134:11,17,19 |
| 12:23 | include 49:6 | 139:4 140:10 | 228:7 229:13 | 135:4 136:2 |
| immediately | 86:10 102:3 | 140:20,25 | 231:3,4,13 | 139:13,19 |
| 142:2 143:21 | 117:13 178:7 | 141:3,5,7,11 | inlets 142:20 | 166:6 171:16 |
| 149:10,12 | included 19:14 | 141:11 142:2,5 | 151:13 190:17 | 174:18,20 |
| 151:23 152:11 | 55:11 88:8 | 143:3,24 | 202:3,5,8,9,14 | 175:1 178:17 |
| 154:1 162:2 | 114:20 158:9 | 144:13 145:8 | inside 164:3 | 178:23 179:2,4 |
| impact 141:6 | 179:2 193:23 | 145:11,14,16 | 170:14 202:17 | 194:17,19 |
| impaired 144:1 | 196:12 219:12 | 145:17,20,21 | 219:9 220:18 | 209:9 210:2 |
| impervious | includes 93:16 | 147:9 | inspect 139:7 | 213:5,7 225:1 |
| 158:22 160:10 | 97:8 118:4 | Inflation 7:16 | 148:16 186:15 | 226:5 234:14 |
| 197:9,22 | 136:18 | inform 59:10 | inspecting 159:1 | 235:11,19,22 |
| 199:25 200:23 | including 19:16 | 126:15 | inspection 25:14 | inspector 29:13 |
| 201:1 208:4 | 20:3 53:7 | informal 71:10 | 56:11 57:13,23 | 133:9 134:15 |
| implement | 63:19 81:18 | 71:18 | 58:3 63:23 | 167:11 177:20 |
| 18:21 20:5,9 | 97:10 134:7 | informally | 64:2 68:16 | 178:11 180:6 |
| 20:23 29:22 | 181:12 | 111:21 | 69:14,17 | 186:2 210:8 |
| 55:19 60:21 | inconsistent | information | 134:14,24 | 236:11 |
| 63:16 126:5 | 128:15 | 7:10,11,12,13 | 136:1,3,8 | inspector's |
| implementation | INDEX 4:1 5:1 | 8:4 36:5 47:13 | 137:14 138:7 | 134:6 |
| 18:4 141:16 | 6:1 7:1 8:1 9:1 | 52:1 60:23 | 138:14 139:10 | inspectors 20:1 |

| | | | | |
|---|--|--|---|--|
| 27:18 30:14 139:11 install 149:25 186:13 installation 185:23 192:18 198:4 224:16 installed 140:22 146:14 149:22 149:23 157:1 185:10 187:5 188:4 190:10 192:18,21 197:20 198:19 200:9 201:4 202:22 203:14 204:15 208:18 installing 149:19 169:20 170:1 201:13 instance 130:10 instances 93:12 131:6 158:19 174:3 194:18 194:20 235:15 235:19,21 instruction 56:3 56:10 57:22 instructions 57:25 insurmountable 22:8 intend 74:10 103:23 intended 109:22 146:16 intent 5:4 33:23 34:18,21,23 35:5 126:22 175:11 intention 93:4 236:25 interacting 195:16 interaction 211:23 interactions 137:2 interchange 153:16 195:1 | interconnected 81:9 interesting 221:10 222:7 226:12 Interim 7:15 intermittent 14:5 internal 178:16 internally 137:17 interpretation 95:22 107:15 167:1 225:16 225:20 interpreter 3:22 3:24 24:8 interpreters 12:3 interrupted 96:19 intersection 152:12 Interstate 149:7 151:9 152:14 153:1,8 195:1 interviews 19:15 introduction 19:23 33:12 108:10 109:8 intuition 167:3 inventory 51:23 52:16 53:3,7 54:7,16 57:24 126:13 investigating 59:14,23,25 60:11,16 investigation 88:8 167:23 169:21 171:19 involved 28:14 28:17,22 32:14 32:19 117:21 118:17 119:23 120:5,18,21 133:21 134:23 177:16 179:24 180:3 195:24 involvement | 29:24 134:21 134:23 167:10 180:2 involving 28:14 28:17 179:25 irrelevant 12:23 22:3 77:4 117:23 island 84:14 158:10 Islands 77:21 79:1,2,4 issuance 128:5 130:11 issue 12:13 45:25 111:24 141:8 169:13 186:2,4 188:20 190:1 193:15 196:21 197:11 198:3,6 200:21 200:22 202:24 207:14 208:17 217:13 218:19 issued 34:15,24 35:4,13,19 44:4,5,6,12,20 47:9,11 117:8 issues 45:19 94:3,4 117:12 145:13 187:1 187:20 190:7 191:1,12 192:6 195:23 197:7 201:12 203:24 205:2 210:9 213:19 215:19 220:14 222:6 223:22 224:7 224:11,12,16 224:21 229:23 232:19 236:1 issuing 120:4 item 109:16 185:17 186:1 229:24 items 71:17 167:20 214:18 | Jacobsen 4:14 176:18,22 177:3,4 233:10 233:12 234:4 236:14 237:1 jail 26:3,3 129:6 129:9,19 JAMES 2:4 January 34:14 94:13 Jason 3:5 11:13 17:24 181:14 JENNIFER 3:25 jersey 77:20,24 78:2,8 228:23 JESSICA 3:23 Jim 158:14 job 103:1 115:3 119:25 133:25 138:5 168:14 171:17 236:15 236:16 Joe 36:14 John 139:12 Joint 14:21 16:21 Jonathan 46:6 104:13 106:16 106:18,21 110:25 111:2 121:14 123:2 Judge 1:17 11:5 88:10 July 69:17 124:18 June 5:17 19:10 31:4,22 39:21 47:17 94:7,8 95:2,2 102:16 111:4,15 112:6 138:20 148:5 153:4 158:1 junk 230:1 jurisdiction 53:4 167:6,9 226:9 jurisdictional 133:12 225:22 225:23 | Justine 46:3 99:22 100:6,8 102:23 103:11 103:12,15 107:6,20 108:1 108:23 109:6 114:20,22 <hr/> K <hr/> KAHLER-BR... 3:21 Katonah 211:9 211:18 212:3 keep 204:16 212:1 230:22 keeping 12:24 178:5 203:20 229:18 keeps 96:18 Keith 107:1 kept 123:9 kerosene 217:22 Kevin 36:14 key 32:24 33:3 85:1 kind 75:10 109:5 110:19 133:24 135:23 136:6 137:6 140:6 147:22 158:25 159:8 159:15,18 178:2 182:3 204:7 206:2,8 207:14 213:22 216:11 218:11 224:4 229:15 kinds 224:20 Kirkeby 4:8 132:17,21 133:3 138:13 173:14 Kirkwood 153:9 kitty 171:12 knew 121:3 171:22 knocked 185:11 206:19 207:14 208:19,20 215:1,6 218:2 |
| | | | | |
| | | | J | |

| | | | | |
|--|--|--|---|--|
| know 12:8 15:10 15:25 40:1 42:10 72:24 74:3 75:5 76:2 76:5 77:1 79:15 80:19,23 82:4,23 84:21 91:7,9,17 98:25 102:24 103:1,14 105:15 110:11 113:3,21 115:7 117:3,7,12,15 117:16 121:11 121:13 123:17 124:14,15,23 131:15 136:10 137:3 142:25 165:22 169:23 169:25 170:1 172:13,14,18 173:14,25 177:18 179:1 179:11 182:1,3 182:4,5,23,24 183:2 184:12 184:18 186:24 187:20 188:22 190:12,16 193:10,12,13 195:19 200:12 201:14,15,25 202:13,24 203:12,13,13 203:14,19 206:1 207:2,11 208:2,6 211:2 213:17 215:3,4 215:21,23 216:24,25 217:10 218:9 218:14 219:9 219:10,16,21 220:8 221:12 222:5,25 223:19 224:5 224:15 225:23 226:8,11 227:23 228:6 229:21 230:9 | 230:11 231:4 235:5,7 236:3 knowing 73:1 knowingly 19:6 knowledge 36:3 42:9 77:10 82:16 83:14 107:14 117:2,6 117:11 172:11 knowledgeable 185:14 known 55:24 138:15 148:1 157:22 knows 172:2 Kourt 133:3 Kourtney 4:8 132:17,21 Kubek 3:19 24:1 46:6 107:4 Kuker 134:15 167:11 180:7 <hr/> L <hr/> L 1:17 3:13 17:6 labeled 217:21 lack 22:10 66:14 144:2 185:23 192:18 Ladies 12:5 Lamphe 46:5 lane 80:19 131:12 language 3:21 3:23 11:23,24 11:25 12:2 24:8 101:20 119:11 212:19 225:20 LaPosta 44:9 100:22 lapses 235:17 large 18:1 42:16 145:13 149:6 154:4 182:13 Larry 149:4 lately 178:12 law 1:17 11:5 23:3 79:16 120:2 | lawn 218:21 lawsuit 104:6 lawyer 129:24 lay 234:11 layer 66:4 layers 50:24 layout 136:12 137:7 208:16 lead 30:9 134:14 147:6 160:18 167:11 180:7 leading 146:9 156:23 203:1 leak 164:11 207:22 215:6 leak-proof 217:16 leaked 215:22 leaking 88:14 learn 86:25 115:3 120:22 139:9 140:2 147:18 148:18 149:1 182:19 195:15 212:9 213:9 learned 5:22 19:20 87:3 212:13 213:12 leave 210:6 237:23,25 leaving 187:24 212:1 217:2 227:20 228:20 229:13 led 180:8,9 left 113:21 204:7 214:2 216:11 226:14 legal 18:3 22:7 49:13 95:22 119:21 225:5 legally 81:4 length 82:1 84:1 191:16 Lessons 5:22 let's 40:1 96:20 125:16 151:7 155:23 161:3 161:19 171:18 | 180:20 199:5 226:13,14,16 237:21 letter 5:10,18 6:5,10,15,16 37:18 39:17 40:11 41:13,23 43:5,6,10,12 45:1 98:23,24 99:7 103:19 Letter-5/30/12 5:13 letters 109:19 113:3 letting 229:8 level 23:1 56:11 56:13 65:24 147:21 207:22 212:5 235:3 levels 211:21 liability 101:2 liable 21:5 22:17 liar 116:5 lid 206:13 214:22 light 75:3 125:16 132:2 238:2 likes 128:20,22 limit 142:6 143:5 201:25 limited 12:24 147:12 limits 17:3 line 50:11 73:18 147:8 230:24 line-by-line 83:1 linear 166:10 lines 73:10 link 31:10 60:4 lips 116:20 liquid 207:16 214:23 list 13:22 14:4 86:14 100:15 108:9 113:23 114:18 202:3 listed 36:13 86:18 181:12 195:14 | listening 92:25 litter 171:12 little 25:5 49:19 115:8 130:23 135:18 142:15 156:5 158:2 179:12 189:23 198:11,12 206:2 208:14 220:19 locate 20:10 located 143:1 145:9 148:12 155:8 156:22 157:8,18 161:5 161:23 162:2 163:1 164:20 221:3 230:6,7 location 31:10 31:19 50:15,16 52:3 126:9 136:12 138:23 141:18 143:4 143:11 145:1 145:13,23 146:15 147:24 154:16 157:16 158:13,17 159:11 161:5 163:13,23 164:24 182:24 184:4 186:23 200:24 203:6 205:20,23 210:7,23 216:2 216:10 219:19 220:7 228:5 230:12 locations 87:21 140:7 149:8 171:13 locked 237:23 log 140:8 logistics 131:10 long 26:20 33:16 47:15 74:17 84:14 100:14 112:3 132:5 133:19 166:23 166:23 167:23 |
|--|--|--|---|--|

| | | | | |
|---|---|---|--|---|
| 168:4,15 176:1 213:24 long-obligated 22:4 long-standing 21:15 22:15 long-term 20:19 63:17 longer 139:21 213:22 look 29:19 30:1 49:11 54:1 55:12 60:17 62:22 67:12 68:2,22,22 81:25 90:15 115:8 129:5 142:11 143:8 162:11 164:9 167:19 168:2 168:20 170:14 174:22 180:13 180:20 182:12 186:19 188:15 190:24 201:14 203:4 224:23 229:21,22 looked 38:4,5 39:2 135:5 149:7,10 157:20 179:6 179:14 looking 14:21 36:4 38:8,9,14 38:16 39:5 53:13 58:3 60:7 70:22 91:1 96:14 109:24 118:9 153:10 174:17 174:19 184:3 186:21 187:4 188:6 190:11 191:20,21 192:14,20 197:3,23 199:12 200:19 204:10 206:4 207:6,24 209:21 210:1 | 214:15 215:8 217:6 218:4,18 220:10 224:25 224:25 227:10 looks 40:12 155:10 183:8 lost 232:21 lot 64:18 100:5 104:4,6,8 133:7,10,11 178:11 179:14 182:11,13 221:12 223:21 lunch 75:1,16 132:1,6,10 <hr/> M <hr/> M 2:8 239:4,21 ma'am 17:12 machine 2:8 Madam 11:22 132:18 176:19 main 64:24 106:19 139:2 190:7,19 198:3 maintain 50:14 126:9 186:11 190:13 211:7 213:5 maintained 85:23 139:25 148:24 184:16 184:17 185:3 191:5,6 maintaining 27:8 maintenance 21:1 38:18,19 39:5 63:18,23 65:2,22 67:11 70:4,19 72:12 74:25 125:15 132:1 158:6,8 169:9 180:14 184:14 190:9 198:4 210:25 211:1 212:5 224:17 major 20:5 making 89:9 | 96:21 111:22 122:9 132:3 203:20 227:24 Malone 36:15 Mamaroneck 196:24 198:8 200:17 205:19 205:20 manage 220:17 managed 29:22 management 34:13 40:18,25 63:18,23 65:11 72:13,25 99:18 107:24,25 123:8 135:7 201:11 manager 99:20 99:21 107:22 177:14 178:2 managers 19:15 19:16 32:24 manpower 131:10 manual 65:2 235:3,7 manuals 134:6 manufacturing 64:14 map 5:20 50:15 50:16 126:9 136:11 182:12 Map-"NYS 5:21 mapped 52:3 mapping 50:23 50:24,25 51:23 87:10 88:4 March 34:25 44:4 45:9 53:21 94:15,16 98:20 118:12 marched 13:11 marked 33:16 33:19 42:14 43:23 46:23 Martin 107:1 Mary 179:18 Maryland 179:6 mass 219:5 Masser 158:14 | Master's 179:22 matched 112:16 material 107:18 141:10 161:22 164:25 165:3 188:18,23 189:2,25 191:7 206:25 215:1 215:15,20,23 216:13,20 218:13,15 219:5,9 materials 141:13 161:25 162:14 163:14 185:5,14 186:23 188:12 205:12,13 206:23,25 207:9 211:3 215:7 216:18 219:12,18 221:6 237:24 matter 1:5 2:1 11:2 30:10 35:7,23 38:21 54:14 120:13 206:16 213:1 matters 13:6 16:25 17:16 95:24 Max 134:15 135:4 139:11 167:11,14 180:7 maximum 21:10 McKenna 99:21 100:7 MCM 225:14 MCM-4 135:5,6 204:22 205:3 MCM-4/MC... 165:6 MCM-6 135:5 McNally 3:13 4:11,17 11:16 11:16 14:18,19 14:25 15:20,21 15:23,24 16:20 17:13,14,16,17 | 23:6,9,21 73:19,21 74:16 74:17 165:12 165:15,18,19 172:9 173:7 212:21 222:10 222:12,14,19 222:20 226:19 226:25 237:20 mean 13:1 34:20 38:7 39:4 67:9 78:8 98:2 104:4 113:20 120:7 122:20 163:18 164:5 185:2 186:21 194:11 223:20 224:25 229:2 231:24 Meaning 157:6 means 77:2 meant 105:12 228:18 measure 38:8,11 38:14,17 39:2 40:24 41:1 170:12,24 192:23 measures 29:23 37:4,23 38:3,5 38:6 40:19 41:3 44:17 49:10 84:25 85:2 93:18,21 95:6,11 96:7 96:24 170:7 179:14 180:11 185:7 225:18 mechanisms 171:6 median 142:21 mediate 58:18 meet 19:7 45:20 47:20 54:5,12 54:13,22 55:3 55:3 122:4 130:24 136:4 174:20 181:10 181:15,21 182:8,12,16 |
|---|---|---|--|---|

| | | | | |
|---|---|--|---|---|
| 195:11 211:20 212:2 meeting 5:19 6:16 45:17,18 46:2,9 47:4,24 71:10 102:17 103:18,21 104:10,12,13 105:25 106:1 106:13 107:13 108:2,3,7,11 109:19 110:16 110:21 112:4 114:11,18 115:16 116:8 121:16,18 122:7 128:1 181:23 meetings 71:16 128:14 213:20 member 213:18 213:21 214:2 members 21:20 Memorandum 5:17 memorialize 110:10 memorialized 46:20 memorializes 47:3 mention 103:7 mentioned 25:9 27:5,12 29:16 32:17 33:5 34:17 37:22 41:4 42:20 44:16 48:7 115:2 125:24 130:2 147:4 210:15 Mercozzi 180:10 Meredith 46:5 merely 57:3 met 45:13 47:13 75:23 87:5,7 149:2,13 metal 163:14,16 163:17,18 165:3 215:15 | 215:23 219:3 219:12,17 220:1,8 method 135:19 135:24 meticulous 92:24 mid-April 45:7 103:20 miles 18:13 80:19 131:12 Mill 160:15,19 161:12 162:3 millings 162:4 162:13 millions 21:11 mind 102:12 mini-audit 85:14 minimal 38:8,17 39:1 93:17 96:7 180:11 minimize 217:4 minimum 29:22 37:3,22 38:2,4 38:5,11,13,21 40:19,24,25 41:3 44:17 49:10 84:25 85:1 93:17 95:6,10 96:23 179:14 197:17 225:17 minute 118:13 165:13 222:10 230:16 minutes 50:4 168:7 237:8 misunderstan... 21:20 22:1 misunderstood 90:22 mixed 219:6,15 mixer 156:10 mobilize 218:16 mobilized 201:1 216:2 mobilizing 187:7 modification | 127:25 modified 101:4 Modigliani 46:3 99:22 100:8 102:23 107:6 116:8 modular 207:21 money 22:4 110:2 monitoring 53:9 month 76:4 monthly 71:10 71:18 months 139:18 183:9 morning 11:4,10 11:12,14,21 24:17,18 238:4 motor 88:13 MOU 64:25 Mountain 148:1 move 13:14,15 93:2 151:7 206:24 226:20 moved 33:9 41:7 42:2 48:13 113:25 201:1 206:23 moving 52:23 141:22 142:17 178:5 189:15 202:19 205:7 216:4 mower 218:21 mowing 215:11 MPDS 134:5,6 166:12 MPS 178:15 MS13 76:6 MS4 5:20,21 6:4 7:17 20:6 25:15 27:5,5 27:14,15,17,18 27:24 28:4 29:19,20 30:5 30:8,15 33:23 34:6 35:3,13 35:18,22 36:23 37:2 39:17 50:25 52:17 | 55:20 61:16,17 61:23 64:12 76:5,11,18,24 77:8,11,13,14 77:16 78:1,3,4 78:11,11,22 79:11 81:11,19 81:22 82:15,20 83:13,15,18 84:9,12,12,16 84:23 85:19 86:6,25 87:2,9 90:7 91:23 97:8 98:5,6,13 102:4 107:16 114:7 118:18 130:15 134:4 134:12,13,17 134:19 151:17 165:24 166:7 166:10,15,18 173:21 174:17 178:13,15,17 178:21,23 179:2 182:4 225:23,25 MS4s 27:7 34:24 34:25 35:19 58:17 78:14 97:7 134:7 167:7 224:13 224:17,18,19 224:22,23 multi-level 78:24 multiple 86:13 158:19 182:16 191:14 municipal 19:3 27:6 64:9,10 67:5 81:3,17 91:7 97:8 178:7 municipalities 27:7 45:25 97:10 Mygatt 151:10 | name 11:11,13 17:22 75:21 87:5 106:3,5 107:8 111:12 133:1 134:8 136:17 177:2,3 names 86:17 87:1 narrative 62:19 67:17 national 28:2 100:2 near 153:9 198:19 230:10 nearby 200:15 necessarily 182:5 222:5 necessary 20:14 104:22 197:18 necessitated 131:11 need 12:6,6 13:11 26:4,18 35:16 49:15 56:13 65:23 67:15 68:2 78:12 87:4,6 102:13 111:17 111:18,24 112:23 138:3 145:24,25 165:21 194:23 220:23 222:23 227:17 230:16 needed 46:14 56:12,22 65:20 66:4 86:22 112:21 113:8,9 113:11,13 212:16,18 needs 37:2 75:9 negotiation 82:13 83:6 negotiations 83:11 117:21 neighbor 61:21 Nette 134:2 166:12 never 21:23,24 76:22 104:5 |
| | | | | N |
| | | | N 3:1 239:2 | |

| | | | | |
|--|--|---|--|--|
| 130:2 232:18 232:23 new 1:6 2:1,10 3:8 11:2,17 17:25 19:1 28:14,18,23,24 29:17 30:17,23 30:24,25 31:17 31:20 32:7,8 32:10 34:5 35:13 37:15 38:2 44:6 45:13 46:20,20 53:16,20 55:17 57:18 59:9 64:8 67:3 69:20 76:21 77:20,20,23,24 78:2,8 79:19 80:11,20,24 81:4,7,18,22 82:5,10 85:20 88:20 90:12,18 91:2 93:3 97:2 109:19 110:4 110:12,16,25 110:25 111:3 111:24 113:18 121:24 126:23 133:22 138:15 138:16 145:19 149:5 151:9 166:3 167:7 173:19 179:4,6 179:25 195:22 211:5 239:5 Niagara 31:20 85:15 NIFTE 100:3,4 nine 127:9 NOI 35:2,4 36:1 noise 132:3 nomenclature 63:7 non-compliance 25:14 non-MS4 97:10 non-storm 55:20 90:15,17 90:18 126:6 | non-traditional 84:12 166:10 166:16 167:7 224:13,17,19 224:23 225:4 noon 75:1 normal 80:1 normally 92:4 117:16,20 118:4 173:15 228:14 north 143:21,22 205:24 231:12 northeast 143:3 143:24 144:13 northwest 145:8 145:9 147:9 Notary 2:9 239:5 notations 209:2 note 24:6 82:20 91:1 104:24 106:12 137:3 150:3 160:14 188:15 197:16 200:5 202:4 205:19 210:12 notebook 148:9 notebooks 137:1 137:9 noted 140:21 141:20 145:12 147:2 149:15 149:18 151:11 152:19 155:25 158:18 164:24 170:9 202:25 212:4 236:1 notes 5:19 137:15 159:5 168:3 195:20 201:14 214:1 239:7 notice 5:4 33:22 34:18,21,23 35:5 43:4 100:13,24 101:6 117:12 117:14,18,22 118:5 123:18 | 124:13,20 126:22 198:18 noticed 94:2 98:24 150:11 151:13 154:2 197:11 Notices 117:7 notification 37:17 39:17 40:11 41:13,23 notifications 32:6 notified 93:3 notifier 124:4 notify 94:1 noting 161:24 163:14 208:12 notwithstandi... 21:14 November 31:13 94:21,22 180:4 181:1 195:10 211:16 234:16 number 21:11 34:8 51:9 52:25 53:18 55:13 57:6,15 57:16 59:4,5,7 59:20 62:8,25 63:14 64:6 67:2 68:5 69:1 69:2,25 70:13 70:25 71:23,25 72:9 73:3 100:23 104:25 106:10 120:9 141:17 145:15 152:1 158:7 161:25 168:5 178:21 179:1 179:12 200:5 206:6 213:16 228:12 numbers 63:8 numerous 19:4 19:15 20:6 126:1 NY 1:8 2:6 3:8 3:16 | NYR20A288 1:9 NYS 5:5,6,7,8,9 7:18,19 8:4 109:8 149:4 154:21 158:5 186:1,7 193:14 193:17 194:3 194:16 195:25 209:7,24 212:8 213:18 221:9 223:7,11 <hr/> O <hr/> O 239:2 objection 15:19 15:21 16:13 73:20,22 77:3 80:14 83:8 85:24 95:21 96:11 105:21 117:23 119:20 121:9 123:11 125:7 150:19 150:21 151:3 157:12 169:14 172:5 212:21 232:6 233:1 236:17 objective 102:10 102:11 obligated 18:19 obligation 18:25 53:2 55:18 59:9 60:21 63:16 67:4 69:3 obligations 126:1,4,19 127:4,9 observation 190:2 191:9 194:17 197:11 197:15,19 200:5 208:2 213:16 217:12 observations 137:19,21 138:1 148:20 153:23 181:2,5 181:9 183:11 | 183:15,24 184:6,13,25 185:21 187:8 189:18 192:10 193:13,22 194:11,22 196:4,8,11 197:8 200:20 201:17 204:25 205:9 214:4,9 218:9 221:1 227:22,24 232:15 observe 150:7 164:23 190:25 211:23 observed 25:14 142:25 145:6 146:7 151:22 152:23 153:25 156:23 157:3 157:16 160:5 161:7 165:2,6 187:18 193:19 199:3,10 203:2 206:10 209:8 209:19 210:13 224:7 observing 137:10 obtain 81:18 obviously 40:12 78:14 119:1 172:7 179:23 Occasionally 78:18 occasions 209:9 occur 81:12 120:25 145:22 occurred 83:12 95:2 102:15 169:18 213:15 235:20 occurrence 217:4 occurring 149:16 183:3 occurs 80:1,8 odd 226:4 off-site 39:8 |
|--|--|---|--|--|

| | | | | |
|---|--|--|--|--|
| 187:19 216:19 218:17 220:8 226:5,9 228:25 offer 21:17 104:16 offered 27:24 45:20 office 64:24 75:23 99:18 107:1,3 115:16 177:13 officer 24:25 29:1,8 101:23 120:1 offices 45:21 108:14 121:16 122:6 158:8 officials 103:18 oftentimes 207:19 217:15 229:5 Oh 14:3 oil 64:20 88:13 89:19 159:22 159:24 221:12 oil/water 221:2 221:5,8,16 oils 205:12 okay 12:17 13:18,24 14:3 15:2,4,8,13,19 16:12 23:11 25:17,18,21 26:4,15,18,19 28:13,25 29:3 29:11,16 30:3 30:7,17 31:7 31:25 32:17 33:1,8 35:8 36:18 37:19,22 38:13 39:1 40:15 41:24 42:13,24 43:23 44:20 45:8,16 46:8,15 47:24 48:15,18 49:8 49:19 50:7,19 51:3,12,16,20 52:4,9 55:8,14 56:1,6 57:2 | 58:20 59:2 61:12 70:20 71:12 73:5 75:11 76:3 77:16,19 78:16 79:15,21,25 80:18 81:10,16 83:6,11 84:22 85:3,19 88:8 91:6 92:1,19 94:11,20 95:3 97:2 104:24 108:4 109:2 110:4,7,23 111:5,20 112:8 112:17 114:2,5 114:11,17 115:25 116:13 116:16 118:8 118:16 119:16 119:23 120:12 122:4 124:8 125:5,10,18 126:19 127:3 129:1,9 130:15 131:4,9,18,19 131:24 133:19 135:2,18 136:1 137:22 138:22 139:6,22 140:18 142:17 143:25 144:4 144:18 146:4 146:25 147:10 147:15,22,25 148:4,7 150:7 152:9,18,25 153:6,24 154:14,19 155:15,23 156:15 160:3 161:19 162:10 163:9,20 164:16,19 165:5 166:2,9 167:6,14 168:11 170:6 170:20 171:18 172:18,22 173:7 179:16 | 179:23 180:21 182:18 183:7 184:2,6,12,24 186:18 187:8 188:7 189:10 189:15,17 190:15 191:24 192:5 194:5,12 194:25 196:14 196:16 197:23 197:24 203:22 205:4,25 206:4 207:24 208:9 210:15 212:16 214:14 215:8 222:3 223:1 224:12 226:17 227:4 228:1,2 228:8,10 229:17 230:4,4 230:13,24 233:10 238:3 on-site 32:11 50:22 51:19 135:12 180:3 188:22 189:13 193:19 196:10 196:11 205:13 209:23 211:22 217:8 221:1 236:2 on-the-job 134:9 once 32:7 47:13 53:4 54:19 83:2 123:2,3 137:14 one-by-one 13:11 ones 14:5,7 16:1 ongoing 121:18 opened 18:7 opening 17:19 23:7 operated 80:24 85:21 operating 83:21 140:1 148:25 operation 20:19 38:19 57:23 | 60:4 63:17 64:20 65:2 169:9 177:14 operation's 178:2 operational 64:13 operations 8:5 60:3 64:9,10 64:20 67:5,7 68:10 69:6 117:1 163:3,4 210:24 operators 19:2 185:13 opinion 212:19 213:1 opportunity 44:24 101:7 111:6 opposed 84:1 224:22 opposite 108:25 oral 22:11 order 12:7 35:20 43:22 44:3,8 44:11,21,22,25 45:5,8,20,25 46:10,21 47:3 47:6,10,11 48:8,23 49:3,4 74:4 75:2 94:18 95:20 96:25 97:17 98:17,18,19 99:13,16 100:9 100:14,20 101:1,10,13,15 101:21 102:8 102:15,19 103:8 109:15 109:25 110:12 110:15,17,20 111:3,6,11,15 111:24 112:14 114:14 115:2,5 116:12 118:6 119:7,9 127:12 127:24 128:3,5 130:11 140:8 | Orders 48:19 101:18,23 ORI 54:16 orient 181:25 original 82:21 110:20 111:9 111:10 185:12 outfall 18:11 51:23 52:12 53:2,3,8,21 54:3,6,15,19 55:22 56:4,11 57:9,13,19,23 57:23,25 58:7 58:9 64:2 87:10 126:12 145:17 146:17 outfalls 50:15,16 51:2,17 52:3 52:17 53:6 58:23 87:23 126:10 131:13 outlet 145:11,15 145:16,20,24 145:25 203:6 outreach 91:2 outside 56:18,21 56:23 139:1 162:1 163:15 165:4 172:7 216:13 217:5 217:25 221:3,5 221:22 overall 30:3 175:20 219:4 219:12 overexposed 150:25 overflow 207:17 overhead 142:13 163:4 163:15 164:25 Overruled 77:5 95:25 96:15 118:2 121:10 232:8 oversight 20:13 25:1 38:12 225:25 overtop 206:22 |
|---|--|--|--|--|

| | | | | |
|--|--|---|---|--|
| overtopped 215:4 | 127:19,22,23 128:11,16 | 214:12 | 55:6 178:20 | 83:13,15,18,19 |
| overview 29:20 40:18 153:6 195:17 | 194:8,13,14 208:24 209:2 | parties 23:25 | percentage 54:24 | 83:20,20,20,23 83:25 84:1,2,4 |
| owns 19:24 91:12 | paragraphs 194:10 | partners 177:9 | perform 20:17 30:19 67:4 93:4 | 84:9,11,13,17 84:23 85:1 86:1,7,20 87:2 87:4,9 90:7,14 90:16,16 91:10 92:16 97:12,14 97:18 98:13 102:4 107:16 114:8 119:1,2 126:24 128:2 130:16,19,20 130:22 131:1,2 131:4 166:18 166:20,22,23 167:1,4 173:21 182:8 212:19 212:25 225:1,2 225:3,6,10,16 225:20 |
| P | Pardon 212:17 | parts 17:10 165:3 | performance 18:23 | Permit-GP-0-... 5:7 |
| p 3:1,1,5,9,17 | Park 154:1,10 155:9 | party 23:25 24:1 | performed 30:18 31:8 63:20 69:11 83:21 87:21 94:21 194:17 | Permit-GP-0-... 5:8,9 |
| p.m 1:15 132:10 138:21 148:6 176:14,15 238:6 | parking 231:4 231:13,16 | pass 81:13 | performing 68:13 | Permit-GP-02... 5:5 |
| page 4:3,9,15 5:3 6:3 7:3 8:3 9:3 10:3 36:10 36:11 100:19 100:21 106:3 127:16 140:12 140:13 153:10 153:11,19 155:21 167:21 168:24 170:6 170:20 171:18 180:17 184:1 194:5,8 196:14 208:23 211:14 214:11,13 226:16,22,23 228:9 230:16 230:17 | Parksville 5:23 | pay 21:16 121:5 125:3 | perimeter 149:20 199:16 203:19 204:15 204:19 208:17 | Permit-GP-08... 5:6 |
| pages 82:1,21,22 83:25 84:2,2,8 104:20 105:2,3 105:6,10,13,16 105:20 148:13 159:14 183:17 195:5 | parkway 180:22 183:20 191:13 201:22 | penalties 48:1,4 48:21 101:6,11 115:13 116:12 118:1 119:10 119:24 120:23 121:6 123:5 128:21,22 | perimeters 53:4 | permits 35:11 77:8 79:11 81:11 85:19 90:19 130:16 174:25 |
| part 27:23 28:25 30:6 58:14 72:4 81:6 84:14 91:14,16 91:18,23,24 99:24 100:1 101:4 103:7 119:6,11,25 130:3 139:10 140:2 147:18 157:14 182:21 190:2 193:23 204:5 205:13 209:20,22,23 209:23 210:1,4 221:9 234:12 | partially 189:23 223:25 | penalty 7:15,16 19:9 21:7,9,10 21:13,17,22 22:12,23 48:2 74:13,18 101:2 114:14 115:19 116:1,10,21 117:13,17 118:5 119:13 120:16,19 121:17 122:14 122:24 123:19 124:14,21 128:7 129:5 130:1 | period 33:2 44:23,24 45:3 45:3 47:15,21 48:5 102:23 112:2,3,8 121:24 139:20 209:8 | permitted 130:24 |
| participated 77:6 | particular 24:25 134:13 135:21 143:4 147:24 149:7 159:11 162:5 180:20 215:3 | pending 113:9 113:10 | permanent 52:17 202:23 | permitted 118:18 131:5 |
| particular 24:25 134:13 135:21 143:4 147:24 149:7 159:11 162:5 180:20 215:3 | particularly 50:10 51:9 52:24 55:15 59:3,20 62:7 62:25 64:5 66:7,17 67:1 69:1 70:12 71:22 196:17 205:7 208:24 | peninsula 231:6 231:11 | permission 173:9 233:5 | person 89:7 100:10 107:6 107:14 136:5 215:2 |
| participated 77:6 | particular 24:25 134:13 135:21 143:4 147:24 149:7 159:11 162:5 180:20 215:3 | people 30:12 74:25 75:24 90:25 96:22 106:12,15,17 107:12 108:22 109:3 113:17 114:17 125:15 132:1 178:4 192:8 195:13 200:1 206:19 228:22 | permit 1:9 8:5,6 19:4,12,20 20:7 27:1 30:9 34:8,15,17,19 34:21,24 35:9 35:12,13,14,14 35:15,17,18,18 35:18,20,21,22 35:24 36:1,7 36:23,25 37:23 50:14 53:11 54:12,13,17 61:8,9,15,15 67:8 68:10 69:7 76:11,18 76:24 77:11 81:19,22 82:2 82:3,4,7,15,17 82:18,20 83:2 | personnel 70:4 70:19 71:3 93:13 |
| particular 24:25 134:13 135:21 143:4 147:24 149:7 159:11 162:5 180:20 215:3 | particularly 50:10 51:9 52:24 55:15 59:3,20 62:7 62:25 64:5 66:7,17 67:1 69:1 70:12 71:22 196:17 205:7 208:24 | perceive 117:5 119:15 | permanently 81:19,22 82:2 82:3,4,7,15,17 82:18,20 83:2 | persons 36:13 |
| particular 24:25 134:13 135:21 143:4 147:24 149:7 159:11 162:5 180:20 215:3 | particularly 50:10 51:9 52:24 55:15 59:3,20 62:7 62:25 64:5 66:7,17 67:1 69:1 70:12 71:22 196:17 205:7 208:24 | percent 54:6 | | |

| | | | | |
|------------------------|---------------------|-------------------------|------------------------|-------------------------|
| pertaining 70:5 | 156:21,22,25 | 196:9,10,17,18 | 219:18 | 222:13,24 |
| petroleum 64:24 | 159:21 160:12 | 197:3,4,23,25 | placed 184:20 | 228:16 230:13 |
| 68:16,24 | 160:13 161:10 | 198:14,16 | 185:5,17,18 | 232:22 |
| 158:10,20 | 161:11 162:21 | 199:1,4,6 | 187:23 208:20 | pleased 74:23 |
| 160:6,7,9 | 162:25 163:10 | 200:19,20 | places 177:21 | plenty 113:11 |
| 170:21,25 | 163:11,23 | 201:5 202:13 | 234:8 | point 12:5 13:14 |
| 171:7,8,13 | 164:2,16 165:1 | 202:19,20,25 | plan 8:8 37:13 | 35:7 56:25 |
| 206:13 | 168:24 170:6 | 203:23 204:11 | 51:23 67:19 | 65:4 76:8 93:9 |
| PG 32:20,21 | 170:22 171:18 | 204:22 205:7 | 68:1,16 69:14 | 96:21 112:17 |
| 33:3 133:5,6 | 184:19 185:16 | 207:6,7,24 | 70:5,15,22 | 113:16 114:6 |
| 134:15 177:6,7 | 188:8,15,18 | 208:9 214:8,15 | 71:4 88:6 | 132:15 140:4 |
| 177:8 | 190:24,25 | 215:8,9 216:4 | 136:15,17,20 | 169:24 189:12 |
| PGE 133:19,20 | 198:9,10,11,12 | 216:6,24 | 139:25 145:2,3 | pointing 188:17 |
| 134:2 137:17 | 198:20,22 | 217:21 218:4,5 | 159:8,12 | policy 7:15 21:9 |
| 167:14 177:12 | 199:3,7,11,12 | 218:18 219:1 | 162:18 186:6 | 177:23 |
| 177:25 | 199:19 200:4 | 220:10,15 | 186:13 187:25 | pollutant 27:3 |
| phase 48:14 | 200:10,12,14 | 227:6 228:4 | 188:3,24 190:8 | 52:18 88:11 |
| 49:16 114:1 | 202:12 203:5 | 230:4 | 192:20 193:1,5 | 100:2 187:6,6 |
| 148:1 182:1 | 204:8,10 | photos 140:18 | 194:3 197:12 | 190:19,19 |
| phases 136:10 | 205:15,17 | 141:15 193:12 | 197:12,16 | pollutants 39:7 |
| 136:21,21 | 206:4,5,6 | 230:8 231:2,8 | 199:21 200:6 | 58:11,13 64:11 |
| 195:19 | 214:12 216:5 | 231:16 | 201:15,18 | 88:18 151:16 |
| Phil 111:12 | 217:6,8,19 | physically 196:3 | 211:22 212:10 | 162:24 187:23 |
| Phillips 149:2 | 219:22 220:6 | pick 196:25 | 212:14 213:3 | 197:1 210:6 |
| phone 46:1 | 221:12 227:10 | 216:18 | 237:21 | 211:25 212:1 |
| 47:23 106:9 | 228:17 230:14 | pictured 231:5 | planned 136:14 | 216:1 218:16 |
| 109:19 | 230:18,19 | pictures 167:19 | 156:16 | 219:11 |
| photo 188:19 | photographed | 169:8 207:25 | planning 18:4 | polluted 18:12 |
| 189:1,1 203:8 | 160:12 170:18 | 223:22 226:13 | 18:20 20:17 | 20:15 |
| 204:1,3,4,6,7 | photographs | 227:4 228:3 | 21:3 | pollution 18:5 |
| 204:17 216:10 | 20:4,22 137:10 | 230:5 | plans 8:18 52:1 | 18:18,24 20:24 |
| 216:12,19 | 142:3,19 | piece 154:8 | 52:2 64:23 | 39:3 40:21 |
| 219:7,23 221:4 | 143:23 145:7 | 155:16 206:24 | 68:3 69:12,13 | 64:15 70:2,6 |
| 228:12 | 146:7 147:2 | 215:10,14,16 | 158:25 174:24 | 71:4 135:9 |
| photograph | 148:11 151:12 | 215:21,24,25 | 187:21 190:3 | 139:24 157:20 |
| 140:8,11 | 152:6,12,19 | pieces 104:5 | 197:17 229:3 | 158:15 159:9 |
| 141:17 142:9 | 153:19,20 | 142:15 163:18 | 229:14 | 159:18 170:7 |
| 142:18 143:1 | 155:23 156:25 | pile 141:17,19 | plastic 141:19 | 170:12 174:24 |
| 143:13,14,15 | 159:13,20,21 | 219:12 | 142:15,16 | 180:15 186:25 |
| 143:20,21 | 160:4 161:3,4 | piled 154:5 | 167:22 217:20 | 205:1 210:10 |
| 144:8 145:5,6 | 161:19 162:4,9 | PIN 63:8 | platform 207:21 | 211:23 212:11 |
| 145:10,17,18 | 183:15,19 | pipe 91:13 | played 172:8 | 212:14 214:5 |
| 146:5,11,13 | 184:3,7,22 | 146:19,21 | playing 23:1 | 222:6 229:3 |
| 147:7 149:9,18 | 185:1,6,8,19 | pipes 18:11 | please 11:25 | popular 181:20 |
| 150:4,7,9,10 | 185:22 187:12 | place 127:9 | 12:8 24:9 76:2 | portion 32:12 |
| 151:7 152:2,3 | 187:14,15 | 136:13,14 | 78:13 96:5 | 100:13 114:13 |
| 152:6,9 153:24 | 188:6,10,11 | 139:14 144:21 | 113:14 131:21 | 115:4 136:22 |
| 154:4,7,11,14 | 189:15,19 | 152:16 156:16 | 132:19 133:1 | 182:15 188:19 |
| 154:17 155:5 | 191:10,16,17 | 162:12 185:13 | 140:4,13 151:7 | 191:2,13 197:6 |
| 155:15,21 | 192:12,14 | 185:14 210:21 | 176:20 209:18 | 197:7 231:14 |

| | | | | |
|--|--|--|---|--|
| portions 84:16 189:22 | 149:25 151:18 154:25 160:21 | 221:10 222:7 229:2 | prior 33:5 37:5 37:9,19 39:23 | 118:22 |
| position 24:21 44:25 177:12 178:3 184:21 | 160:22,24 161:15 162:15 181:15,19 184:14 186:10 | prevent 64:8 141:2 144:19 146:14 151:25 155:3,13 157:1 | 76:13,14,19,20 78:15 133:24 134:4,11 135:17 149:25 | proceedings 239:7 |
| positions 26:22 | 199:22 208:5 221:10 | 160:25 162:13 162:16 164:7,8 164:11 187:23 | 166:6,19 167:4 167:12 174:13 178:18,19 179:4 181:23 | process 42:24 43:13,15 47:15 80:8 85:3 |
| positive 122:9 | practices 20:25 38:20 63:18,19 64:14 65:11 72:13 139:13 | 210:9 227:20 228:18,20,24 | 167:12 174:13 178:18,19 179:4 181:23 183:9 186:3 193:18 195:11 | 86:10,23 87:19 89:9 93:9 95:14 97:12 106:19,22 107:17 117:3 117:24,25 |
| possibility 157:9 | 139:24 145:1 148:24 157:21 201:11 214:6 217:3 235:8 | preventing 155:20 229:12 | 214:2 219:19 223:7 224:9 225:6 231:23 232:20,24 235:3,20 | 89:9 93:9 95:14 97:12 106:19,22 107:17 117:3 117:24,25 118:4,25 119:4 119:12,14,24 120:3,5 121:1 121:11 122:22 123:17,20,21 128:11 129:25 205:14 219:17 |
| possible 74:3 83:7 89:7,13 90:10 104:23 119:9 202:2 236:14,18 | pre-audit 5:11 6:7,11 32:10 37:11,21 43:5 | prevention 20:25 39:3 64:22,23 67:18 67:19,25 68:15 68:24 70:3 135:9 139:25 157:20 158:15 159:9 160:22 162:18 170:7 170:12 174:24 186:25 211:23 212:11,15 229:4 | 193:18 195:11 214:2 219:19 223:7 224:9 225:6 231:23 232:20,24 235:3,20 | 122:22 123:17,20,21 128:11 129:25 205:14 219:17 |
| possibly 47:22 216:2 | pre-dates 79:19 | prevention/go... 40:21 70:6 71:5 159:19 180:15 205:1 214:5 | 225:6 231:23 232:20,24 235:3,20 | processes 72:21 118:7,7 |
| post-construct... 5:20 20:20 29:25 38:15,17 38:18,20 40:25 63:22 69:16 72:12 74:4 | pre-inspection 135:15 | pre-previous 49:8 162:9 193:10 213:17 215:24 223:11 | 232:20,24 235:3,20 | product 158:20 160:6,8,9 163:16 171:3 195:18 206:13 |
| post-inspection 137:16 | precipitation 80:2 206:21 216:17 219:13 | prevention/go... 40:21 70:6 71:5 159:19 180:15 205:1 214:5 | 235:3,20 | products 163:17 |
| potential 141:24 142:4 143:2 144:12 151:16 154:21 156:19 156:20 162:23 163:6 172:3 187:6 210:5 211:24 217:2 217:17 218:2 218:24 219:11 219:22 220:7 222:6 224:21 232:19 | preliminary 13:6 16:25 17:15 88:3 94:4 122:12,13 137:19 138:1 | prevention/go... 40:21 70:6 71:5 159:19 180:15 205:1 214:5 | 235:3,20 | program 20:24 29:20,21 30:6 34:13 40:18 50:25 55:19 60:22 63:17 64:9 91:18,25 125:25 126:2,5 130:4 178:13 |
| potentially 64:11 147:11 211:3 218:16 219:11 229:19 | premises 163:1 | prevention/go... 40:21 70:6 71:5 159:19 180:15 205:1 214:5 | 235:3,20 | program-relat... 178:13 |
| Poughkeepsie 30:24 44:14 66:2 85:12 89:1 | preparation 120:18 | prevention/go... 40:21 70:6 71:5 159:19 180:15 205:1 214:5 | 235:3,20 | programmatic 20:5 |
| pouring 156:8 | prepare 40:2 prepared 74:22 99:15,17 109:10 134:1 | prevention/go... 40:21 70:6 71:5 159:19 180:15 205:1 214:5 | 235:3,20 | programs 18:4 20:10 177:22 193:4 217:3 224:20 |
| practice 12:18 12:20 45:22 63:23 128:18 142:8,9 143:8 144:19 145:19 | present 3:19 51:5 56:5 58:13 67:20 149:15 | prevention/go... 40:21 70:6 71:5 159:19 180:15 205:1 214:5 | 235:3,20 | progress 8:20,21 9:8,12,15,16 9:19,22,24 10:4,7,9,11 47:14 54:20 112:9,12,18 113:2 |
| | presentation 5:16 88:5 Presentation-... 5:22 | prevention/go... 40:21 70:6 71:5 159:19 180:15 205:1 214:5 | 235:3,20 | project 51:23 |
| | presented 17:7 28:5,6 | prevention/go... 40:21 70:6 71:5 159:19 180:15 205:1 214:5 | 235:3,20 | |
| | presently 105:11 | prevention/go... 40:21 70:6 71:5 159:19 180:15 205:1 214:5 | 235:3,20 | |
| | pretty 207:5 | prevention/go... 40:21 70:6 71:5 159:19 180:15 205:1 214:5 | 235:3,20 | |

| | | | | |
|---|---|--|---|--|
| 136:6,7,8,10 138:25 140:15 148:2 149:6,15 151:11 153:14 154:10 157:18 180:23 181:21 182:15,22,23 183:5 195:2,9 195:19,24 196:20 projects 18:15 133:8 173:21 174:4 177:19 177:24 178:5 182:13 211:5 233:16,19,21 233:22,22 235:11 promise 21:24 promised 21:21 proper 38:18,19 142:8,9 143:8 144:18 145:19 149:25 151:18 161:15 169:9 170:24 properly 30:9 63:20 146:2 184:16,17 185:4,10 190:16 property 226:10 proposed 21:12 124:21 200:8 Prospect 148:1 152:14 prospective 216:9 protect 22:20 190:16 protection 1:2 3:2,6 24:20 30:1 142:23 143:12 151:21 190:4,6 192:17 192:21,24 193:2,3 199:9 199:15 200:7 201:4,13,16,20 202:9 229:14 | 235:1 provide 51:3 138:1 159:12 202:8 208:7 provided 51:21 66:14,23 73:21 135:14 186:14 193:17 194:2 209:7,13 provides 207:21 provision 101:17 provisions 84:9 proximity 207:2 207:5 public 2:9 8:4 22:20 29:23,24 59:10 60:24 61:3,7,8,14,16 61:21 62:16 91:3 123:18,18 124:4,9,13,20 126:16 239:5 public/employ... 59:14,23,25 60:11,16 publish 124:2 published 124:2 Puerto 77:21 78:16,17,20,23 pulled 222:1 pump 90:1,5,11 pumps 90:20 punish 22:24 purported 21:25 purpose 17:6 30:3 41:14 45:16,18 181:23 182:3 211:17,19 229:22 purposes 69:22 70:21 72:2 175:19 pursuant 236:15 pushed 140:23 189:25 191:3 put 46:19 106:8 107:2 117:17 129:6 135:16 | 151:24 159:5 169:4 171:25 172:15 185:3 185:12 192:25 203:15 219:19 226:20,22 putting 169:3 216:25 <hr/> Q <hr/> qualified 151:6 212:22 quality-related 177:11 quarterly 47:14 question 49:13 52:11 60:13 65:14 72:11 73:13 77:18 84:20 91:15 96:3,17,21 115:18 116:1 129:23 130:5,9 150:23 151:4 169:19 172:12 172:14 174:9 193:10 195:7 202:10 222:24 223:19 224:15 228:11,15 232:21 questioning 49:17 73:18 75:4 92:22 230:24 questions 12:14 36:6 39:10 45:19 49:23 73:16 74:8,12 75:24 76:2 125:14,19,20 128:23,25 131:20 147:19 165:20 167:25 168:1 175:7 222:8,22 227:25 229:9 236:21 quick 50:2 quite 33:4 | <hr/> R <hr/> R 3:1 239:2 rain 80:1 88:16 88:17 90:6 98:4 145:13 217:13,16 218:15,24 rainfall 81:12 139:8 148:17 rains 216:1 raise 12:9 17:16 115:21,23 116:1,5 189:11 raised 115:18 raises 146:5 ramp 139:5 153:15 195:22 Rarely 124:7,9 Re-evaluating 84:25 reach 88:23 reached 123:3 read 13:20 14:4 50:19 90:16 100:23 103:8 127:18,18,23 166:20,22 167:4 168:19 225:9,10,12,13 232:13 reading 116:20 ready 175:21 really 75:9 96:4 110:6 137:24 138:5 213:6 224:8 227:17 reason 48:15 76:1 112:25 121:11 reasonable 54:20 131:15 reasons 21:18 182:16 189:1 recall 46:2 48:3 53:25 60:6,7,9 60:10,14 69:19 69:23 70:23 74:10 79:14 85:9 86:15 89:6 115:24 | 116:2,9,22 124:7,16 145:4 147:24 168:22 168:24 175:11 192:7 223:9,10 225:18 226:6 227:7,8 230:9 230:20 231:15 231:21 232:14 234:3 recalled 74:19 receipt 60:22 61:1 62:14,14 102:20 receive 43:9 112:9 received 42:11 43:6,10 44:22 45:1 147:16 receiving 51:2 52:17 59:13,22 59:24 60:11,15 190:22 recess 50:3,6 132:8,11 176:13,14 238:3,5 recognize 33:21 36:20 39:14 40:7 41:9,11 41:19 42:4,16 42:18 43:25 44:2 46:24 47:1 107:4 recognizes 18:25 recollection 61:13 135:6 recommended 90:13 reconciliation 69:14 reconnaissance 53:3,7 54:3,7 54:15,19 126:13 Reconstruction 148:2 record 2:8 11:1 11:9 24:6 32:7 |
|---|---|--|---|--|

| | | | | |
|-------------------------|-------------------------|-------------------------|-------------------------|------------------------|
| 42:7 49:20 | redirect 125:22 | 24:20 26:25 | reinstall 169:12 | 45:6 46:7 |
| 50:17 51:23 | 174:11 236:22 | 27:1,15,17,18 | 170:4 | 109:21 110:3,6 |
| 52:1,2,6 53:12 | 236:23 | 28:5,6,7 31:2,3 | reiterate 224:15 | 110:8,9 116:14 |
| 53:24 66:7,17 | reduce 64:14 | 31:8,17 39:18 | relate 44:11 | 121:17 231:18 |
| 67:2 69:3 71:4 | 144:15,22 | 39:21 41:13,22 | related 41:3 | remind 92:21 |
| 86:8,18,19 | 203:17,18 | 41:24 42:8,19 | 72:4 88:9 | remove 189:6 |
| 88:6 92:21,25 | 217:2 219:22 | 42:25 43:2,2 | 92:19 93:18 | removed 143:12 |
| 133:2 138:4 | refer 17:8 | 44:14,14,15 | 159:1 163:20 | 146:15 156:12 |
| 139:18 177:2 | 138:10 203:25 | 51:14,18 52:16 | 164:17,18 | 184:20 191:8 |
| recording 25:7 | 220:23 228:22 | 53:13 54:2,3,5 | 198:3 205:10 | removing |
| recordkeeping | reference | 56:8 57:7 | 205:11 235:11 | 216:25 |
| 87:17 | 231:15 | 59:21 61:25 | relating 30:17 | reoccurring |
| records 5:11 6:7 | referenced | 62:10 68:11 | 36:6 47:25 | 223:22 |
| 6:11 19:14,24 | 40:10 162:8 | 69:7,10 70:16 | 48:4,11,12 | repeat 96:13 |
| 33:5,13 39:24 | references 34:21 | 71:5 72:22,22 | 49:20 50:13 | 159:17 169:19 |
| 40:10,15 42:8 | referencing | 76:25 77:1,6 | 52:11 55:18 | 195:7 222:23 |
| 43:5,7 50:11 | 34:22 78:11 | 77:10,12,19,23 | 60:20 63:15 | 228:16 |
| 50:13 51:9,13 | referred 56:15 | 78:1 85:7,11 | 67:4 69:17,19 | rephrase 165:21 |
| 52:10,12,25 | 153:1 | 85:15 93:6,16 | 70:2 72:10 | replace 210:23 |
| 53:1,7 55:15 | referring 205:5 | 93:22 94:7,12 | 184:13 187:9 | replaced 82:17 |
| 55:16,17 57:6 | 229:13 | 95:5,11,12 | 194:1 224:16 | 83:18 141:21 |
| 57:7,15 59:3,6 | reflect 48:22 | 100:3 106:8 | relation 65:10 | replacement |
| 59:20 60:19,20 | reflected 48:25 | 134:25 135:1,1 | 108:21 138:23 | 138:16,25 |
| 62:7,25 63:13 | reflective 68:12 | 138:8,14 | 165:6 204:8 | 151:11 153:1 |
| 63:15 64:6 | refresh 61:12 | 172:23 180:3,5 | relationship | replacing |
| 68:5 69:1,25 | refuse 93:10 | 231:23,25 | 34:18 121:19 | 153:15,17 |
| 70:5,12,15,25 | refused 93:13 | 232:1,4,5,16 | 143:16,17 | report 6:4,9,12 |
| 71:1,23,24 | regard 61:25 | 232:20,20,24 | 188:9 191:9 | 7:20,21 8:6,7,9 |
| 72:1,9,12 73:2 | 63:2 73:10 | 232:25 233:13 | 198:14 201:5 | 8:20,21 9:8,12 |
| 74:3 85:22 | 90:2 142:11 | 233:19,22 | 203:23 204:1 | 9:15,16,19,22 |
| 86:6,7,11,14 | 174:22 183:11 | 234:15 | relatively | 9:24 10:4,7,9 |
| 86:18,20 87:1 | 185:8 | regional 64:25 | 204:18 | 10:11,18 32:14 |
| 87:6,8,9 88:8 | regarding 36:6 | 99:18,18 124:9 | relax 26:6 | 32:15 34:15 |
| 91:2 92:16 | 37:7,16 44:25 | 124:25 180:7 | relayed 236:3 | 35:23,25 42:19 |
| 124:15,16 | 51:16 59:9 | regions 43:14,17 | released 131:23 | 42:21,23 43:7 |
| 135:13 193:23 | 60:24 61:3 | 79:9 121:25 | 237:3 | 48:23 53:21 |
| 194:1,4,15 | 62:16 74:1,12 | 122:23 133:10 | relevance 72:3 | 54:1 61:9,16 |
| 209:2,13 | 91:2 98:9 | regular 74:5 | 232:7 | 67:19 84:17 |
| 235:10,15 | 125:19 139:13 | 112:9 210:8 | relevant 68:6 | 92:14 94:5,12 |
| 236:6 | 166:25 183:4 | regularly | 182:18 213:1 | 94:14,16,23 |
| RECROSS-E... | 192:6 194:22 | 106:21 | reliability 19:9 | 95:1,19 100:7 |
| 129:3 | 209:2 213:10 | regulate 226:9 | reliance 21:25 | 112:18 122:13 |
| red 201:3 | 225:21,23 | regulated 90:8,9 | relied 15:12 | 134:6 137:21 |
| 217:19,23 | 227:4 232:24 | regulations | 167:3 | 137:23,24 |
| redact 104:23 | regards 212:10 | 90:24 101:25 | relief 128:8 | 138:2,7 140:5 |
| redacted 104:16 | region 1:3 3:6 | 128:2 | relieve 32:4 | 148:8 168:11 |
| 105:7 | 5:10,11,13,14 | regulatory | rely 97:19,20 | 168:13,19 |
| redaction 105:1 | 5:21 6:4,5,6,8 | 166:3 177:9 | remains 128:2 | 172:1,15,17 |
| redactions | 6:9,10,12 7:20 | regulatory-type | remedy 22:5 | 173:23 178:11 |
| 105:9,16 | 7:21 8:6,7,9 | 177:23 | remember 45:1 | 180:19 181:5 |

| | | | | |
|--|---|---|---|---|
| 182:21 193:24 195:14 196:12 196:13 197:15 200:6 212:4 213:16 220:19 236:1,10 reported 2:8 Reporter 2:9 5:2 6:2 7:2 8:2 9:2 10:2 11:22 12:4 25:3 132:18 176:19 239:4,21 reporting 53:9 68:17 72:2,14 72:17 reports 20:3 43:16,19 44:11 47:14 96:8 112:10,12 113:2 193:14 194:2 209:7 235:15 represent 17:24 183:23 representative 3:19,20 24:1,2 144:24 146:3 156:18 159:23 160:17 171:21 181:20 218:8 representatives 141:20 149:14 158:18 159:3,7 181:18 182:9 182:17,19 request 5:11 6:7 6:11,14,15,16 28:7 40:10,15 42:8 43:5,7 50:11,13,17 51:4,9,13,17 51:20 52:10,12 52:25 53:1,10 53:24 55:16,16 55:17 56:7 57:6,7,15,18 58:22 59:4,6,8 59:20,21 60:19 60:20 61:6,24 | 62:4,7,21,25 63:10,14,15,25 64:6,7 65:16 66:9 67:2,3,21 68:5,6,8 69:2,3 69:25 70:1,12 70:14,25 71:2 71:23,24,24 72:3,9,10 73:2 86:10 110:24 111:15 135:15 requested 50:22 53:6 55:21 59:13,24 61:1 63:21 64:13 67:6 70:4 86:7 86:15 103:17 104:1 requesting 39:24 50:21 70:14 71:1 103:20 requests 19:14 32:7 41:2 49:20 52:6 66:7,17,19,23 86:8,18,19 92:25 require 169:9 required 20:18 27:22 35:3 54:13 65:13 91:9 235:16 requirement 38:10,12 51:16 53:11 54:12,15 54:16 57:8,17 61:15 65:8,12 66:9,20,21 68:7 80:4 81:17 87:9 90:7 126:4,12 126:15 139:6 139:22 148:22 requirements 19:5,7 20:6 22:19 37:2 50:14 54:14 55:9 77:11 79:23 80:6 | 82:25 84:10 86:20,25 87:4 87:6,11 97:14 110:20 126:8 130:25 147:15 148:15 225:2,3 225:14,22 234:25 235:6,8 235:9 requires 61:8 173:25 225:2 requiring 34:24 34:24 35:1 research 177:24 reserve 23:9 reservoir 231:7 residency 39:5 158:5 161:23 209:15 210:16 210:19,23 211:6,9 213:10 231:1 233:14 Residency/Ba... 157:23 resident 158:13 residue 89:4 resolve 201:12 resolved 114:8 resource 133:8 133:11 resources 131:11 respect 25:10 27:14 29:3,17 31:8,25 32:2 38:1 42:21,25 43:2,17 44:17 51:13 53:2,12 53:13 57:8,17 59:21,22 62:3 62:10 65:12 69:4,5 70:2 73:2 139:6,22 147:15 148:15 148:22 180:5 184:7 196:5 199:19 205:1 213:5 214:5 219:14 respectively | 43:17 respond 64:16 responded 64:18 Respondent 8:3 9:3 10:3 15:22 17:25 22:24 101:24 102:1 119:13 120:4 130:6 Respondent's 15:24 16:13 104:18,25 105:5,19 RESPONDE... 3:11 Respondents 119:24 120:22 response 32:8 41:22 42:7,8 43:6 52:14 53:16,23,24 56:1 57:11,21 59:15 60:1,5 61:22 62:3,12 62:18 63:4 66:23 67:16,21 68:14 69:10 70:7,17 71:7 72:6,15,18 73:5,6 109:15 147:22 responses 52:21 66:13 69:9 responsibilities 18:8 64:25 174:1 responsibility 22:10 56:20 58:17 91:16,20 91:24 103:4 173:20 responsible 19:16 56:24 92:2,3 119:17 136:5 180:12 responsive 51:20 63:9,25 65:16,17 66:19 restate 86:5 96:5 | 130:5 172:12 232:21 restating 87:13 result 19:8 101:1 145:15 146:1 return 102:1 reuse 222:6 reused 221:23 222:1 revealing 20:3 review 26:2 39:22 45:4,20 65:3 67:10 87:20 109:8 135:13 136:15 138:2 194:1 225:6 234:23 235:2 reviewed 33:5 43:19 98:22 134:5 135:15 135:16 139:17 193:14 194:2 194:15 209:7 235:3,10 reviewing 32:14 reviews 178:12 revised 5:9 32:16 46:21 47:2 Revolution 85:22 86:3 Rico 77:21 78:16,17,20,23 right 13:23 15:18 17:13 25:21,22 26:10 74:20 75:23 94:14 95:7 97:9 100:17,18 100:20,21 102:16 104:10 104:11 107:8 108:8 109:4 112:14 114:3,9 114:15 117:13 117:17 124:17 124:19 142:21 142:22 150:5 |
|--|---|---|---|---|

| | | | | |
|------------------------|-------------------------|-------------------------|-------------------------|-------------------------|
| 155:21 157:19 | rolls 199:25 | 14:1,7,10,13 | 179:19 | 143:1,2 144:9 |
| 161:21 165:15 | roof 90:2 | 14:24 15:2,7 | science-type | 144:22 145:2 |
| 168:18 169:2 | room 108:11,18 | 15:13,18 16:8 | 179:20 | 146:8,14 |
| 198:8 204:5 | 115:1 | 16:10,19,23 | scientist 24:22 | 147:10,17 |
| 208:14 224:19 | roused 18:9 | 17:1,12,18,20 | 24:23,24 26:25 | 148:23 150:17 |
| 228:14,18 | Route 5:23 | 17:23 23:11,13 | 106:9 177:13 | 150:25 151:13 |
| 234:16 | 138:15 140:14 | 23:22 73:9,13 | 177:18 | 152:15 154:19 |
| right-of-way | 180:22 183:20 | 73:17,24 74:7 | scope 38:1 179:9 | 155:3,13,20 |
| 56:19,19,22,24 | 228:6 | 74:14 77:3 | 182:4 233:2 | 170:9 184:19 |
| 65:1 | rows 74:1 | 96:11 105:2,23 | Scott 106:25 | 184:20 187:18 |
| risks 18:8 | rule 73:12 | 117:23 119:19 | scrap 219:2,12 | 187:24,25 |
| river 54:10,11 | Rules 12:19,20 | 120:11 129:23 | 219:17 220:1,8 | 188:4 189:6 |
| 149:13,21 | run 67:13 | 132:14,16,25 | screen 226:20 | 190:3,19,22 |
| 150:3,11,15,18 | 154:20 | 165:10 174:8 | 226:22 | 191:3 192:20 |
| 195:21 196:20 | run-off 40:23 | 174:12 175:6 | screening 53:8 | 197:1,8,21 |
| 196:24 197:2 | 60:25 183:12 | 175:13 222:8 | 55:22 57:9,19 | 199:9,10,14,16 |
| 198:3,8,12 | 187:9 196:5,25 | 232:6 233:1 | 58:23 | 200:11,13,15 |
| 200:17 204:13 | 216:17 | 237:2,18 | scroll 230:17 | 200:22,25 |
| 204:17 205:19 | run-offs 61:18 | sat 108:23,23 | season 216:8 | 201:15,18 |
| 205:20 206:2 | running 39:8 | satisfied 112:4 | 234:5,6 | 202:16,17 |
| 207:3,4,11 | 111:18 | 113:17 | seasons 234:7 | 203:2,8,9,21 |
| 208:22 | runs 160:16 | satisfy 56:6 | seated 109:6,7 | 204:16,18 |
| road 1:7 3:15 | Russell 2:9 | saw 66:1 88:24 | 114:22 | 205:10,11 |
| 108:14 122:25 | 239:4,21 | 89:1 140:19 | second 14:19 | 208:3 227:16 |
| 138:17 143:22 | rusted 163:14 | 169:3 186:4 | 30:24 31:7 | 227:21 228:14 |
| 157:23 158:11 | 163:16 165:3 | 198:5 199:23 | 47:9,11 52:23 | 228:18,25 |
| 163:12,25 | 215:15,23 | 235:25 236:2,5 | 55:12 56:3 | 229:12,25 |
| 210:22,22,23 | | 236:6 | 71:20 85:11 | 230:3 |
| road-kill 65:1 | S | saying 75:12 | 94:21 126:8 | sediments |
| roads 18:13 | S 3:1 | 91:21 107:8 | 149:11 158:23 | 227:20 |
| roadway 187:18 | safety 71:10,16 | 109:22 113:3 | 209:20 222:15 | see 14:4,24 38:9 |
| 197:10,22 | 71:17 213:13 | 115:21,22,25 | 226:18 234:1 | 62:22 67:14 |
| 200:23 208:4 | 213:23 229:5 | 194:14 229:11 | secondary 164:2 | 91:22 116:20 |
| 229:19 | 229:12 238:1 | says 39:20 | 164:4,6 207:22 | 125:2 142:17 |
| roadways 211:7 | salt 211:1 216:8 | 100:24 107:10 | secret 123:9,12 | 143:17,25 |
| Robert 4:14 | 216:12,13,14 | 109:8,16 110:4 | section 40:18,19 | 144:7 145:11 |
| 176:22 177:3 | 216:16,20,20 | 110:7 116:5 | 40:21,22,24 | 146:5,12,25 |
| rock 188:23 | 216:23 217:2,4 | 155:10 188:16 | 46:4 84:13 | 151:8 152:2 |
| 208:6 | Salvadorian | 198:23 201:17 | 99:23 100:6 | 154:7,15 155:6 |
| Rockland 55:11 | 76:7 | 214:1 231:11 | 101:1,3,14 | 155:22,23 |
| rocks 189:4 | sand 141:17,19 | scale 179:12 | 107:10 153:17 | 157:1 163:9 |
| role 24:25 25:9 | 142:1,4 202:24 | scene 182:19 | 154:3 184:10 | 169:7 170:14 |
| 27:13 29:3 | 203:6,21 | schedule 46:11 | 198:23 | 171:12 184:25 |
| 31:25 32:2 | sandbag 155:12 | 46:12,13,16,18 | sections 84:11 | 187:2,15,20 |
| 42:21 52:20 | sandbags | 46:20 109:16 | 191:12 193:15 | 189:24 191:22 |
| 110:5,5 172:8 | 143:11 144:25 | 110:11 | 198:16 | 194:16 197:14 |
| 180:5 | sanitary 160:1 | scheduled | secured 207:1 | 198:13 199:5 |
| roles 195:25 | Saporita 3:4 4:5 | 175:24 | sediment 5:15 | 199:25 204:17 |
| rolled 35:15,17 | 4:10 11:10,11 | school 133:18 | 136:19,22 | 205:19 207:19 |
| 35:22 | 13:8,15,20 | Science 28:11,12 | 139:23 142:25 | 208:6 217:20 |

| | | | | |
|---|--|--|---|---|
| 219:4 229:6,11 229:23,25 230:2,17,18 seeing 109:21 113:2 seek 123:4,18 130:1,12 210:9 seeking 117:17 123:19 124:13 124:21 130:8 seeks 120:15 seen 100:11 101:17 104:5 113:1 224:11 224:16 selection 190:8 self-assessment 67:5,7,9,10,22 68:1,2,8,9,18 68:22,23 72:5 self-assessments 21:2 68:13 69:6,11,15,20 send 101:22 106:21 121:5 138:4 168:13 sending 32:6,15 102:8 sends 33:23 34:6 sense 183:2 204:9 sent 32:21 37:17 39:17 40:13 41:12,23 43:4 44:22 60:4 94:15,16,19 96:8,9,25 100:19 101:18 110:25 111:3 112:18 113:10 separate 19:3 85:4 101:11 126:15 143:25 144:1 146:23 178:7 182:25 190:21 191:23 192:4 224:18 separated 221:15 separator | 159:22,24 221:2,5,8,17 Separators 64:21 sequester 23:19 series 76:21 83:22 202:13 202:25 serious 18:20 21:15 22:21 service 10:18 98:16 130:8 160:10 set 27:10 49:23 104:12,13,14 132:12 176:16 settings 175:3 Settlement 7:15 21:8 setup 27:17 32:4 32:5 sewage 89:23 92:6 sewer 20:11 25:15 27:6 38:23 61:20 88:3,12,13,15 160:1 178:8 sewers 39:8 SHARP 8:18 shed 88:3 sheen 217:24 sheer 225:19 sheet 104:21 105:25 106:1 Sheet-2/2/10 5:15 Sheet/Agenda 8:14 short 96:20 108:9 shorter 113:23 113:24 shorthand 2:8 shot 216:9 show 20:4,8,12 20:17 21:23 33:19 42:14 43:23 99:5 102:13 105:24 | 136:11 141:15 153:22 156:21 227:5,6 228:2 230:5,14,25 showed 22:18 153:24 203:5 showing 46:22 50:15,16 51:24 87:10 126:9 152:3 155:24 162:22,25 196:19 202:15 207:10 208:11 215:10 216:7,9 216:20 219:25 220:1,25 221:4 221:21,24 shown 33:9 127:11 142:3 142:25 152:12 154:4 156:22 156:24 157:4 160:13 188:2 197:17 199:13 201:9 206:11 207:13 218:9 221:4 shows 145:16,17 165:1 197:15 203:8,9 206:6 214:17 sic 98:17 side 27:1,2 143:21 145:9 145:16 146:9 161:23 183:1 216:11,12 sides 109:4 140:24 157:3,4 157:8 231:7,12 sign 3:21,23 11:22,24,25 12:2 24:7 sign-in 5:15 8:14 104:21 105:24 106:1 signature 100:21 signed 7:16 44:8 111:11,14 | significance 33:25 34:1,3 53:10 210:3,4 significant 19:9 22:18 33:2 110:1 189:12 195:20 198:6 significantly 19:21 signs 206:7 silt 140:22,24,24 141:9 142:11 146:13,16 147:3,13 149:19,22 150:11,13 153:25 154:3,6 154:12,17,22 155:1 157:1,4 162:19,20 167:20 169:3 169:12,22,25 184:9,10,18,20 185:2,6,25 186:5,13 189:21,22,25 190:5,20 191:2 191:4,8,13,15 191:16,18 192:6 193:16 196:21 198:4 198:17,24 199:23 200:7 201:23 203:19 204:4 208:18 227:17,23 228:13,14,17 228:21 229:17 229:22 similar 51:18 62:9 63:1 66:9 68:8,14 70:15 71:3 175:22 179:9,11 185:7 186:21 187:5 191:12,22 198:5 209:1 218:22 223:15 223:18 224:11 225:4 230:24 | 232:3 234:4 236:10 similarly 66:14 simply 201:25 216:25 single 130:3 225:12 sir 236:21 sit 108:19,21 131:9 200:2 235:5 site 38:19 39:6 40:23 60:24 61:19 63:6,8 65:19 67:13 135:17 136:11 137:1,6,11 138:15,23 147:1,2,16 148:1,10,19 149:1,5,16,19 149:20 152:25 153:16,20 157:22 158:2 158:16 159:2 162:14 168:2,9 170:2 174:22 175:4 181:8,9 181:11,14,16 181:18,20,22 182:6,7,9,12 182:14,16,19 182:21 183:9 183:10,11,13 183:20 184:4 185:13,25 186:3,16,20 187:1,10,17,22 187:24 190:1 192:6,11,19 193:5,15,18,18 193:23 194:1 194:17,23 195:14 196:2,3 196:4,6,12,20 196:25 197:2,6 197:7,10,13,15 199:24 200:5 200:24 202:4,5 202:7,8,21 |
|---|--|--|---|---|

| | | | | |
|--------------------------|-------------------------|--------------------------|--------------------------|--------------------------|
| 205:2,6,12 | 200:24 204:13 | speaks 194:12 | 212:6 | stand 23:17 50:3 |
| 209:1,17,20,23 | solution 159:12 | spec 201:22 | Sprain 180:22 | 132:8 176:13 |
| 210:5,6,12,16 | somebody 108:1 | special 84:13,15 | 183:20 201:22 | 176:18 222:13 |
| 210:19,19,20 | 120:6 | specialist 76:4 | Spreadsheet | 238:3 |
| 211:19 212:1,4 | someone's | 212:8 | 109:9 | standard 12:17 |
| 212:6,10,13 | 130:12 | specialize | spring 71:10,16 | 45:22 128:18 |
| 213:16 214:3,4 | somewhat | 166:14 | stabilization | 154:25 181:15 |
| 217:2 218:7 | 104:16 146:20 | specific 34:8 | 188:14 208:7 | standing 154:8 |
| 220:19 221:17 | sorry 28:15 34:2 | 49:20 63:5,7 | 233:25 | 162:8 |
| 222:4 223:18 | 34:16,20 46:6 | 66:12 80:17 | stabilize 227:15 | start 15:25 |
| 226:6 228:20 | 48:12 65:13 | 86:20 135:25 | stabilized | 29:21 75:12,14 |
| 231:10 | 77:18 82:8 | 201:16 213:14 | 185:24 197:20 | 119:1 140:6,10 |
| site's 38:11 | 89:11 91:14 | 223:20,25 | 200:25 201:24 | 149:9 226:14 |
| site-specific | 102:18 116:18 | 225:19 230:19 | 208:5 227:18 | 226:16 237:17 |
| 21:3 65:6,9,20 | 120:9 143:23 | specifically | stabilizer | started 27:12 |
| 65:21,24 66:14 | 153:11,12,13 | 42:10 51:24 | 227:13 | 28:21,24 47:12 |
| 66:22,24 | 159:17 181:4 | 53:25 60:6 | stabilizing | 97:12 134:2 |
| 212:14 232:15 | 191:25 209:18 | 62:23 69:21,23 | 188:13 203:12 | 135:20 178:1 |
| sites 19:18 20:15 | 211:14 214:12 | 90:19 92:18,19 | staff 18:22 19:15 | 183:8 |
| 61:4 62:17 | 216:6 222:14 | 92:21 166:14 | 21:2,20 28:6 | starting 153:19 |
| 135:25 152:21 | sort 144:21 | specification | 37:16 39:23 | 187:14 195:5 |
| 158:24 174:23 | 151:21 163:25 | 189:8 | 47:24 52:16 | 199:3 214:12 |
| 179:13 181:18 | 164:1 193:1 | specifications | 63:18,22 110:1 | 237:21 |
| 185:12 204:22 | 207:20 211:21 | 151:21 173:18 | 110:3 149:19 | starts 99:6 108:8 |
| 206:22 223:23 | sought 120:20 | 193:6 234:23 | 177:15 178:16 | 108:10 |
| 229:13 234:15 | sound 84:15 | specified 86:6 | 211:6,20 | state 1:6 2:2,10 |
| sitting 107:4 | 100:16 | 162:17 | 213:15,18,20 | 11:2,18 18:1 |
| 114:25 163:24 | sounds 100:4,18 | specs 136:15,17 | 213:21 214:2 | 19:18 28:14,18 |
| situation 119:16 | source 58:21 | 136:18,20 | Staffing 178:3 | 28:23 29:17 |
| 123:25 203:18 | 72:24 92:8 | 154:22 | staffing/sched... | 30:18 31:17 |
| situations | 190:19 | spectrum 27:3 | 177:15 | 32:7,8,10 34:6 |
| 118:23 130:7 | sources 162:23 | speculate 86:2 | stage 182:23 | 37:16 38:2 |
| size 188:22,23 | 187:6,7 211:25 | speculation 83:9 | staging 182:24 | 44:6 45:14 |
| slew 177:19 | south 149:13 | 150:22 169:15 | 184:4,11 | 52:18 53:16 |
| slightly 127:21 | 231:12 | 236:18 | 186:19,22 | 55:18 57:18 |
| slope 147:6 | southeast | spells 97:14 | 187:2 205:5,16 | 59:9 64:8 |
| 234:25 | 163:11 | spend 22:4 | 205:17,21,24 | 65:25 67:4 |
| slow 25:23 | southwest | spent 23:2 | 206:1,9 207:8 | 69:21 76:17,21 |
| 203:15 222:23 | 140:10,20,21 | spill 64:22,23,25 | 208:2 209:19 | 76:23 77:7,17 |
| slower 25:5 | 140:25 141:18 | 67:18,19,25 | 226:5,9 227:9 | 77:20 78:2,4 |
| slumbering 18:9 | 142:2,4 | 68:3,15,23 | stain 160:6,8,9 | 79:10,18 80:9 |
| small 55:20 | space 108:5 | 69:12,13 | 170:22,25 | 80:11,20,25 |
| 64:12 68:1,21 | spaces 90:20 | 161:16 163:7 | 171:14 215:21 | 81:4,7,18,22 |
| 204:18 | span 177:24 | 164:7 207:23 | staining 158:21 | 82:5,10,13 |
| smaller 188:23 | SPDES 1:9 5:5,6 | 215:6 | 158:21 160:23 | 83:7,12 88:21 |
| 189:3 | 5:7,8,9,16 | spilled 161:7 | 208:12 215:13 | 90:19,24 91:2 |
| snow 60:3 216:8 | speak 107:20 | 207:1 218:3 | 218:10,13 | 91:7,9,11,12 |
| soil 28:11 29:14 | 158:12 183:1 | spilling 218:24 | stains 171:7 | 91:14 92:1,11 |
| 150:25 151:1 | speaking 36:25 | spills 220:21 | staked 200:3 | 93:4 97:2,4 |
| 196:19 198:2 | 40:9 107:19,22 | spoke 181:13 | stamp 99:9 | 109:20 110:4 |

| | | | | |
|-------------------------|-------------------------|------------------------|------------------------|-------------------------|
| 113:18 114:25 | 158:23 | 25:15 27:6,9 | 200:1 203:14 | 165:2 171:22 |
| 116:19 121:25 | steps 110:7,8,9 | 28:1,1,2 34:13 | street 151:10 | 172:1,3 |
| 126:23 133:1 | 122:9 | 38:23 39:8 | 152:14 188:5 | substances |
| 133:22 138:15 | stick 156:11 | 40:23,25 50:23 | street-sweeping | 164:11 |
| 138:16 149:5 | sticker 165:2 | 50:23 51:1,24 | 162:6 | substantial |
| 151:10 166:3 | stipulated 13:10 | 51:25 57:23 | Streeter 46:5 | 82:25 |
| 167:7 172:23 | 13:16 14:2,14 | 58:9,16 60:25 | streets 162:7 | substantiate |
| 173:1,2,3,15 | 14:22 | 61:19 63:22 | stress 26:6 | 86:21 |
| 173:19,25 | stipulations | 64:14 69:21 | stressful 25:22 | substantive 47:6 |
| 177:2,9 179:2 | 14:22 15:3 | 72:2,13,24 | structural 51:1 | 195:6 |
| 179:6,25 181:4 | stockpile 140:23 | 79:23,25 80:5 | 144:21 147:13 | sufficient 202:9 |
| 223:3,6 234:12 | 141:3,4,10 | 81:3,12 88:3 | 162:12 174:22 | suit 101:5 |
| 239:5,6,8 | 164:25 167:21 | 88:12,13,15,17 | structure 221:5 | summarize |
| State's 19:2 | 184:11 185:24 | 88:22 89:8,14 | 221:22 | 137:15 173:24 |
| 91:16,17,18,23 | 186:11 204:18 | 90:5,25 91:7 | structured | summarized |
| 92:15 | 227:11 | 97:25 98:4 | 71:19 | 94:3 |
| State-wide 18:6 | stockpiled | 131:13 134:4,7 | structures | summary 53:21 |
| 65:23 | 186:24 | 134:7,10 135:7 | 164:10 | 137:16 |
| stated 51:25 | stockpiles | 136:13 139:18 | Studies 133:16 | sump 90:1,5,11 |
| 52:15 53:18 | 158:11 162:5 | 139:24 141:12 | stuff 104:22 | 90:20 |
| 54:22 55:2 | 165:3 199:16 | 141:13 142:20 | subject 80:10 | supervise 18:22 |
| 56:2 57:12,12 | 199:22,24 | 142:22 143:2 | 105:1 | supervision |
| 59:16 60:2 | stood 238:5 | 143:18 144:1,4 | Submission 6:19 | 93:22 |
| 62:13,19 64:1 | stop 56:18 58:21 | 144:5,10 | 6:20,21,22,23 | supervisor |
| 68:14 70:8,18 | 141:23 | 145:22 150:25 | 6:24 7:4,5,6,7 | 212:5 |
| 71:8 72:7,16 | stopped 132:2 | 151:12,14 | 7:8,9 | support 27:6 |
| 165:23 | 150:13 | 152:4,5,18 | submissions | 167:11 180:6 |
| statement 17:19 | stopping 22:8 | 156:24 157:2 | 111:19 135:13 | suppose 175:21 |
| 23:7 84:18 | storage 64:22,24 | 157:10 159:12 | submit 35:3 | 189:24 |
| statements | 68:16,24 69:14 | 161:17 162:17 | 57:13 | supposed |
| 12:15 128:13 | 142:1 158:9,10 | 166:5 170:8,10 | submittal 48:10 | 164:12 184:15 |
| 128:14 | 158:11,19 | 174:14,18,23 | 48:13 112:21 | 193:6 229:17 |
| states 1:1 18:15 | 160:5 161:6,22 | 174:24,25,25 | 113:24 114:10 | sure 15:10 29:7 |
| 34:8 38:25 | 161:25 206:17 | 177:22 178:7 | submittals | 33:18 34:23 |
| 39:9 58:11,12 | 207:9 211:2 | 183:11,12 | 112:16 | 49:17 50:1 |
| 58:16 77:23,25 | 214:19 218:20 | 187:9,9 189:21 | submitted 35:23 | 61:11 79:3 |
| 79:13 81:14 | 220:1,9 221:20 | 190:20,21,23 | 47:14 55:1,5 | 111:1 124:12 |
| 88:23 101:5 | 221:21 | 192:15 196:5,5 | 57:22 60:8,9 | 125:11 135:21 |
| 190:2 | store 164:12 | 199:8,15 200:7 | 60:15,24 61:3 | 176:10 178:20 |
| stating 71:9 | 216:8,10 | 201:2,9 202:14 | 62:16 64:1 | 182:9 191:6 |
| station 163:1 | stored 160:10 | 202:23 204:6 | 113:22 | 193:11 202:6 |
| status 112:15 | 162:1,7 163:15 | 211:21 212:11 | submitting | 203:20 204:2 |
| 136:7 139:3 | 165:4 186:23 | 212:14 213:5,7 | 47:12 53:19 | 223:24 224:18 |
| 149:15 182:11 | 206:7 207:11 | 213:14 220:5,7 | 107:18 | 229:2 233:11 |
| 182:22 195:18 | 207:19 214:20 | 228:5,7 | subsequent | surface 158:20 |
| statutory 21:6 | 217:5 218:7,22 | Stratton 160:15 | 178:23 179:6 | 158:22 197:10 |
| 21:10 22:10 | 219:3 | 160:18 161:12 | subsequently | 199:25 200:2 |
| stenographic | storing 219:16 | 162:3 | 208:19 236:2 | 201:1 208:13 |
| 239:7 | storm 18:12 | straw 155:11,11 | subsets 17:5 | 215:17 216:1 |
| step 110:12,14 | 19:3 20:15,20 | 155:16,18 | substance 164:1 | 216:18,21 |

| | | | | |
|---|--|---|--|--|
| 217:24 218:3 218:11,17 221:6 surprise 95:9 114:24 115:3,6 115:11,15,17 120:22 123:10 169:11 226:8 surprising 226:11 surrounded 204:4 231:6,11 surrounding 199:9 survey 131:12 Susan 1:17 11:4 Susquehanna 154:2 sustained 83:10 86:5 119:22 123:13 151:5 157:13 169:16 213:2 229:10 233:3 236:19 swear 11:25 24:9 132:19 176:20 swift 128:4 switch-hitting 73:12 SWMP 8:8 34:13 148:24 sworn 12:3 24:12 132:22 176:23 syllabus 70:5,16 71:4 system 17:3 20:11 25:15 27:4,6 50:24 51:1,25 52:18 58:17,19 64:12 79:19 80:9,12 80:16,21,24 81:5,9,13,13 85:21 88:22 89:9,14,16 90:5 91:1,7,17 92:11 97:25 98:4 100:2 | 178:8 221:25 222:7 systems 19:3 81:4,18 97:8 134:8 166:7,10 <hr/> T <hr/> T 2:4 239:2,2 table 5:14 6:8 108:19,22,23 108:25 109:4 110:25 take 12:6 25:4 25:19,25 26:7 27:22 45:2 47:16 49:11,15 49:24 50:1 55:12 60:17 62:22 69:16 74:24 75:8,15 76:15 97:22 98:5,6 108:10 141:15 155:15 159:24 162:21 166:23 174:1 175:16,22,25 183:15 189:1 202:4 taken 27:22,24 50:6 128:4 130:12 132:11 152:10 176:15 199:12 231:16 talk 25:5 49:19 135:21 158:24 174:21 182:2 talked 46:13 103:12,14 104:17 114:14 116:11 139:11 158:13 159:3 182:24 188:10 195:22,23 196:1 209:22 225:17 226:14 talking 78:3,11 98:25 110:10 129:13,15,20 137:4 171:9 198:20 204:21 | 205:10 talks 103:9 tank 69:14 208:11 219:7,8 219:15 221:25 tanks 221:20 tasked 223:16 225:1 229:21 tasks 177:24 178:5 team 30:13,14 32:21,22,22,24 100:3,4 teams 180:9,9 tell 28:8 30:22 77:2 88:9 94:9 96:6,22 121:8 122:7,10,14,23 123:2,7 135:18 140:19 153:22 155:17 158:2 159:15 164:19 194:12 207:3 225:12 telling 121:5 189:13 tells 155:18 template 64:24 68:16 temporary 139:7 148:16 188:14 208:7 ten 27:11 168:7 177:25 tend 182:8 186:23 tendency 186:22 Tentative 5:12 6:6 term 44:23 67:8 68:10 69:7 83:16 terms 19:22 20:6 83:13 84:4 97:18 98:13 100:25 101:9 102:3 107:19 112:13 113:18 117:21 128:1 173:20 | 225:25 testified 82:18 87:16 92:14 112:2 114:12 212:22 235:16 testifies 24:13 26:12 132:23 176:24 testify 12:15 93:1 testifying 24:7 testimony 13:12 17:6 19:25 21:22 25:7 26:1,5,13,14 74:18 81:21 90:22 93:17 103:25 116:14 131:22 165:11 165:23 168:24 176:3 223:2 226:4 229:3 235:14 testing 163:13 163:25 thank 17:20 23:4,5,10 26:10,19 29:16 32:17 73:25 74:7 84:7 98:8 114:5 125:13 131:18 135:12 152:25 155:5 155:21 157:19 165:5,10 174:5 175:6,8,10,14 177:5 202:11 204:10 227:3 236:20 thanks 56:1 193:25 210:11 thereof 239:10 thing 12:11 51:19 78:25 104:1 110:22 140:8 166:21 173:10 193:9 209:17,19 215:4 225:11 236:8 | things 24:25 67:15 90:23 95:12 100:15 109:23 110:2 113:22 137:5 142:11 158:7 161:24 165:4 171:11,12 174:19 186:21 187:5 193:21 219:21 224:3 224:23 226:3 234:25 think 13:22 14:22 75:9 76:14,15 81:2 89:19 94:9 102:13,14 103:25 104:14 105:3 109:1 110:15 112:2,2 112:9 113:5 115:7 116:15 125:3 132:5 146:21 151:1 165:9 178:19 178:21 191:20 205:5 208:15 210:14 212:25 219:22 226:14 228:12 234:22 235:16 237:16 237:22 thinking 86:2 third 30:24 31:16 56:3 85:14 94:21,25 95:1 126:12 thorough 18:21 20:1 thought 85:20 90:23 114:7 thoughtful 18:20 thousands 18:13 threatens 119:9 129:18 three 19:13 30:21 32:1,20 44:13 47:22 |
|---|--|---|--|--|

| | | | | |
|-------------------------|------------------------|--------------------------|-------------------------|-------------------------|
| 76:21 83:22 | 35:23 61:22 | tracking 5:14 | 80:9,12,16,21 | 209:8 215:18 |
| 85:4 86:14 | times 32:18 | 6:8 92:2,3 | 80:24,25 81:5 | 216:5 233:16 |
| 92:11,24 | 47:20 139:19 | tractor 215:12 | 85:21 88:21 | type 30:15 136:8 |
| 106:17 122:3,6 | 140:1 148:25 | TRACYELL... | 97:3,4 99:7 | 171:3 175:3 |
| 122:23 139:18 | 182:11 188:22 | 3:19 | 133:22 166:11 | 188:14 200:2 |
| 183:9 224:9 | timing 175:18 | traditional | 173:19 179:8 | types 25:15 |
| 231:7,12,13 | 175:20 237:12 | 84:12 166:14 | 222:21 223:25 | 85:17 174:16 |
| three-day | 237:14 | 166:16 224:17 | 224:5 | 174:17 175:2 |
| 134:24 | title 29:6 56:3 | 224:22 225:4 | Transportatio... | 201:20 |
| three-month | 107:2 | trailer 215:11 | 80:12,21 | typically 27:16 |
| 139:20 | titled 64:2 | train 18:22 | transported | 29:20 71:16 |
| time 23:2 27:19 | today 25:25 | train-the-trai... | 217:18 | 136:3,11 137:3 |
| 28:13,16 32:22 | 48:16 75:11 | 28:4 | travel 237:11 | 143:11 144:25 |
| 32:22,25 33:2 | 92:15 120:3,8 | trained 27:18 | treat 97:2,6 | 151:22 156:9 |
| 35:7,21 36:24 | 126:22 131:9 | 63:18 134:14 | treated 80:5 | 160:23 |
| 45:4,5,6,7,12 | 165:8 167:16 | trainer 178:15 | 97:6 222:1 | |
| 46:10,15 47:15 | 175:21 176:3 | training 5:15 | treatment | U |
| 47:21 48:5 | 235:5 | 20:18 21:2 | 221:24 | Uh-huh 224:2 |
| 50:5 52:5,15 | told 94:4 95:9 | 27:20,22,23,24 | treats 97:4 | 227:12 235:13 |
| 52:21 54:5 | 118:13 122:11 | 28:1,6 57:13 | trees 206:3 | ultimately |
| 55:1 74:11 | 122:13 172:14 | 63:21 70:2,5,6 | trench 220:20 | 130:25 189:7 |
| 76:15 83:23 | 213:21 232:17 | 70:15,19,20,22 | 220:25 221:7 | un-structural |
| 93:3,9 96:9 | 232:18,23 | 71:4 133:25 | 221:16 | 155:13 |
| 103:2 104:2,9 | Tom 149:2 | 134:9 147:17 | Trial 12:17 | unaware 156:3 |
| 104:15 110:2,3 | tomorrow | 147:21 166:9 | tribunal 22:17 | 171:23 |
| 111:17,18 | 175:25 176:12 | 166:12,13 | 22:22 | uncontained |
| 112:3,8,16 | 237:17,22 | 177:21 178:14 | tributary 154:2 | 157:17 |
| 113:16 123:23 | 238:4 | 211:22 213:10 | true 26:11 94:25 | uncovered |
| 127:4 131:5 | tools 50:23,24 | 213:15 224:18 | 121:20,21,22 | 168:6 206:17 |
| 132:10 134:15 | 175:2 | trainings 178:16 | 130:19,22 | 217:11,11 |
| 135:5 136:14 | top 70:23 79:14 | 213:13,23 | 131:4 239:8 | 219:13 |
| 136:15 137:5 | 89:6 154:11 | transcript 5:2 | try 96:1 129:6 | undergraduate |
| 137:10,20 | 185:5,14,18 | 6:2 7:2 8:2 9:2 | 161:17 181:17 | 133:15 |
| 138:19 149:2 | 200:2 204:5 | 10:2 | 182:16 203:15 | underground |
| 156:12 164:23 | 206:14 219:20 | translating 12:8 | 217:4 | 155:2 221:2,21 |
| 168:9 169:7,21 | top-down 67:12 | translation | trying 25:23 | underneath |
| 169:24 175:22 | topography | 12:12 26:18 | 58:13 96:13 | 154:20 215:13 |
| 176:11,14 | 66:3 | translator 11:23 | 189:11 221:13 | 215:14 |
| 179:24 180:21 | total 30:21 | translators | TUESDAY 1:14 | understand |
| 182:14 189:2 | touch 121:15 | 11:24 12:1 | turn 141:10 | 23:18 26:16 |
| 194:25 195:8 | tour 156:2 | transport | 161:3,19 | 74:10 76:1 |
| 206:20 209:8,9 | towed 215:12 | 216:18 | two 11:23 36:14 | 77:19 96:2,16 |
| 209:14 210:16 | Town 153:9 | transportation | 43:14 47:6,22 | 103:3 107:25 |
| 211:8 213:20 | track 55:24,25 | 1:6 2:2 3:12 | 73:17 84:11 | 118:25 165:22 |
| 217:10 224:14 | 56:20,21,25 | 8:5 11:3,17,20 | 104:20 105:6 | 182:9,10 |
| 232:9,13,17,18 | 57:8 58:14 | 18:2 29:23 | 105:13,16 | 195:18 202:6 |
| 234:1,3 237:1 | 91:19,25 | 44:7 64:20 | 106:15 107:12 | 211:20 222:24 |
| 237:16 | tracked 187:19 | 75:22 76:18,22 | 109:4 142:10 | 223:2 234:19 |
| time-out 12:10 | 188:5 197:9,21 | 76:23 77:7,17 | 149:7 175:24 | 234:20 |
| timely 23:3 35:7 | 200:22 208:3 | 78:9,19 79:18 | 180:9 191:1 | understanding |

| | | | | |
|-------------------------|------------------------|-------------------------|------------------------|-----------------|
| 12:14 71:13 | utilize 89:8 | 117:7,13,14,18 | 67:10 137:8,9 | 18:12,18,19 |
| 128:10 130:23 | utilized 32:20 | 117:22 118:5 | 158:18 | 19:2,3 20:15 |
| 212:23 220:23 | | 168:6 172:20 | walking 181:24 | 20:20 21:7,8 |
| 221:17 | V | violations 21:6 | want 12:10 13:9 | 22:15,20 23:1 |
| understood | vague 80:15 | 21:11,16 22:5 | 26:4,6,7,7,12 | 25:16 26:8,9 |
| 234:22 | validity 13:5 | 22:15,18 44:12 | 26:13 33:11 | 27:9,9 28:1,2,3 |
| undertake 18:20 | Valley 31:12 | 44:16 48:24 | 39:11 40:4 | 30:9 34:13 |
| 19:6,12 | variety 24:24 | 49:4,5,10,20 | 41:6 49:17,19 | 38:24 40:23,25 |
| undertaken | 25:12 | 49:21 101:12 | 50:9 73:15 | 55:20 57:23 |
| 118:21 | various 65:25 | 101:13 116:10 | 75:3,7 76:2,3 | 58:9,16 60:25 |
| undertaking | 133:8,10 | 223:15,17 | 78:10 84:21,21 | 63:22 64:15,20 |
| 22:1 | 136:10 137:2 | 232:3,19,24 | 99:11 104:16 | 69:22 72:2,13 |
| undertook | 139:14 164:10 | Virgin 77:21 | 105:15 108:4,5 | 72:25 79:16,19 |
| 102:7 | 165:4 191:18 | 79:1,2,4 | 109:12 113:21 | 79:21,23,25 |
| unidentified | 193:3 217:3 | Virginia 179:5,7 | 115:12 121:13 | 80:1,4,5,10 |
| 214:23 | 219:21 235:10 | 179:18 223:6 | 175:25 229:7 | 81:3,11,12,16 |
| unit 103:4 | vehicle 64:21 | visit 40:2 51:6 | wanted 103:22 | 88:16,22 89:8 |
| 190:21 | 158:8,9,10,19 | 56:5 67:20 | 104:9,10 | 89:14 90:1,5,6 |
| United 1:1 18:15 | 158:21 160:5 | 137:1,6,11 | 109:20 111:7 | 90:6,15,17,18 |
| 38:25 39:9 | 161:6 202:1 | 152:25 157:22 | 121:4 122:8 | 90:20 91:1,7 |
| 58:10,12,16 | 210:25 221:19 | 181:8,9 182:15 | 130:25 173:9 | 92:7 97:18,25 |
| 81:14 88:23 | 222:2 | 182:17,21 | 193:9 196:3 | 98:4,4 100:25 |
| 101:5 | vehicles 160:10 | 183:9 186:1,3 | wash 151:1 | 101:3,8,12 |
| universe 73:1 | 162:6 187:17 | 190:1 192:20 | 156:10 157:10 | 126:6 131:13 |
| universities | 187:19 189:6 | 193:18,24 | 163:7 220:22 | 133:7,11,12 |
| 97:11 | 197:5 200:23 | 196:3,3 197:10 | 221:24 | 134:4,7,7,11 |
| unreasonable | 206:23 211:3 | 200:5 211:17 | washed 150:17 | 135:7 136:13 |
| 22:3 | 214:18 | 211:19,19 | 157:6 | 138:24 139:19 |
| unreliable 12:23 | velocity 203:16 | 212:4 213:16 | washing 64:21 | 139:24 141:12 |
| unsecured 224:3 | version 111:14 | 213:20 214:3 | 158:9 221:11 | 141:13 144:15 |
| unstabilized | versus 186:19 | 218:7 220:19 | 221:14,15,19 | 145:22 150:25 |
| 143:1 | vertical 184:21 | 221:17 | 222:2 | 159:12,22,24 |
| unsure 156:4 | 191:7 | visited 149:5 | Washington | 159:24 161:17 |
| unusual 21:18 | Vestal 138:16 | 153:16 205:6 | 28:1 | 162:8,18 166:5 |
| upcoming 37:16 | vicinity 220:11 | 209:14 210:16 | washout 156:1,3 | 174:14,18,23 |
| updates 32:15 | view 21:18 | 211:16 | 156:6,7,22 | 174:24,25 |
| 112:15 | 164:2 191:25 | visits 135:17 | 157:17 | 175:1 177:10 |
| upfront 29:22 | 198:11 201:7,8 | 182:14 | wasn't 94:16 | 177:20,22 |
| urbanized 27:10 | 202:15,15,16 | visualizing | 98:9 147:4 | 183:12,12 |
| 81:20 | 204:12 206:11 | 205:22 | 184:16 186:5 | 187:9,10 |
| USC 120:2 | 206:14 211:4 | voice 222:13 | 207:12 208:5 | 190:22 196:5,6 |
| 136:16 | 216:11,19 | volume 206:21 | 229:21 | 198:7 200:15 |
| USC13-19(d) | 218:11 219:4 | W | waste 38:23 | 202:23 203:16 |
| 101:4 | viewing 210:8 | wait 14:3 73:11 | 59:12 156:3,22 | 207:16 210:6 |
| use 89:14 144:25 | violate 22:25 | 73:11 95:18 | 156:23 157:3 | 211:22 212:11 |
| 205:13 206:24 | violated 101:8 | 96:6 214:12 | 187:2 217:9 | 212:14 213:5,7 |
| 217:3 | violates 212:25 | waiver 127:24 | 237:8 | 213:15 217:13 |
| uses 63:7 117:3 | violation 43:21 | walk 140:9 | Wastewater | 217:14,16,22 |
| usually 27:11 | 87:25 88:4,7 | walk-through | 64:21 | 217:24 218:1 |
| 136:16,18 | 101:2 114:7 | | water 7:15 18:5 | 218:15,24 |

| | | | | |
|------------------------|------------------------|-------------------------|------------------------|------------------------|
| 221:18,24,24 | 209:25 212:2 | 167:21 168:4 | 173:16 177:5,9 | 26:21,23,24 |
| 221:25 227:5,8 | 221:16 223:21 | windshield | 177:11,19,23 | 27:11 28:4 |
| 228:3,5 230:15 | 230:23 233:14 | 164:22 | 178:8 179:9 | 53:5 54:18,20 |
| 231:11 | 233:21 | winter 216:8 | 181:5 233:12 | 54:21 127:9 |
| waters 18:15 | weren't 96:9 | 234:11 | 233:23 | 131:6,8 133:20 |
| 38:24 39:9 | 122:17 214:21 | wish 16:22 | worked 26:20 | 177:25 178:14 |
| 51:2 52:17 | 232:17,18 | 108:16 | 26:21,24 42:22 | 213:17 214:2 |
| 58:10,12,15 | 236:15 | wished 45:4 | 46:17 86:24 | 223:8,10,11 |
| 61:20 81:14 | west 54:10 | wishing 45:2 | 139:1 | yellow 221:14 |
| 88:23 | 150:10 179:7 | withdraw 130:9 | workers 114:25 | YOCOM 3:23 |
| watershed 53:21 | 231:12 | withdrawn | working 28:16 | York 1:6 2:2,10 |
| 54:10 | westbound | 128:19 | 32:5,9 47:12 | 3:8 11:2,17 |
| watersheds | 195:22 | witness 4:2,8,14 | 74:4 82:6,9,9 | 18:1 19:2 |
| 84:15 | Westchester | 12:13 23:12,14 | 82:10 83:3 | 28:14,18,23,24 |
| waterway 171:5 | 53:20 55:4 | 24:4,6,9,12 | 89:8 93:13 | 29:17 30:17,23 |
| 230:6,7,9,12 | 211:10 | 25:8,20,23 | 102:7 121:14 | 30:24,25 31:17 |
| 230:19,25 | Westchester/... | 26:9,15,19 | 121:18 122:22 | 31:21 32:7,8 |
| waterways | 54:8 | 33:8,13 74:11 | workload 178:4 | 32:10 34:5 |
| 228:19 | western 31:20 | 96:4,18 105:14 | workshops | 37:15 38:2 |
| way 16:2 61:8 | 231:14 | 121:12 127:11 | 178:12 | 44:6 45:14 |
| 76:4 87:13 | wetlands 133:13 | 131:24 132:13 | worried 76:6 | 53:16,20 55:17 |
| 88:14 97:3,6 | whatnot 63:8 | 132:19,22 | 115:8 | 57:18 59:9 |
| 118:21,22 | wheel 18:7 | 138:10 175:11 | worries 49:14 | 64:8 67:4 |
| 140:9 160:25 | wholly 65:17 | 175:15,17,20 | wouldn't 115:6 | 69:21 76:21 |
| 167:24 168:16 | wide 177:24 | 175:23 176:1,7 | 145:24,25 | 77:20,23 79:19 |
| 203:17 | widespread | 176:20,23 | 200:3 227:17 | 80:11,20,25 |
| ways 19:12 | 21:15 22:14 | 222:9 227:3 | 237:24 | 81:4,7,18,22 |
| we're 39:22 | William 179:18 | 229:9 236:24 | write 82:2,3 | 82:5,10 85:21 |
| 48:16 120:3 | willing 45:24 | 237:4,6 | 93:16 120:10 | 88:21 90:12,19 |
| 182:10 | Winans 3:14 4:6 | witnesses 20:21 | write-up 190:1 | 91:2 93:4 97:2 |
| weather 53:8 | 4:12,18 11:19 | 23:19 26:17 | written 48:3,6 | 109:20 110:4 |
| webinars 27:25 | 11:19 74:22 | 124:11 175:24 | 55:21 57:9,19 | 113:18 121:24 |
| website 7:18 | 75:6,12,17,20 | Wolf 1:7 3:15 | 58:23 94:8 | 126:23 133:22 |
| 124:4,5 125:2 | 75:21 80:17 | 108:14 | 159:8 166:18 | 138:15,16 |
| weekly 121:14 | 96:1,13 99:1,3 | wood 154:8 | 212:13 | 149:5 151:10 |
| 209:25 | 104:15 105:3,8 | wooded 206:3 | wrong 84:22 | 166:3 167:7 |
| weight 13:2,3 | 105:11,13,18 | word 130:3 | 94:9 214:13 | 173:19 179:4,6 |
| well-maintained | 105:22 125:11 | 225:12 | wrote 32:14 | 179:25 239:5 |
| 203:20 | 125:24 127:13 | word-for-word | 82:4 | your's 113:7 |
| well-resourced | 127:18 128:24 | 25:4 | <hr/> X <hr/> | <hr/> Z <hr/> |
| 18:2 | 129:4,15,17,22 | words 35:8 43:4 | <hr/> Y <hr/> | zone 155:25 |
| went 42:24 | 131:18 150:19 | 55:8 97:13 | yard 39:6 | zones 65:1 |
| 54:17 82:21,23 | 150:22 151:3 | work 24:19 | year 45:10 53:9 | <hr/> 0 <hr/> |
| 87:8 100:11 | 157:12 173:8 | 30:12 45:24 | 54:20 72:2,14 | <hr/> 1 <hr/> |
| 101:15 102:19 | 173:13 174:5,7 | 46:15 75:23 | 72:17 | 1 5:4 8:4 13:25 |
| 106:22 107:17 | 175:8 233:5,9 | 93:18 99:25 | year-and-a-half | 14:12,14 15:14 |
| 111:3 121:24 | 236:20 | 118:5 122:15 | 47:19 | 16:3,13 33:10 |
| 122:3,23 | Winans's | 133:8,9,11,13 | years 19:10 | |
| 135:12 179:17 | 125:20 | 133:17 134:3 | | |
| 192:11 193:19 | wind 141:21,22 | 137:22 173:15 | | |

| | | | | |
|-------------------------|-------------------------|--------------------------|------------------------|-------------------------|
| 33:20 36:4 | 11/20/08 5:23 | 147:2,6 163:23 | 105:5,20,25 | 2 |
| 54:17 55:6 | 11/24/15 10:9 | 188:6 189:15 | 164:16,16,18 | 2 1:3 3:6 5:5 |
| 105:2,3,6,20 | 11/3/14 9:9 | 189:20 190:11 | 190:24 191:17 | 24:20 27:1,15 |
| 124:18 138:21 | 116 83:25 84:8 | 199:2,11,19,20 | 191:20,21,25 | 27:17 35:6 |
| 140:11 142:3 | 116-page 84:23 | 209:11 217:21 | 192:1,2 193:12 | 36:10,11 76:25 |
| 149:9 150:10 | 119 180:23 | 15 5:4,5,6,7,8,9 | 193:16 201:2,8 | 77:1,6,10,12 |
| 153:24 154:7 | 183:20 228:6 | 5:10,11,12,13 | 201:9,12 | 77:19,23 78:1 |
| 159:21 184:3,8 | 12 8:10 50:11,17 | 5:14,15,16,16 | 202:12,12,15 | 106:8 134:23 |
| 184:19 185:9 | 50:18 52:10 | 5:17,18,19,20 | 228:12,17 | 135:3 142:3 |
| 196:17 214:12 | 145:5,6,7,17 | 5:21,22,23,24 | 16,000 18:11 | 149:18 150:4 |
| 214:15,17 | 146:7,13 | 6:4,5,6,7,8,9 | 16,218 21:5 | 154:4,11,17 |
| 227:10 | 162:21,25 | 6:10,11,12,13 | 165 4:11 | 159:21 168:25 |
| 1/24/13 7:20,21 | 187:13 188:10 | 6:14,15,16,17 | 16th 3:7 118:11 | 184:3,8,9 |
| 1/26/15 6:16 | 188:15 199:5,6 | 6:18,19,20,21 | 17 5:18,23 8:15 | 185:9 197:15 |
| 1/26/16 10:11 | 199:11,13 | 6:22,23,24 7:4 | 14:16 15:15 | 212:5 214:15 |
| 1/29/13 6:9 8:6 | 200:4,10,12 | 7:5,6,7,8,9,10 | 16:3,14 52:25 | 214:17 |
| 1/29/16 10:12 | 217:6,8 | 7:11,12,13,14 | 53:18 148:1 | 2-year 35:18 |
| 1/30/13 6:4 8:7 | 12/1/16 10:16 | 7:15,16,17,18 | 151:10 164:17 | 83:15 |
| 1/Route 148:1 | 12/17/13 6:12 | 7:19,20,21,22 | 164:18 165:1 | 2/10/15 9:14 |
| 1:30 132:7,9 | 8:9 | 8:13 16:3,14 | 191:10,11,17 | 2/18/10 5:16 |
| 1:35 132:11 | 12/22/15 10:10 | 50:4 100:15 | 191:20,21,25 | 2/2/17 10:17 |
| 10 5:12 28:5,6,7 | 12/31/14 9:12,13 | 145:7 147:3,6 | 191:25 192:3 | 2/2/17-Admini... |
| 34:25 41:8 | 12/8/14 9:10 | 147:7 163:20 | 201:5,7,7,9,12 | 7:14 |
| 143:23,23 | 12/9/14 9:11 | 164:2 171:18 | 202:13,15 | 2:30 176:5 |
| 162:4 187:14 | 12:34 132:10 | 188:6 189:16 | 218:9 | 2:33 176:14 |
| 188:11 197:23 | 12205 3:16 | 189:20,24 | 17-1/2 26:21,23 | 2:45 176:13 |
| 198:1,15 216:4 | 12207 2:6 | 190:11 200:19 | 17,000 131:13 | 2:47 176:15 |
| 216:11,24 | 12232 1:8 | 200:21,21,22 | 173 4:12 | 20 8:18 44:25 |
| 10/14/11-MS4 | 125 4:4 | 201:2,8,10,12 | 174 4:10 | 64:6 66:18 |
| 8:5 | 129 4:6 | 202:12,14 | 177 4:16 | 191:10,11,17 |
| 10/17/12 6:5,7 | 13 5:14 8:11 | 218:4,6 | 18 8:16 57:6 | 192:2,4 193:12 |
| 10/31/14 9:8 | 14:15 15:15 | 15-day 102:23 | 191:17 192:2,4 | 193:16 218:18 |
| 10:05 50:5 | 42:3 49:23 | 150,000 21:13 | 200:19,21 | 218:20,20 |
| 10:21 50:6 | 50:10 55:15,16 | 120:16 121:6 | 201:6,7,8,12 | 230:4 |
| 10:30 153:5 | 59:3,6 60:19 | 123:5 124:21 | 202:12,13,16 | 20-day 44:23 |
| 10007 3:8 | 64:5 67:1 | 16 5:17 8:4,4,5,6 | 218:4,6,9,11 | 45:3,3 |
| 105 8:14 | 69:25 71:22 | 8:7,8,9,10,11 | 180 35:24 | 2003 5:17 19:1 |
| 11 5:13 8:9 | 94:13 106:2 | 8:12,13,14,15 | 19 8:17 19:10 | 34:15,23,25 |
| 14:15 15:15,25 | 115:17 120:2 | 8:16,17,18,19 | 100:21 101:4 | 35:6,14 81:22 |
| 41:18 59:20 | 145:7,18 146:5 | 8:20,21,22 9:4 | 120:2 191:17 | 82:1,15,17,24 |
| 143:23 145:7 | 146:7,11 | 9:5,6,7,8,9,10 | 192:2,4 202:19 | 84:2 127:1,5 |
| 145:10,15 | 163:10,11,20 | 9:11,12,13,14 | 202:21 203:5 | 130:16,19,22 |
| 161:19 162:4 | 188:6 189:15 | 9:15,16,17,18 | 204:1,4,7 | 131:4 |
| 188:8,10,12,18 | 189:20,24 | 9:19,20,21,22 | 218:18,20 | 2004 27:1,12,16 |
| 199:1,3,5,5,7 | 190:11 199:13 | 9:23,24 10:4,5 | 230:4 | 2007 27:17 |
| 199:11,13 | 200:14 217:21 | 10:6,7,8,9,10 | 1973 79:17 | 2008 34:14 |
| 200:4 216:19 | 132 4:10 | 10:11,12,13,14 | 1995 7:15 | 35:13,13,15,17 |
| 216:24 | 13th 108:7 | 10:15,16,17,18 | 1998 28:10 | 35:20 54:17,18 |
| 11/10/15 10:8 | 14 5:15 8:12 | 55:16,16 57:16 | 19th 31:4 39:21 | 82:18,21,24 |
| 11/14/12 6:8 | 51:9,12 145:7 | 104:18,25 | 94:7 | 83:2,13,15 |

| | | | | |
|------------------------|-------------------------|-------------------------|--------------------------|--------------------------|
| 84:1 178:1 | 14:16 15:15 | 184:22 186:1 | 37,500 101:3 | 46's 73:6 |
| 201 138:15 | 16:4,14 69:2 | 196:17 213:16 | 38 9:14 14:22,24 | 47 6:18 9:21 |
| 201/434 140:15 | 71:23,25 203:5 | 3/12/14 8:11 | 15:2 16:5,15 | 14:17 15:16 |
| 2010 35:19,20 | 222 4:17 | 3/13 8:8 | 62:25 208:9,13 | 16:5,16 46:23 |
| 35:22 36:1 | 23 5:20 192:13 | 3/21/14 6:14 | 208:16 | 72:9 73:4 74:1 |
| 37:23 83:18,20 | 202:19,21 | 3/24/14 6:15 | 39 6:12 15:5,16 | 148:13 |
| 84:4 | 219:7 | 8:12 | 17:4,9 | 48 6:19 |
| 2011 53:22 64:2 | 233 4:18 | 3/5/14 6:13 8:10 | 39-A 17:5 | 49 6:20 9:22 |
| 2012 19:10 | 24 4:4 5:21 8:21 | 30 6:4 14:16 | | 16:5,16 63:14 |
| 28:21,24 31:5 | 16:4,14 139:8 | 15:5,16 42:15 | 4 | |
| 31:14 44:15 | 148:17 203:8 | 54:21 138:11 | 4 5:7 8:4 16:3,14 | 5 |
| 53:22 76:14,21 | 203:22 219:25 | 159:14 205:8 | 36:19 61:11 | 5 5:8 6:10,12 8:5 |
| 77:17 78:2,14 | 25 5:22 8:22 | 206:4,6,7,11 | 64:19 83:19 | 8:9 15:25 16:3 |
| 78:15,23 79:7 | 68:5 69:17 | 309 101:3 | 105:2,3,6,21 | 16:14 31:17 |
| 79:11 80:13 | 203:23 204:3,8 | 309(a) 3 101:1 | 151:7 152:12 | 43:2,17 44:4 |
| 83:22 84:24 | 219:1,2,23 | 31 6:5 9:8 16:4 | 155:5 160:4 | 44:15 48:13 |
| 85:4 94:8,22 | 220:1,6 | 16:15 206:9,11 | 170:22 184:23 | 52:16 53:5 |
| 94:22 127:7 | 25th 31:22 95:2 | 220:10 221:21 | 185:6,16,17 | 69:7,10 71:5 |
| 180:4 181:1 | 26 5:23 9:4 | 32 6:6 9:9 206:9 | 197:3 200:5 | 85:15 99:9 |
| 183:8 195:10 | 203:23 204:6,8 | 206:14 220:16 | 230:14,18 | 113:24 114:3,8 |
| 211:16 | 220:10,13,16 | 221:24 | 4/1/15 9:15 | 118:14,15 |
| 2013 31:23 | 220:18,25 | 33 6:7 9:10 66:8 | 4/16/14 8:13 | 127:22,23 |
| 44:15 54:21 | 27 5:24 9:5 | 70:13 101:4 | 4/18/14 7:19 | 139:8 141:17 |
| 55:7 69:17 | 14:16 15:15 | 207:6,8 | 4/3/03 5:4 | 142:9 151:12 |
| 94:13 95:2 | 27:19 69:25 | 334 120:2 | 4/30/15 9:16 | 152:6,8,12,19 |
| 2014 44:4 45:11 | 94:21 204:10 | 34 6:8 9:11 16:4 | 4:21 237:7,15 | 155:21,23 |
| 45:13 47:4,17 | 204:12 220:25 | 16:15 49:23 | 4:22 1:15 238:6 | 156:22 160:4 |
| 94:15,17 98:20 | 27th 31:13,23 | 51:8,10 52:24 | 40 6:13 9:15 | 176:6 184:23 |
| 99:9 102:16,17 | 95:2 | 57:6 59:20 | 16:5,15 43:24 | 185:6,18 190:2 |
| 106:2 111:15 | 28 9:6 70:25 | 62:7 66:7,8 | 98:22 99:6 | 5/15/14 8:15 |
| 112:4,6 114:12 | 82:1,21 84:2 | 68:5 70:12 | 100:13 101:4 | 5/18/12 5:10 |
| 115:17 | 195:10 204:11 | 207:6,8,12,13 | 127:11 129:11 | 5/19/15 9:17 |
| 2015 114:3 | 204:12 221:4 | 35 6:9 178:20 | 129:17,18 | 5/22/13 6:10,11 |
| 2016 7:16 47:18 | 287 195:1 | 180:17 181:3,6 | 237:8 | 50 1:7 3:15 6:21 |
| 48:9,13 112:6 | 287/Interchan... | 194:6 195:5 | 40,000 131:12 | 9:23 16:6,16 |
| 113:24 114:4,5 | 195:9 | 207:24 208:1 | 41 6:14 9:16 | 55:6 108:14 |
| 114:8 118:14 | 28th 181:1 | 208:24 211:13 | 418 109:9 | 179:1 |
| 118:15,19 | 29 9:7 16:4,15 | 226:24 | 42 6:15 9:17 | 51 6:22 |
| 123:4 124:18 | 94:22 205:7,15 | 36 6:10 9:12 | 14:16 15:6,16 | 518 3:9,17 |
| 2018 1:14 | 211:16 221:12 | 16:4,15 19:18 | 43 9:18 16:5,16 | 52 6:23 9:24 |
| 20th 118:12 | 290 3:7 | 207:24 208:1 | 434 138:16 | 16:6,16 |
| 138:20 148:5 | 29th 31:14 | 361 153:11 | 44 6:16 14:17 | 53 6:24 10:4 |
| 21 8:19 66:18 | | 36th 178:21 | 15:16 62:8 | 54 7:4 10:5 16:6 |
| 67:2 127:16 | 3 | 37 6:11 9:13 | 445 2:5 | 16:16 |
| 192:12 219:1,2 | 3 1:14 5:6 26:25 | 15:5,16 49:23 | 45 6:17 9:19 | 55 7:5 163:24 |
| 219:3 | 134:24 135:3 | 52:10 57:15 | 14:17 15:16 | 164:3 |
| 21st 31:5 39:21 | 148:6 150:8,9 | 60:19 62:25 | 16:5,16 | 56 7:6 10:6 16:6 |
| 94:8 153:4 | 154:14 160:4 | 63:13 66:17 | 457-2411 3:17 | 16:16 |
| 158:1 | 160:12,13 | 69:1 70:25 | 46 9:20 73:3,4 | 57 7:7 10:7 16:6 |
| 22 5:19 8:20 | 161:10,11 | 208:9,11,14 | 74:1 | 16:17 |

| | | | |
|----------------------------------|-------------------------|-------------------------|------------------------|
| 58 7:8 | 170:6 180:17 | 7/14/16 10:15 | 151:9 152:14 |
| 587-7300 3:9 | 648 180:20 | 7/2/15 9:20 | 153:8 |
| 59 7:9 10:8 16:6 16:17 | 65 7:15 | 7/21/17-E-mail | 81/86 153:1 |
| 5th 45:9 | 650 194:6,7,8 | 7:22 | |
| | 651 183:18 | 7/7/15 9:21 | 9 |
| <hr/> 6 <hr/> | 184:1 226:16 | 70 10:16 16:7,17 | 9 5:10,11,11,13 |
| 62:5 5:9 14:15 | 226:22,23 | 71 10:17 | 5:14,21 6:4 8:7 |
| 15:14 100:23 | 652 183:18 | 72 7:18 10:18 | 8:8 16:3 19:10 |
| 127:19 135:9 | 653 183:18 | 14:17 15:17 | 19:19 31:2,3 |
| 142:18,19 | 228:2 | 16:7,17 | 39:18,21 40:6 |
| 143:13,17,19 | 654 183:18 | 726 211:13,15 | 41:13,22,24 |
| 143:21 151:12 | 228:9 | 729 214:13 | 42:8,19,25 |
| 152:7,8,19 | 655 183:18 | 73 4:5 7:19 | 43:17 44:14 |
| 155:23 156:21 | 656 159:14 | 730 230:22 | 51:18 56:8 |
| 160:4 170:6 | 170:20 183:18 | 74 7:20 | 59:4,7 61:25 |
| 185:19 197:3 | 658 195:5 | 75 4:6 7:21 | 72:22 84:14 |
| 215:8,10,10 | 659 171:18 | 76 7:22 | 85:7 93:6,16 |
| 6/11-Environ... | 195:5 | 77 13:25 14:17 | 93:22 94:7,12 |
| 8:4 | 66 7:16 10:14 | 15:17 | 95:11 100:3 |
| 6/12/14 8:17 | 14:17 15:17 | | 135:1,1 138:8 |
| 6/14/12 5:19 | 16:7,17 | <hr/> 8 <hr/> | 138:14 143:23 |
| 6/15/16 10:13 | 661 208:23 | 8 5:10 6:5,6,8,9 | 143:23 144:5,8 |
| 6/18/15 9:18 | 662 196:15 | 7:20,21 8:6,7 | 157:14 161:19 |
| 6/21/12 5:24 | 214:11 230:13 | 14:15 15:15,25 | 187:12,14 |
| 6/24/14 8:18 | 669 230:22 | 16:3 31:8 | 188:11 198:14 |
| 6/3/10 5:18 | 67 10:15 16:7,17 | 34:14 39:12 | 198:20,22 |
| 6/30/14 8:19 | 687 159:14 | 43:2,17 44:14 | 208:25 216:4,8 |
| 6/30/15 9:19 | 69 7:17 14:17 | 51:14 53:14 | 216:12 231:25 |
| 6/5/14 6:18 8:16 | 15:17 | 54:2,5 57:7 | 232:1,4,20,24 |
| 6/7/12 5:14 | <hr/> 7 <hr/> | 59:21 62:10 | 9-5:22 |
| 60 7:10 10:9 | 7 8:6 14:12,13 | 68:11 70:16 | 9/10/15 9:24 |
| 120:11,20 | 15:25 16:3,14 | 85:11 95:5,12 | 10:4 |
| 134:10 166:5 | 139:7,21 | 143:15,23,23 | 9/16/14 9:4 |
| 174:14 | 142:19 143:1 | 144:4 152:9 | 9/18/14 9:5 |
| 61 7:11 10:10 | 143:14,17,18 | 155:24 156:25 | 9/18/15 10:5 |
| 62 7:12 10:11 | 143:20 148:16 | 157:5,14 161:3 | 9/2/14 8:21,22 |
| 63 7:13 10:12 | 151:12 152:2,3 | 180:3,5 185:20 | 9/22/14 9:6,7 |
| 631 153:12,13 | 152:6,19 | 186:3,8 193:17 | 9/30/15 10:6,7 |
| 633 153:19 | 155:23 156:25 | 194:8,13,14,20 | 9:00 1:15 |
| 634 155:22 | 156:25 161:3 | 195:9 198:10 | 91 82:21 84:1 |
| 635 153:13 | 185:20 194:19 | 198:15 209:12 | |
| 636 140:16,17 | 197:23 198:1,9 | 215:9,10,10 | |
| 638 140:17,18 | 198:11,15 | 231:23 232:5 | |
| 639 167:21 | 209:10 235:17 | 232:20,25 | |
| 64 7:14 10:13 | 235:20 | 233:13,19,22 | |
| 16:7,17 | 7-1/2 133:20 | 234:15 | |
| 643 148:13,14 | 7/1/14 8:20 | 8/17/15 9:23 | |
| 646 168:24 | 7/11/16 10:14 | 8:30 237:19,20 | |
| 647 148:14 | 7/14/15 9:22 | 237:22 238:4 | |
| | | 81 149:7,13 | |

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF:

New York State Department of Transportation
50 Wolf Road
Albany, NY 12232
SPDES Permit No. NYR20A288

Docket No. CWA-02-2016-3167

HELD: WEDNESDAY, APRIL 4, 2018
10:30 A.M. - 4:37 P.M.
BEFORE ADMINISTRATION LAW JUDGE SUSAN L. BIRO

1 APPEARANCES:

2

3 Appearing for COMPLAINANT(S) ENVIRONMENTAL
4 PROTECTION AGENCY:

5 CHRISTOPHER SAPORITA, ESQ.
6 JASON GARELICK, ESQ.
7 ENVIRONMENTAL PROTECTION AGENCY, REGION 2
8 290 BROADWAY, 16TH FLOOR
9 NEW YORK, NY 10007

10

11 Appearing for RESPONDENT(S) DEPARTMENT OF
12 TRANSPORTATION:

13 ALICIA L. MCNALLY, ESQ.
14 DAVID WINANS, ESQ.
15 50 WOLF ROAD
16 ALBANY, NY 12205

17

18 ALSO PRESENT:

19

20 DENISE KAHLER-BRAATEN, Sign Language
21 Interpreter

22 JESS YOCOM, Sign Language Interpreter

23

24

25

1 This is the Hearing in the Matter of NEW YORK
2 STATE DEPARTMENT OF TRANSPORTION, held at:

3

4

5 JAMES T. FOLEY COURTHOUSE
6 445 BROADWAY, COURTROOM 6
7 ALBANY, NY 12207

8

9 record reported via machine shorthand by Robyn
10 Harrell, RPR, Court Reporter and Notary Public
11 within and for the State of New York.

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 INDEX OF EXAMINATION
2 WITNESS: ANTHONY D'ANGELO
3 EXAMINATION

4 By Mr. Garelick 245, 288

5 By Ms. McNally 281, 289

6 By ALJ Biro 290

7

8 WITNESS: JACOB ALBRIGHT

9 By Mr. Saporita 297

10 By Ms. McNally 314

11 By Mr. Saporita 320

12

13 WITNESS: CHRISTY ARVIZU

14

15 By Mr. Saporita 322, 362, 376

16 By Mr. Winans 349, 365, 377

17 BY ALJ BIRO 366

18

19 WITNESS: ELLEN KUBEK

20

21 By Ms. McNally 385, 416

22 Voir Dire By Mr. Winans 407

23 By ALJ Biro 414

24

25

1 PROCEEDINGS
 2 ALJ BIRO: We are going to go back
 3 on the record today.
 4 New York State Department of
 5 Transportation Division versus EPA,
 6 docket number CWA 02-2016-3167.
 7 Good morning, everybody.
 8 MR. SAPORITA: Good morning.
 9 MS. MC NALLY: Good morning,
 10 Your Honor.
 11 MR. GARELICK: Good morning,
 12 Your Honor.
 13 MR. WINANS: Good morning.
 14 SIGN LANGUAGE INTERPRETERS: Good
 15 morning.
 16 ALJ BIRO: Before we proceed, I want
 17 to remind Ms. Yocom and Ms. Kahler-
 18 Braaten that you remain under oath, and
 19 that you will accurately gesture
 20 testimony from English to sign language.
 21 SIGN LANGUAGE INTERPRETERS: Yes.
 22 ALJ BIRO: I think where we left off
 23 yesterday, Mr. Garelick was going to call
 24 his next witness.
 25 MR. GARELICK: That is correct,

1 Your Honor.
 2 Plaintiff calls Anthony D'Angelo to
 3 the stand.
 4 (Witness takes the stand.)
 5 ALJ BIRO: Madam Court Reporter,
 6 would you please swear in the witness.
 7 ANTHONY D'ANGELO,
 8 having been first duly sworn by
 9 the Notary Public, was examined
 10 and testified as follows:
 11 ALJ BIRO: Good morning.
 12 THE WITNESS: Good morning,
 13 Your Honor.
 14 ALJ BIRO: Is the microphone not
 15 working? Okay. I think it's working.
 16 I'll try to talk a little louder.
 17 When you're ready.
 18 DIRECT EXAMINATION
 19 BY MR. GARELICK:
 20 Q. Good morning, Mr. D'Angelo.
 21 A. Good morning.
 22 Q. Could you please state your name for the
 23 record.
 24 A. Anthony John D'Angelo.
 25 Q. Who do you work for?

1 A. PG Environmental.
 2 Q. What do you do for PG Environmental?
 3 A. I'm an environmental scientist.
 4 Q. And what does an environmental scientist
 5 do?
 6 A. Part of my duty is to conduct Clean Water
 7 Act compliance inspections.
 8 Q. And does that include stormwater
 9 inspections?
 10 A. It does.
 11 Q. How long have you worked for
 12 PG Environmental?
 13 A. Since February of 2012.
 14 Q. And how many stormwater inspections have
 15 you done?
 16 A. Upwards of 350 to 400 approximately.
 17 Q. Do your duties also include working with
 18 respect to MS4 inspections?
 19 A. It does.
 20 Q. What do you do with respect to MS4
 21 inspections?
 22 A. Interactively, I support inspector
 23 environmentalists conducting or facilitating the
 24 audits.
 25 Q. How many MS4 inspections have you

1 conducted?
 2 A. To date, approximately 25.
 3 Q. And have any of those 25 included MS4s
 4 related to Howells?
 5 A. Six of them.
 6 Q. Where were those?
 7 A. The New York State Department of
 8 Transportation, District 8; the New York State
 9 Department of Transportation, Region 5;
 10 New Jersey Department of Transportation; Maryland
 11 State Highway Authority; Michigan Department of
 12 Transportation.
 13 In addition to MS4 audits, I've also
 14 conducted construction stormwater inspections at
 15 the Hawaii Department of Transportation, Highway
 16 Division projects as well as California
 17 Department of Transportation, also known as
 18 CalTran.
 19 Q. Do you have training as well with respect
 20 to these inspections?
 21 A. I do.
 22 Q. Briefly, can you describe what type of
 23 training you've done?
 24 A. I've been trained on the EPA's NPDES
 25 Compliance Inspection Manual, and EPA will

1 install programs on which you could -- I don't
2 see a requirement. MS4 and stormwater protective
3 training through the EPA's National Enforcement
4 Training Department as well as multiple on-the-
5 job trainings.

6 Q. Prior to working at PG Environmental,
7 have you had any other environmental-related
8 jobs?

9 A. I worked as a seasonal park ranger for
10 two years for the Howells Company of Parks and
11 Wildlife.

12 Q. What did you do for them?

13 A. I worked in a state park that wasn't yet
14 open to the public, so my duties primarily were
15 related to natural resource management.

16 Q. Can you briefly describe your educational
17 background?

18 A. I attended high school in Boulder,
19 Colorado. I graduated in 2006, and then I
20 attended the University of Colorado where I
21 graduated with a Bachelor of Environmental
22 Science in 2010.

23 Q. Did there come a time when you became
24 involved in a case relating to the New York State
25 DOT and the support it operates?

1 A. There was.

2 Q. And approximately when did you become
3 involved in that?

4 A. I was probably engaged in September,
5 October of 2012.

6 Q. And what did you do in preparation for --
7 well, what was your role with respect to becoming
8 involved in this case?

9 A. I was a support inspector working with
10 Max Kuker for PG Environmental. My role
11 primarily was on-the-job learning at that point,
12 shadowing Max, knowing how he prepped for an
13 inspection. And I attended an audit in Region 8
14 in November 2012.

15 Q. Are you familiar with minimum control
16 measures?

17 A. I am.

18 Q. And what was the focus of your role at
19 the New York State DOT audit?

20 A. For both Region 8 and the Department, I
21 was primarily MCM6 pollution prevention and good
22 housekeeping.

23 Q. Can you briefly explain what that means?

24 A. MCM6 requires DOT operations in this
25 instance to control pollutants -- what you got

1 there is a pollutant picture -- municipal
2 operations or DOT operations, which primarily are
3 on highway activity such as street cleaning,
4 vegetation management as well as a residency
5 under the maintenance department station
6 facilities.

7 Q. And is this minimal control measure
8 derived from a permit?

9 A. Yes.

10 Q. And what permit is that?

11 A. The MS4 permit, DOT permit.

12 Q. How many sites did you visit in relation
13 to your audit?

14 A. Between both audits, I've done 16 sites.

15 Q. And what process did you engage in to
16 conduct the inspections at these 16 sites,
17 generally?

18 A. As far as the records request,
19 PG Environmental requires --

20 COURT REPORTER: Slow down. I can
21 barely understand what you're saying.

22 "As far as the PG requests," what?

23 A. As far as the records request that EPA
24 and PG submitted to DOT prior to the audit, we
25 had asked what facilities would DOT operate that

1 would be subject to MCM6. Using that list, we
2 then target the facilities based on the
3 geographic areas we would be inspecting. And
4 then after our opening conference, we visited
5 those facilities throughout the course -- over
6 multiple days.

7 BY MR. GARELICK:

8 Q. You mentioned "opening conference." Can
9 you describe what that means?

10 A. Prior to the -- at the beginning of the
11 audit, we had a face-to-face meeting with PG,
12 EPA, and DOT staff where we discussed the MS4
13 program as a whole and outlined the process over
14 the few days we were there.

15 Q. And skipping the actual audit for a
16 second, what happens after the audit in this
17 process?

18 A. What happens once the audit is complete?

19 Q. Once the audit is completed, yeah, what's
20 the next step in the process?

21 A. After we finish the on-site audit, we
22 typically go back to our office and continue a
23 review of records that we had requested prior to
24 and during the audit. At that time, once we have
25 completed reviewing the records, we then compile

Page 252

1 the audit report.

2 Q. And when you actually physically leave

3 the sites, do you meet with individuals at the

4 sites?

5 A. Yeah. When we arrive on site, we meet

6 with individuals at the beginning, typically walk

7 the site with representatives of the facility,

8 and then we conduct a closing conference and

9 that's it.

10 Q. What's the purpose of the closing

11 conference?

12 A. To identify any observations that we've

13 been making during that site visit.

14 Q. "Identify" meaning indicating to the DOT

15 staff at the site?

16 A. Yes, of our preliminary observations at

17 that time.

18 Q. At each of these 16 facilities that you

19 inspected in Region 5 and Region 8, did you speak

20 to someone at the sites regarding the existence

21 of site-specific pollution prevention in the good

22 housekeeping program?

23 A. We did. That would have been asked at

24 our opening conference with a facility's

25 representatives.

Page 253

1 Q. And what did you learn from speaking to

2 individuals at each of the 16 sites regarding the

3 existence or lack of site-specific plans?

4 A. That are site-specific, that's when the

5 practice plan with regards to stormwater had not

6 been developed at each of the 16 facilities we

7 visited.

8 Q. What is the purpose of the site-specific

9 plan?

10 A. The site-specific plan outlines the BMPs

11 that should be implemented at that site specific

12 to the pollutant sources in operation -- the

13 site-specific BMP plan is the plan site specific

14 to the BMPs and pollutants that are maintained at

15 that site with regards to the operations at that

16 site.

17 Q. And what is the concern of not having a

18 site-specific best management plan?

19 A. A site-specific best management practice

20 plan is intended to educate and guide employees

21 on how to handle storm pollutant sources.

22 Without such site-specific guidance, employees

23 may not have the knowledge of how to properly

24 handle some materials or conduct operations on

25 site.

Page 254

1 Q. Similarly, at the 16 sites that you

2 visited, did you speak to individuals at the

3 sites relating to whether or not they had

4 conducted and documented self-assessments of

5 their facilities with respect to stormwater

6 management?

7 A. We did. That was also asked during the

8 opening conference.

9 Q. And what did you learn from these

10 conversations?

11 A. We learned that there were no documented

12 site-specific self-assessments that had been

13 conducted with regard to stormwater.

14 Q. What's the purpose of the self-

15 assessment?

16 A. Again, to identify the pollutant sources

17 on site and to ensure that the material storage

18 and handling, as well as operations, are being

19 conducted per the permit requirements.

20 Q. During the course of your audit in

21 Region 8, do you recall having a conversation

22 with the acting maintenance environmental

23 coordinator, Chris Kappeller, regarding whether

24 DOT had performed these documented self-

25 assessments in the New York State DOT facilities?

Page 255

1 A. Yes.

2 Q. Can you explain what you guys discussed

3 in that conversation?

4 A. That form, documented self-assessment had

5 not been conducted at any of the DOT facilities

6 that we visited.

7 Q. And with respect to the Region 5 audit,

8 did you take part in the post-inspection

9 telephone conference call on July 25th, 2013,

10 related to that inspection?

11 A. I did.

12 Q. And do you recall a conversation or

13 discussion during that conversation relating to

14 whether DOT had conducted the documented self-

15 assessments of the New York State DOT facilities

16 at Region 5 for stormwater purposes?

17 A. I do recall having that conversation.

18 Q. And can you describe what was discussed?

19 A. We were informed that the self-

20 assessments had not been formally documented for

21 any of the Region 5 facilities we visited during

22 the audit.

23 Q. And with respect to you training, what

24 documented training did you request and review at

25 the 16 sites that you visited in Region 5 and

Page 256

1 Region 8 relating to pollution prevention and
 2 good housekeeping?
 3 A. During the opening conference at each
 4 facility, we had asked the facility employees if
 5 they had received any stormwater pollution
 6 prevention training, which we were notified that
 7 no training had been conducted or documented.
 8 Q. Did you make observations at the 16 site
 9 locations that you visited with respect to issues
 10 of concern at these sites relating to their
 11 pollution prevention and good housekeeping
 12 practices?
 13 A. Yes.
 14 Q. And did you document these observations
 15 with photographs?
 16 A. Yes.
 17 Q. And generally speaking, what were these
 18 observations contained in the photographs
 19 indicative of?
 20 A. Pollutant sources on-site that had
 21 potential to be commingled with stormwater and
 22 discharge off-site.
 23 Q. What is the relationship with your
 24 observations in the lack of the best management
 25 practices, documented best management practices?

Page 257

1 A. Can you repeat that?
 2 Q. What is the relationship between the
 3 issues of concern that you observed and the lack
 4 of the best management practices, site-specific
 5 best management practices?
 6 A. That BMPs had not been implemented for
 7 certain pollutants on the site, which was
 8 indicative that a site-specific plan had not been
 9 developed either on the BMPs that should have
 10 been on site to control the pollutants.
 11 Q. I want to direct your attention to
 12 Complainant's Exhibit 35, particularly page 689.
 13 A. One moment.
 14 Q. You should have the hard copies up there.
 15 It might be easier.
 16 A. 689, yes.
 17 Q. Did there come a time during your
 18 inspection of the Region 8 facility where you
 19 visited the Kingston Residency Facility?
 20 A. There was.
 21 Q. Just to clarify, what is a residency
 22 facility?
 23 A. It's a maintenance garage, basically.
 24 Q. And what date did you visit this
 25 facility?

Page 258

1 A. We visited the facility on November 28th
 2 of 2012.
 3 Q. Who, if anyone, did you speak to relating
 4 to the site when you arrived there?
 5 A. When we arrived on site, we met the
 6 acting manager, Chris Copella. And when we
 7 arrived on site, we spoke with the resident
 8 engineer, Keith C. Savery (phonetic).
 9 Q. And what, if anything, did those
 10 individuals tell you with respect to all these
 11 storm drains at that facility?
 12 A. There were multiple storm drains on site
 13 that discharged west that they believed the
 14 municipal -- that the storm drain is tied to a
 15 municipal set of storm drains that discharge to
 16 the Hudson River.
 17 Q. I want to direct your attention to
 18 photographs 2 through 4, which are on page 692.
 19 What is depicted in -- well, did you take
 20 these photographs?
 21 A. I took the photographs.
 22 Q. And generally speaking, for the sites
 23 that we are speaking to, did you take all of
 24 those photographs?
 25 A. I took all of the photographs.

Page 259

1 Q. What's depicted in photographs 2 through
 2 4?
 3 A. Photographs 2 through 4 depict a vehicle
 4 washing area that was identified by the resident
 5 engineer. It was wintertime, so they were
 6 actively doing de-icing operations.
 7 Photo 2 is a picture of a snow plow over
 8 where they've identified as the vehicle wash
 9 area.
 10 Photographs 2, 3, and 4 identify the
 11 storm drain that receives wash water from that
 12 vehicle washing operation.
 13 And photos 2 and 3 identify salt that had
 14 slid off of the snow plow in that vehicle wash
 15 area.
 16 Q. What are the concerns with respect to the
 17 observations in these photographs?
 18 A. Vehicle wash water is a pollutant source
 19 that could contain salt, oils, and grease and
 20 that it was being washed into a storm drain
 21 that's connected to MS4.
 22 Q. What would be the best management
 23 practices dealing with these issues of concern?
 24 A. Wash water -- vehicle wash water is
 25 typically captured and treated through an

Page 260

1 oil-water separator and/or discharged through
 2 sanitation, not the storm system.
 3 Q. Directing your attention to photographs 5
 4 through 9 on pages 693 and 694, what is depicted
 5 in these photographs?
 6 A. It had recently rained at the facility.
 7 The pavement was wet, and we observed a visible
 8 petroleum sheen on multiple surfaces around the
 9 facility.
 10 Q. What's the concern with this dynamic?
 11 A. That the petroleum product had leaked
 12 from either a vehicle or equipment and that it
 13 had been commingled with stormwater and was
 14 mobilizing with the stormwater running through.
 15 Q. What would be the best management
 16 practice to deal with this issue?
 17 A. Cleaning up spills when they're
 18 identified and preventing stormwater contaminated
 19 with petroleum from entering the sewer.
 20 Q. Directing your attention to photograph 18
 21 through 20 on pages 690 -- you know, all on page
 22 696. What is depicted in this photograph?
 23 A. Photograph 18 identifies the storm drain
 24 inlet located south of the maintenance shop.
 25 You'll notice quite a lot of sediment and mud

Page 261

1 accumulated around the storm drain. When we
 2 looked inside the catch basin of that storm
 3 drain, it was turbid.
 4 Q. That is depicted in photograph 20?
 5 A. Correct.
 6 Q. And what is concern with these
 7 observations?
 8 A. That the contribution of sediment and
 9 other pollutants that were entering the storm
 10 drain connected to MS4s, which ultimately had the
 11 potential to discharge to the Hudson River.
 12 Q. I ask you to take a look at photographs
 13 25 through 27 contained on page 698. What
 14 observations are depicted in these photographs?
 15 A. As part of the operations conducted at
 16 the Residency, DOT staff was charged with mixing
 17 brine with de-icing operations on the highways.
 18 They had recently loaded brine into a vehicle for
 19 use on a highway. The hose that had connected
 20 the brine to the truck had been detached from the
 21 truck and placed on the surface floor below the
 22 truck where it was improperly draining. As a
 23 result, as children approached, as shown in
 24 photograph 27, they needed some help, and brine
 25 was actively leaking out of the hose onto the

Page 262

1 pavement.
 2 Q. What is the concern with respect to this
 3 activity?
 4 A. That that's a pollutant source that's
 5 being drained onto the surface that has the
 6 potential to commingle with stormwater,
 7 discharging to MS4, potentially discharging to
 8 the Hudson River.
 9 Q. Photograph 28, what is depicted in this
 10 photograph?
 11 A. Photograph 28 is a picture of used
 12 vehicle batteries that were stored outside on a
 13 wooden pallet. Typically, used batteries are
 14 considered a pollutant source and should be
 15 either contained, covered or be stored inside.
 16 Q. Photographs 30 through 31, I ask you to
 17 take a look at that.
 18 A. Okay.
 19 Q. What is depicted in these photographs?
 20 A. Photograph 30 and 31 identify salt that
 21 had spilled on the surface of the yard that had
 22 not yet been cleaned up. They were in close
 23 proximity to the storm drain. They have the
 24 potential for salt to mobilize into the storm
 25 drain with salt water run-off.

Page 263

1 Q. Directing your attention to the same
 2 exhibit, Complainant's 35, page 710, did there
 3 come a time during your Region 8 audit when you
 4 visited the New York State DOT Region 8 Special
 5 Crews Facility?
 6 A. Yes.
 7 Q. What date was this?
 8 A. We visited the Special Crews Facility of
 9 Region 8 on November 28, 2012.
 10 Q. Did you meet with anyone at that site,
 11 DOT staff?
 12 A. When we arrived on site, most of the
 13 special crews were actually out working, and so
 14 we spoke with the clerk, Ms. Marjorie Brown.
 15 Q. What, if anything, did you learn from
 16 speaking with staff there at the site with
 17 respect to where its storm drains go?
 18 A. The clerk, as well as the other NYSDOT
 19 representatives that were with us, indicated that
 20 stormwater runoff was conveyed to form multiple
 21 storm drains off site which discharge to
 22 conveyances that flow into Casper Creek.
 23 Q. I want to direct your attention to page
 24 712, particularly photographs 2 through 4. What
 25 observations are depicted in this photograph?

1 A. We identified a storm drain located at
2 the south central side of the maintenance shop.
3 We identified a white paint residue on the inlet,
4 the grate inlet. We observed inside the catch
5 basin that white paint staining was prevalent on
6 the pipes as well as in the stormwater
7 accumulated in the catch basin.

8 Q. And is that depicted in the photograph 4
9 inside that catch basin?

10 A. It is.

11 Q. What is the concern with the issues
12 depicted in photographs 2 through 4?

13 A. One of the special crews that operated at
14 this facility was the painting crew, and our
15 concern, based on this observation, was that
16 paint crews were washing paint equipment into the
17 storm drain resulting in flows to Casper Creek.

18 Q. What would be the best management
19 practice to deal with this issue?

20 A. Paint wash water is a pollutant source
21 that should not be discharged through municipal
22 storm systems. Paint wash water is typically
23 collected and recycled at a facility that can
24 process that type of wastewater.

25 They were collecting paint wash water in

1 other totes, which they informed us were being
2 hauled off site by a third-party for proper
3 disposal, so we were perplexed as to why there
4 was evidence of paint wash at these facilities as
5 well as facility representatives that were
6 unaware that this existed.

7 Q. Let me direct your attention to
8 photographs 5 through 9. What is depicted in
9 these photographs?

10 A. 5 through 8 identify a chemical storage
11 area outdoors in the southwest corner of the
12 facility. It appeared that the containers had
13 been outside for some time, as labels were not
14 visible. The facility representatives were
15 unaware of what chemicals were stored in these
16 containers.

17 At a closer look, we identified two
18 containers of concern, a 55-gallon drum that
19 contained an unknown fluid, as depicted in photos
20 6 and 7, as well as a 5-gallon bucket that
21 contained an unknown fluid depicted in photograph
22 8.

23 Photograph 9 identifies the storm drain
24 located down through the chemical stockpile area.
25 That storm drain, per what we were informed by

1 the facility representatives, flows to
2 Casper Creek.

3 Q. Looking at photograph 13, what is
4 depicted in that photograph?

5 A. These were totes of wash water from paint
6 supply cleaning. The paint leads to wash water,
7 as we refer to it. This was the storage area
8 (indicating) that they informed us where paint
9 waste wash water is stored until it is hauled off
10 site by the third-party. The concern is that it
11 is a wastewater and that we did not observe
12 containment or overhead coverage for this
13 wastewater.

14 Q. What would be your best management
15 practice to deal with these paint wash water
16 totes?

17 A. Storing them indoors and under covers, in
18 an abandoned area, in the event that one of the
19 totes ruptured, to prevent any spilling by wash
20 water.

21 Q. I direct your attention to the same
22 exhibit, Complainant's Exhibit 35, page 718. Did
23 there come a time during your Region 8 audit
24 where you inspected a facility named Carmel
25 Residency?

1 A. Yes.

2 Q. What date was that on?

3 A. We visited the Carmel Residency in
4 Region 8 on November 29, 2012.

5 Q. Did you speak with any individuals when
6 you arrived at the site?

7 A. The facility representative we spoke with
8 was Lance McMillan (phonetic), who was the
9 resident engineer. We also spoke with Dave
10 Colmer (phonetic), the assistant resident
11 engineer; Heath Worhan (phonetic), the field
12 coordinator in residency; as well as Jerroy
13 Williams (phonetic), the HMSC.

14 Q. And what information, if any, did you
15 learn from speaking with staff at the facility
16 with respect to where its storm drains go?

17 A. The stormwater was conveyed into storm
18 drains as well as a culvert which discharged off
19 site along the western perimeter, which
20 eventually flows to Stump Pond Creek.

21 Q. I direct your attention to photographs 2
22 through 7 on pages 721 through 722. What is
23 depicted in these photographs?

24 A. Photograph 2 identifies a large sand
25 stockpile at the Residency. Below is a

1 conveyance that appeared to be inundated with
 2 sediment. We observed evidence of erosion on the
 3 sand stockpile.
 4 We followed that conveyance, as shown in
 5 photos 2, 3, and 4, and again, followed that
 6 around the nearby salt sorter/snow sorter, which
 7 was 5, 6, and 7. We observed the potential for
 8 sand that had eroded off the pile immobilized via
 9 that conveyance into a culvert-pipe inlet that's
 10 shown in photograph 7, which we learned from
 11 dispatchers off site flows to Stump Pond Creek.
 12 Q. What would be the best management
 13 practices to deal with this issue?
 14 A. Eliminating erosion of sediment controls
 15 to keep that stockpile from eroding via that
 16 culvert and letting excess sediment get into
 17 Stump Pond Creek.
 18 Q. I'd like to direct your attention to
 19 photographs 9 through 10 on page 723. What
 20 observations are depicted in these photographs?
 21 A. While walking around the facility, we
 22 identified a bucket that had appeared to have
 23 overflowed and which was indicated by the
 24 petroleum staining around the bucket on the
 25 ground surface. I believe the HMS individual

1 informed us that one of his facility employees
 2 had recently drained hydraulic oils off a piece
 3 of equipment shown in photograph 9 into that
 4 bucket.
 5 It appeared that he had not properly
 6 disposed of that transmission fluid out of that
 7 bucket prior to departing for the day. Our
 8 observation was that it appeared that the bucket
 9 had filled up with stormwater as it rained,
 10 causing an overflow and putting fluids onto the
 11 ground surface.
 12 Q. What was the concern with that?
 13 A. In addition to the contaminated soil
 14 around the bucket, that any residual on the
 15 surface may get into stormwater runoff and
 16 discharge offsite.
 17 Q. I guess I should ask this: What would be
 18 the best management practice with dealing with
 19 that issue?
 20 A. Typically, when you drain a petroleum
 21 product, it should be stored in a waste container
 22 such as a waste oil tank. This was a by-product,
 23 a waste product that had been left outside and
 24 had not been properly disposed of.
 25 Q. Directing your attention to photographs

1 13 and 14, what observations are depicted in
 2 these two photographs?
 3 A. Photographs 13 and 14 depict a salt
 4 dispensing truck parked immediately over a storm
 5 drain, and that salt was observed on the
 6 premises.
 7 Q. What are the issues concerning these
 8 observations?
 9 A. All the pollutant sources that may leak
 10 from the salt and petroleum product and drain
 11 directly into that storm drain inlet. Best
 12 management practice would be to strategically
 13 park vehicles away from storm drains to prevent
 14 spills or leaks into the MS4.
 15 Q. You mentioned that you also conducted
 16 inspections at Region 5 facilities, correct?
 17 A. That is correct.
 18 Q. I'm going to direct your attention to
 19 Complainant's Exhibit 39, page 622. Did there
 20 come a time when you inspected the Buffalo
 21 Sub-Residency Facility?
 22 A. Yes.
 23 Q. What was the date of this visit?
 24 A. We visited the Buffalo Sub-Residency
 25 Facility in Region 5 on June 25th, 2013.

1 Q. Did you speak with any DOT staff at site
 2 at the initiation of your visit?
 3 A. Yes. We initiated contact with the
 4 resident engineer, Mr. Dave Christopher. There
 5 were quite a few other NYSDOT employees on site.
 6 Facility-specific employees would be Scott Slade,
 7 the HMS-1, and Mike Dolhasky (phonetic), the
 8 HMS-2.
 9 There was also a subcontractor on site
 10 with Nature's Way who decided to participate in
 11 the site visit as well.
 12 Q. What, if anything, did you learn from
 13 speaking with these individuals on site with
 14 respect to where the storm drains from the site
 15 were discharged into?
 16 A. We were informed that the three storm
 17 drains located on site discharged to two arterial
 18 stormwater pipes that run underneath
 19 Holmes Street and Oak Street and that they were
 20 confident that they were storm sewers and not
 21 combined systems.
 22 Q. Can you explain what that means?
 23 A. That the sewer that the subject led to,
 24 strictly prevents stormwater from receiving water
 25 and was not connected to the wastewater treatment

Page 272

1 plant.

2 Q. Directing your attention to photographs 3

3 through 6, on pages 624 and 625, what is depicted

4 in these photographs?

5 A. They depict two stockpiles, one of

6 sediment, one of aggregate, stored against the

7 salt dome and that the stockpiles were

8 uncontained and uncovered.

9 Photograph 5 identified the sediment had

10 been immobilized off of the stockpile, and that

11 had immobilized towards the storm drain. And it

12 occurred toward the gutter line that's shown in

13 6, 7, and 8.

14 Q. What are the concerns with respect to

15 these issues?

16 A. Contribution of sediment and aggregate to

17 the municipal storm systems.

18 Q. What would be the best management

19 practices to resolve these issues?

20 A. Implementing sediment controls to prevent

21 sediment and aggregates running off these

22 stockpiles, covering them to prevent sediment

23 from leaking, coming in contact with them.

24 Q. Directing your attention to photographs 9

25 through 11, what is depicted in these

Page 273

1 photographs?

2 A. We identified a 5-gallon bucket of

3 asphalt that had been left outside under the

4 awning of the maintenance shop. The bucket was

5 uncovered and leaking.

6 Q. What was concerning with this practice?

7 A. Asphalt Tack-5 is a pollutant source and

8 should be stored such as a chemical, under cover,

9 kept in containment and indoors.

10 Q. Directing your attention to photographs

11 13 through 14, what observations are depicted in

12 these photographs?

13 A. We identified the vehicle parking area,

14 and there is evidence of petroleum staining on

15 the very surface underneath that piece of

16 equipment. The storm drain shown in photo 12

17 would be the nearest storm drain to that vehicle

18 parking lot. By petroleum leaking from that

19 equipment, you immobilize that storm drain.

20 Q. Directing your attention to Page 635, the

21 same exhibit, Complainant's Exhibit 39. During

22 your Region 5 inspection, did there come a time

23 when you conducted an inspection at the facility

24 known as Equipment Management Facility?

25 A. Yes.

Page 274

1 Q. What was the date of this inspection?

2 A. We visited the Region 5 Equipment

3 Management Facility on June 26, 2013.

4 Q. And upon arriving at the scene, did you

5 speak to any individuals, including New York

6 State DOT staff?

7 A. Yes, we spoke with the fleet manager,

8 Jeffrey Krall (phonetic).

9 Q. What, if anything, did you learn while

10 speaking to Jeffrey Krall regarding where the

11 discharge points, discharge meaning the outfall

12 discharged into?

13 A. That stormwater received in the storm

14 drains flows to the outfall, discharges into

15 Foster Brook, which runs along the perimeter of

16 the vicinity, and also that part of shoreline

17 runoff from the facility flows as overload flow

18 to Foster Brook as well.

19 Q. I'd like to direct your attention to

20 photographs 2 and 3. What is depicted in these

21 photographs?

22 A. Photograph 2 identifies the outfall

23 from -- to the city's storm drain as identified

24 by the facility representative.

25 Photograph 3 is standing from that

Page 275

1 outfall facing Southwestern Boulevard and Foster

2 Brook, which that outfall discharges, goes out

3 through there.

4 Q. It goes directly into Foster Brook?

5 A. Foster Brook, correct.

6 Q. I direct your attention to photographs 4

7 through 8. What's observed in these photographs?

8 A. We identified a scrap metal pile that was

9 stored outdoors in the southwestern portion of

10 the facility. Most of the scrap metal is rusted.

11 Other scrap metal appeared to contain petroleum

12 products such as the diesel tank shown in photos

13 as 4, 5, and 6. Other rusted metals shown in

14 photos 7 and 8 contained a greasy residue.

15 Q. What was your concern with the activity

16 depicted in these photographs?

17 A. That the scrap metal pile was stored

18 outdoors and exposed to the elements so when it

19 rained, it would rain on top of the storm pile

20 and commingle pollutants into stormwater runoff.

21 Q. Where was the concern with the discharge?

22 A. Due to the proximity of Foster Brook,

23 there was a potential for metals and petroleum

24 pollutants to mobilize through Foster Brook with

25 someone.

1 Q. Let me direct your attention to
 2 photographs 9 through 13. What is depicted in
 3 these photographs?
 4 A. They had an outdoor vehicle and equipment
 5 parking area located in the southern portion of
 6 the facility. That parking area was paved. We
 7 identified multiple petroleum stains on that
 8 equipment throughout the parking area.
 9 Q. Okay. We've already discussed the issues
 10 concerning petroleum on sites. This would be
 11 similar?
 12 A. Correct.
 13 Q. Directing your attention to photographs
 14 14 and 15, what is depicted in these photographs?
 15 A. Photograph 14 identifies a storm drain
 16 inlet on the southern portion of the facility
 17 located within a paved portion. Adjacent to that
 18 stormwater inlet, there was a gravel surface. As
 19 we approached the storm drain, we viewed inside
 20 the catch basin and identified that there had
 21 been accumulated sediment and gravel in that
 22 catch basin, which we believe to be coming from
 23 the gravel surface nearby.
 24 Q. What would be the best management
 25 practices to remediate this issue?

1 A. Implementing some sort of storm drain for
 2 protection to prevent gravel and sediment from
 3 falling into the catch basin.
 4 Q. I'd like to direct your attention to page
 5 655 of the same exhibit, Complainant's Exhibit
 6 39. Did there come a time during your Region 5
 7 audit where you conducted a site inspection of a
 8 facility known as North Erie Residency Facility?
 9 A. Yes. We attended the North Erie
 10 Residency Facility in Region 5 on June 26th,
 11 2013.
 12 Q. Who, if anyone, did you speak with when
 13 you arrived at the site?
 14 A. We had quite a large group of people with
 15 us at that site visit. I remember speaking with
 16 the Residency resident engineer, Dave
 17 Christopher.
 18 Q. What, if anything, did you learn from
 19 speaking with Dave Christopher with respect to
 20 what preceding orders involved with storm drains
 21 at the site discharged into?
 22 A. Overall flow direction was unknown by the
 23 facility representatives with regards to the
 24 storm drain system but that they believed that
 25 the storm will discharge to a runoff, which

1 ultimately flows into Cayuga Creek.
 2 Q. I'd like to direct your attention to page
 3 658, particularly two photographs, 2 through 4.
 4 What is depicted in these photographs?
 5 A. We identified a facility employee who was
 6 actively power-washing a vehicle outside.
 7 Q. What is your concern with this activity?
 8 A. That wash water from the vehicle may
 9 mobilize to a nearby storm drain as shown in
 10 photograph 4.
 11 Q. What would be the best management
 12 practices for not letting this happen?
 13 A. Vehicle wash water has the potential to
 14 contain pollutants such as oils and grease. Best
 15 practice would be to retain that wash water,
 16 treat it with an oil-water separator to enable --
 17 to discharge it to a sanitary sewer and not into
 18 stormwater.
 19 Q. I'd like to direct your attention to
 20 photographs 5 through 8. What is depicted in
 21 these photographs?
 22 A. We identified a storm drain inlet, and we
 23 identified a fuel container and a 55-gallon drum
 24 stored adjacent to that storm drain.
 25 Q. What was the concern of these

1 observations?
 2 A. The fuels and antifreeze were uncontained
 3 and may spill into the storm drain material in
 4 the event of a storm.
 5 Q. What would be the best management
 6 practice used?
 7 A. Fuel and chemicals should be stored
 8 inside, under cover, and away from storm drains
 9 and within a secondary containment.
 10 Q. I direct your attention to photographs 9
 11 through 11. What is observed in these
 12 photographs?
 13 A. While we were in the western portion of
 14 the facility, we identified these four 5-gallon
 15 asphalt buckets. We observed that a hole had
 16 been cut in the top of each of the lids of each
 17 bucket. When we had asked the facility
 18 representative about that, they believed that
 19 those buckets had been emptied and that they had
 20 slowly filled up with stormwater because they had
 21 been left outside.
 22 Q. What is the concern with this practice?
 23 A. That the stormwater now in these buckets
 24 has been contaminated with Tack-5 and stored
 25 outside without containment.

1 Q. Directing your attention to photograph 12
 2 through 13, what is depicted in these two
 3 photographs?
 4 A. We identified a 5-gallon bucket that was
 5 stored outside the pavement crew building. Upon
 6 a closer look, we observed a black liquid inside
 7 that bucket. When we had asked about the
 8 contents of that bucket, we were informed by the
 9 facility representative that the bucket contained
 10 a citrus cleaner which they use to clean asphalt
 11 Tack-5 brushes which gave it that black look.
 12 Q. Is that black look what you're referring
 13 to as depicted in photograph 13?
 14 A. It is.
 15 Q. What is the concern with this practice?
 16 A. The contents of the bucket are a
 17 pollutant source, being a citrus cleaner and
 18 water, and that was commingled with an asphalt,
 19 Tack-5. The bucket was stored outdoors,
 20 uncovered, and without containment.
 21 Q. Directing your attention to photographs
 22 14 through 16, what is depicted in these
 23 photographs?
 24 A. We identified a scrap metal pile on the
 25 ground surface in the western portion of the

1 facility. Upon a closer look, we identified a
 2 lid of a container from a lithium grease
 3 container. The lid was coated with a lithium
 4 grease residual.
 5 Q. What's the concern with this practice?
 6 A. That the scrap metal was stored outside,
 7 uncovered, and that scrap metal was coated with
 8 lithium grease, which is a pollutant source,
 9 which could commingle with stormwater and empty
 10 into that storm drain.
 11 Q. Directing your attention to photographs
 12 17 to 18. What is depicted in these photographs?
 13 A. We identified a petroleum sheen on the
 14 vehicle parking area in the south central portion
 15 of the facility, which is adjacent to
 16 Indian Road.
 17 Q. What is the concern with this practice or
 18 these observations?
 19 A. That petroleum had leaked onto the
 20 pavement. It had not been cleaned up neatly.
 21 MR. GARELICK: No further questions
 22 for this witness. Thank you.
 23 ALJ BIRO: Ms. McNally.
 24 CROSS-EXAMINATION
 25 BY MS. MC NALLY:

1 Q. Hello, Mr. D'Angelo. My name is
 2 Alicia McNally. I'm with the New York State
 3 Department of Transportation.
 4 I'm going to ask you a few questions. If
 5 you need me to slow down or you need me to
 6 clarify some of my questions, let me know.
 7 We'll get started. Okay?
 8 A. Okay.
 9 Q. So you testified that you did have some
 10 prior experience with New York State or with DOT
 11 in general.
 12 I've got New Jersey, Maryland, Michigan,
 13 Hawaii, and California. Were all of those before
 14 your audits in New York State?
 15 A. No. Those are all after my audit --
 16 excuse me. California, those individual
 17 construction sites, those were done before the
 18 audit. I actually left one out by accident,
 19 which was the Virginia Department of
 20 Transportation. That one was conducted prior
 21 to --
 22 Q. So Virginia and California are
 23 construction sites?
 24 A. Virginia was a MS4 audit.
 25 Q. California was just a construction site?

1 Okay. Great.
 2 So you characterized your role as kind of
 3 on-the-job training.
 4 Max Kuker was the lead in this case; is
 5 that correct?
 6 A. Max Kuker, K-U-K-E-R.
 7 Q. Got it. He was the lead in this case; is
 8 that correct?
 9 A. He was the lead for both Region 8 and
 10 Region 5, although I attended some maintenance
 11 yards, some residencies in Region 5 without him.
 12 Q. Which ones?
 13 A. Region 5 is equipment management.
 14 Q. Okay.
 15 A. Region 5, special crews.
 16 Q. Okay.
 17 A. Region 5, West Seneca Salt Storage;
 18 Region 5, North Erie Residency; Region 5, Sweet
 19 Home Salt Storage; and Region 5, Louis State
 20 Summit.
 21 Q. Okay. Thank you. Okay. So during the
 22 closing conferences, were you present for all of
 23 them?
 24 A. Yes.
 25 Q. How exactly did that conversation go?

1 Did you have a draft audit report to show
 2 pictures of what you had taken?
 3 A. No. We don't -- we did not develop a
 4 draft audit report until after the closing
 5 conference.
 6 Q. Okay. So why don't you just walk me
 7 through the closing conference.
 8 A. The closing conferences were facilitated
 9 by Max Kuker where we identified our preliminary
 10 observations for each MCM observation.
 11 Q. So how would we determine what your
 12 preliminary observations were today?
 13 A. Based on our verbal discussions with
 14 NYSDOT during closing conferences, based on them,
 15 there were preliminary observations.
 16 Q. You don't recall what they were?
 17 A. All of them?
 18 MR. GARELICK: Objection,
 19 Your Honor. He's testified as to 16
 20 sites. Is she asking him every single
 21 communication that he had with respect to
 22 every single individual that he spoke to
 23 at these 16 facilities?
 24 MS. MC NALLY: I don't think I need
 25 the answer to the question. That's fine.

1 ALJ BIRO: Okay.
 2 BY MS. MC NALLY:
 3 Q. So in preparing for the audit, what did
 4 you do? I know you said that Max Kuker was the
 5 lead, he did most of the preparation. But I
 6 assume you did some prep as well, correct?
 7 A. Yes.
 8 Q. So what did you do?
 9 A. I read the permit.
 10 Q. You read the whole thing?
 11 A. The whole thing. We always read the
 12 whole permit before our meetings.
 13 Q. Did you coordinate with DEC or EPA for
 14 interpretation of the application permit?
 15 A. I did not personally, no.
 16 Q. Now, you testified that site-specific
 17 BMPs are required by the permit; is that correct?
 18 A. Can I have a copy of the permit to see?
 19 Q. Sure. It's CX-4.
 20 A. Do I have that up here?
 21 Q. No.
 22 MR. GARELICK: It's in one of the
 23 boxes.
 24 MS. MC NALLY: It should be page 65.
 25 BY MS. MC NALLY:

1 Q. Let me know when you get to it.
 2 A. Can you repeat the question one more
 3 time, please?
 4 Q. You testified that site-specific BMPs are
 5 required as part of the permit; is that correct?
 6 A. I testified that site-specific BMP plans
 7 had not been developed for any of the sites we
 8 visited.
 9 Q. Does the permit require them?
 10 A. The permit requires the permittee to
 11 determine the sources of pollutants potentially
 12 generated by the operation of the facilities and
 13 to determine management practices, policies, and
 14 procedures that would be developed and
 15 implemented to reduce or prevent the discharge of
 16 pollutants.
 17 ALJ BIRO: Where are you reading
 18 from?
 19 THE WITNESS: I'm sorry. CX-4, page
 20 64 and 65.
 21 ALJ BIRO: Thank you.
 22 BY MS. MC NALLY:
 23 Q. So it doesn't say "site-specific" in the
 24 permit, correct?
 25 A. From where I'm currently looking, it does

1 not.
 2 Q. Do you routinely inspect construction
 3 sites in the off season?
 4 A. Off season --
 5 Q. Off season of construction, wherein you
 6 said you inspected the facilities in the
 7 wintertime?
 8 A. Maintenance facilities.
 9 Q. Wasn't the entire Region 8 audit done in
 10 November in three days?
 11 A. Correct.
 12 Q. You didn't inspect any construction sites
 13 then?
 14 A. I did not inspect any construction sites
 15 in the wintertime.
 16 Q. Okay. I apologize.
 17 Did you actually see anything actively
 18 draining into outlets?
 19 A. At maintenance facilities?
 20 Q. Yes.
 21 A. I did.
 22 Q. You did? Why aren't there any
 23 photographs of anything actively draining?
 24 A. There are. There are photos of
 25 stormwater that drains slowly.

1 Q. There is nothing actively draining into
 2 them in the photographs.
 3 A. They're still photographs. It may be
 4 hard to see, but it was raining quite a bit in
 5 the Region 8 audit, and we observed stormwater
 6 actively draining into the storm drains on site.
 7 Q. You saw stormwater draining?
 8 A. Correct.
 9 Q. But you didn't see any petroleum draining
 10 in --
 11 A. We observed quite a bit of petroleum
 12 sheen on the stormwater at the facility that was
 13 ultimately draining into the storm drain as well.
 14 MS. MC NALLY: Okay. I'm good. I
 15 don't have anything else.
 16 REDIRECT EXAMINATION
 17 BY MR. GARELICK:
 18 Q. Just one question. Is it possible to
 19 develop a site-specific complete best methods and
 20 practices without it being written?
 21 A. I would say it would be difficult.
 22 However, a robust employee training program may
 23 be able to cover the topics without it being
 24 written on paper.
 25 Q. Did you observe any robust training

1 programs at any of these 16 facilities that you
 2 visited?
 3 A. I did not.
 4 MR. GARELICK: I have no further
 5 questions.
 6 RECROSS-EXAMINATION
 7 BY MS. MC NALLY:
 8 Q. So you reviewed the records that were
 9 given to you in response to the records request,
 10 right?
 11 A. I don't recall.
 12 Q. You don't recall?
 13 A. I don't recall reading all of them.
 14 Q. Is it your testimony that you don't
 15 recall whether DOT produced any BMP written
 16 procedures?
 17 A. There was the TEM, The Environmental
 18 Manual, I believe it was called, although I don't
 19 recall if it was provided during the records
 20 request or if that was during area inspection.
 21 Q. All right. But there was something
 22 provided to you that purported to be a BMP in
 23 writing?
 24 A. Yes, general practices for the district.
 25 MS. McNALLY: Okay. That's all.

1 EXAMINATION BY
 2 ALJ BIRO:
 3 Q. Mr. D'Angelo, I want to ask you a couple
 4 of questions to clarify some things.
 5 How did you choose these locations that
 6 you went and audited?
 7 A. That was most likely up to Max where we
 8 inspected. Although it was such a short time, he
 9 probably identified facilities that would be
 10 close to the geographical areas to the district
 11 office.
 12 Q. So did you take a certain percentage of
 13 the possible targets that you could access, or
 14 did you just pick a number you could do in three
 15 days, or how did you choose?
 16 A. Typically, we attempted to hit two or
 17 three a day, but the total number was probably
 18 based on how much time we had for field
 19 activities that we outlined in the draft agenda
 20 prior to the audit.
 21 Q. Did these locations receive any advanced
 22 notice that you were going to audit them?
 23 A. We identified the facilities we intended
 24 to visit, both maintenance and construction,
 25 during open conference.

1 Q. During the opening conference --
 2 A. With the overall audit with the district
 3 office.
 4 Q. And how long before you actually showed
 5 up at the facility did that occur?
 6 A. The first one would have been after lunch
 7 that day. We did the opening conference in the
 8 morning, he told where to visit, and then went to
 9 lunch, and then we went to our first facility.
 10 Q. So, basically, these facilities were
 11 being audited with no notice?
 12 A. They were not notified prior to us
 13 arriving at the NYSDOT headquarters.
 14 Q. I guess NYSDOT, after the morning
 15 conference, could have started calling around and
 16 giving them a few hours notice, but otherwise,
 17 essentially, it was a surprise?
 18 A. Yes.
 19 Q. And a lot of these facilities seemed to
 20 have been maintained by the employee staff
 21 themselves; is that correct?
 22 A. That's correct.
 23 Q. Okay. They weren't contractor
 24 facilities?
 25 A. No, none of the contractor facilities --

1 we did identify one contractor working on site.
 2 They were installing a new fuel tank at the
 3 Buffalo Region 5. That was our only contractor
 4 facility.
 5 Q. Okay. And you talked a lot about the
 6 difference between sanitary sewer and storm
 7 sewer, and I wanted to make sure I understand
 8 exactly what the difference is and record it for
 9 the record.
 10 Sanitary sewage may include treated
 11 water, and treated within the drain system before
 12 it's released to waters of the United States; is
 13 that correct?
 14 A. Correct.
 15 Q. Okay. Whereas storm sewer systems,
 16 trying to prevent the pollutants from entering
 17 the sewer system in the first place, don't engage
 18 in any treatment before it's released; is that
 19 correct?
 20 A. Not entirely.
 21 Q. Can you explain?
 22 A. I would say the MS4 program is designed
 23 to prevent pollutants from entering into the
 24 storm drain system. The storm drain system is
 25 designed to convey stormwater runoff without

1 treatment. Storm systems don't -- they're not
 2 considered a treatment control. There are
 3 components of a storm system in MS4, they may
 4 have a treatment component control, but the MS4
 5 program is the primary defense to prevent
 6 pollutants initially from entering the storm
 7 sewer system.
 8 Q. You talked a little bit about an oil and
 9 grease separator. Tell me more what that is and
 10 how it works and where it would be in the system.
 11 A. An oil-water separator would be installed
 12 at the facility, not within the storm system
 13 itself. The separation -- structural separation
 14 is to allow petroleum products to flow and allow
 15 uncontaminated water to pass underneath. It's
 16 designed to remove oil, grease from wastewater
 17 only.
 18 Q. After the wastewater has gone through
 19 this separator, is the water allowed to be
 20 released to the water system?
 21 A. To discharge from the oil-water separator
 22 to the storm system in rivers -- that oil, water,
 23 everything that separates into rivers to
 24 discharge to the sanitary sewer -- most likely
 25 would require a permit through the municipality

1 with local control, pretreatment program but not
 2 always; however, the discharge from the oil-water
 3 separator to a storm sewer requires water
 4 controls.
 5 Q. You talked a little bit about the closing
 6 meeting you had. So as you are going through
 7 these audits and going around, you are talking
 8 about what you see in these photographs; is that
 9 correct?
 10 A. Correct.
 11 Q. And when you sit down for your closing
 12 meeting, you go over -- do you have the
 13 photographs accessible to you at the meeting?
 14 A. We have them on our cameras. We do not
 15 normally show them to the regulated entity during
 16 that closing conference.
 17 Q. Okay. Do you show them your notes?
 18 A. No, not -- no.
 19 Q. Do you verbally convey what is in your
 20 notes to them during the conference?
 21 A. We have an internal meeting before we do
 22 our closing conference. All the auditors get
 23 together with our notes. And I guess we could
 24 refer to our cameras if we wanted to look at
 25 photographs. We then compile a list of our

1 observations, which we share with the permittee,
 2 and we'll allow them to respond for -- we do it
 3 as a courtesy to allow them an opportunity to
 4 provide any additional information that we might
 5 not have.
 6 Q. In terms of your observations, are you
 7 telling them all the good things about their
 8 facility, this is done right, this is done right,
 9 or this is done right, or is it just a list of
 10 essentially the violations you found -- or not
 11 violations -- the concerns that you have about
 12 various things you've seen?
 13 A. We typically try to start with the
 14 positive things we do in a program. But,
 15 normally, they want us to just list the
 16 negatives.
 17 Q. Do you try to hit everything that is a
 18 negative during a conference that you're likely
 19 to see in your final report?
 20 A. Typically, we won't go over every
 21 individual item. However, but we'll go kind of a
 22 high-level, big picture. And if they have
 23 additional questions about that observation,
 24 we'll obviously take additional time to explain
 25 that further.

1 Q. Do you discuss with them what they need
 2 to do to come into compliance?
 3 A. That's not the role of PG Environmental.
 4 We try to identify compliance observations. We
 5 don't assess compliance on site.
 6 ALJ BIRO: All right. Thank you.
 7 Mr. Garelick, did my questions raise
 8 any questions for you?
 9 MR. GARELICK: No. Thank you.
 10 ALJ BIRO: Ms. McNally?
 11 MS. MC NALLY: No. Thank you.
 12 ALJ BIRO: Thank you so much. Do
 13 you intend to recall Mr. D'Angelo in the
 14 future?
 15 MR. GARELICK: No.
 16 ALJ BIRO: You are released. Thank
 17 you.
 18 (Witness is excused, 10:10 a.m.)
 19 ALJ BIRO: Mr. Garelick, any other
 20 witnesses you'd like to call?
 21 MR. GARELICK: Yes, Your Honor. The
 22 witness will be coming in. One moment.
 23 ALJ BIRO: Would you like to take a
 24 break?
 25 MR. GARELICK: Sure. Let's --

1 MR. WINANS: It's up to you.
 2 ALJ BIRO: Well, let's keep going
 3 then.
 4 MR. SAPORITA: Yeah, we can go
 5 through this witness, and then break
 6 after that. That sounds good. Thank
 7 you.
 8 May I proceed, Your Honor?
 9 ALJ BIRO: You may.
 10 MR. SAPORITA: Complainant calls
 11 Jacob Albright to the stand, please.
 12 (Witness takes the stand.)
 13 ALJ BIRO: Madam Reporter, swear in
 14 the witness.
 15 JACOB ALBRIGHT,
 16 Having been first duly sworn by
 17 the Notary Public, was examined
 18 and testified as follows:
 19 DIRECT EXAMINATION
 20 BY MR. SAPORITA:
 21 Q. Good morning, Mr. Albright. Who do you
 22 work for?
 23 A. I work for PG Environmental.
 24 Q. What's your job there?
 25 A. I'm an environmental scientist.

1 Q. What are some of your duties as an
 2 environmental scientist for PG?
 3 A. I conduct a variety of mostly Clean Water
 4 Act, MPS compliance-related inspections. I
 5 manage and oversee work on the company contracts
 6 and things of that nature.
 7 Q. How long have you been with PG?
 8 A. A little over six years now.
 9 Q. And before working for PG, what is your
 10 educational background?
 11 A. I have a bachelor in science from the
 12 College of William and Mary in chemistry.
 13 Q. How many audits related to stormwater
 14 controls have you conducted in your career at PG,
 15 approximately?
 16 A. Numerous. Related specifically to MS4,
 17 I'd say it's maybe about 40. We do a variety of
 18 other stormwater-related activities on industrial
 19 sites, and that's probably close to the hundred
 20 realm.
 21 Q. With regard to the industrial versus the
 22 MS4s, are you looking for similar types of
 23 controls in all these stormwater contracts?
 24 A. Yeah. Oftentimes, industrial and
 25 construction components are parts of the things

1 of MS4 that we evaluate.
 2 Q. And you follow similar procedures in
 3 terms of the way you conduct your audits at
 4 certain sites?
 5 A. Yes.
 6 Q. Have you had any other on-the-job
 7 training for conducting inspections or taken any
 8 other trainings?
 9 A. Yeah. When I first came on at PG, a
 10 little over six years ago, we started our PG
 11 sponsored Web-based training. We provided to
 12 inspectors our handbook that we review. And we
 13 maintain our knowledge of that throughout our
 14 time at PG. We do numerous on-site activities.
 15 When I first started out, I was always
 16 accompanied by a more senior inspector for
 17 on-the-job field-based training. And, you know,
 18 that continued throughout my career at PG.
 19 If there is a new inspector, we get
 20 into -- we make sure we have another educated
 21 personnel in the field with people at another
 22 level. So that is the process we took.
 23 Q. Have you done any, specifically, MS4
 24 self-inspections before you conducted the --
 25 A. Yes, yes. I believe this particular

Page 300

1 activity was the third or fourth MS4 activity I
 2 had participated in, in California, and other
 3 parts of the country before this one.
 4 Q. Thank you. And so we're talking about
 5 your involvement in the audit of New York State
 6 DOT's Region 5. Did you participate in that
 7 audit?
 8 A. Yes.
 9 Q. What dates were you involved in that
 10 audit?
 11 A. I was on site from June 25th to the 27th,
 12 2013.
 13 Q. Can you describe for me -- I understand
 14 that you focused your inspections on a number of
 15 minimum control measures from your past
 16 testimony. I'm going to talk to you today about
 17 your observations regarding Minimum Control
 18 Measure 3 -- that's the discharge protection and
 19 elimination -- and Minimum Control Measure 5,
 20 discharge instructions for water controls.
 21 Regarding MCM3, what was the approach
 22 that you took or the procedure you took to
 23 investigate DOT's compliance with that, just
 24 generally?
 25 A. In general, we initially did a records

Page 301

1 request where we asked the agency to provide
 2 certain documents. Some of them they provided
 3 for the audit; some of them they provided during
 4 or directly after the audit.
 5 When we were on site, we had office-based
 6 discussions with each of the MCMs. We let the
 7 agency know and put them on notice to invite the
 8 personnel that would be there for those
 9 discussions for each one of the control measures
 10 for MCM3.
 11 We talked to staff about their approach
 12 for implementing how far a conference do we need.
 13 And then, finally, talked with them about the
 14 discharge records, the office-based discussions.
 15 And we also needed a field component while we
 16 went out to identify locations of potential totes
 17 of discharge that had been reported through
 18 complaints through field observations from staff
 19 records that I think they were utilizing at the
 20 time as well and just to talk about their
 21 procedural approach and especially general safety
 22 conditions at the time we were there.
 23 Q. Okay. And you're trying to get a sense
 24 through that activity of whether the staff
 25 understood the procedures and had to be trained

Page 302

1 properly in procedures while conducting the
 2 conferences?
 3 A. Yes.
 4 Q. And can you tell me what you learned in
 5 those conversations and in your field work about
 6 the staff's understanding of the procedures and
 7 trainings in those years?
 8 A. Right. So when we were out at site
 9 locations, we were accompanied by DOT staff. And
 10 we had conversations about, in general, are you
 11 able -- do you know what a listed discharge is,
 12 what are the steps you would take to mitigate one
 13 if you suspected there was a listed discharge at
 14 that location.
 15 In general, we found that at that point
 16 in time the DOT staff -- they are also the
 17 consulting staff -- but the DOT staff we were
 18 talking to had a general unawareness of what a
 19 listed discharge was and the proper steps to
 20 follow up to mitigate it.
 21 Q. Did you ask them if they had taken any
 22 training on how to do those things?
 23 A. We requested training documentation from
 24 the agency.
 25 Q. And was that part of the records request?

Page 303

1 A. Yes.
 2 Q. And did you receive any documentation
 3 from them indicating they had a training program?
 4 A. Quick look here.
 5 Q. It may be helpful if I show you what's
 6 marked Complainant's Exhibit 37, the Records
 7 Request. Is that in the document before you? It
 8 should be.
 9 I'm showing you Complainant's Exhibit
 10 37, and I want to direct your attention to Row
 11 11.
 12 A. Yes. So Row 11. In this case, we
 13 requested training records and syllabus
 14 pertaining to the discharge program. No
 15 documentation was provided; however, there is a
 16 note here that I believe the agency provided that
 17 there were annual safety -- spring safety
 18 meetings and some of this information may have
 19 been conveyed informally. But we did not receive
 20 any documentation or formal presentation or
 21 syllabus for the discharge training.
 22 Q. Thank you. And did you follow up with
 23 any questions in the field about what an annual
 24 spring safety meeting covered?
 25 A. We did. I can't testify to the exact

1 content of --
 2 Q. Did it cover training and a list of
 3 discharge detection?
 4 A. No, the DOT boys were genuinely unaware.
 5 Q. Thank you. I'd like to move on to your
 6 findings regarding MCM5, please. And because
 7 these are slightly different areas, were there
 8 any procedural or methodological differences in
 9 how you approached the examination or this part
 10 of the inspection?
 11 A. From an overall approach, not really. We
 12 did office-based discussions. There was a
 13 records request involved in the field-based
 14 activities. Obviously, different measures if the
 15 topics we were observing were different in
 16 nature.
 17 Q. Let's take the records request up front.
 18 Complainant's Exhibit 37, on page 5, are there --
 19 let me draw your attention the column 46. Can
 20 you read the first cell in that column, please,
 21 after the number?
 22 A. Yes, if you could just --
 23 Q. Oh, I'm sorry.
 24 A. 46?
 25 Q. 46, yes.

1 A. "Procedures for post-construction
 2 stormwater management past its inspection
 3 enforcement including applicable checklist."
 4 Q. I see DOT answered "yes," and submitted
 5 some documents. Did you review any of those
 6 documents to see whether they were sufficient
 7 for -- as far as responsive to your requests?
 8 A. Yes. We reviewed them briefly, found out
 9 the document provided was actually specific for
 10 the Region 8 portion of the agency. And that's
 11 really all I can say about that.
 12 Q. Okay. So, let me draw your attention to
 13 Row 47. And what is the request you were seeking
 14 in that, if you recall?
 15 A. We were looking for records of
 16 inspections, the post-inspections, clean water
 17 management practices from the New York State
 18 water unit.
 19 Q. In regard to their answer, the answer is
 20 "yes."
 21 A. Yes.
 22 Q. In regard to Region 5, do any of these
 23 documents that are listed as responsive to the
 24 notice, responsive as to records of inspection as
 25 post-inspection stormwater management practices

1 in Region 5?
 2 A. It was an example of what we were asking
 3 for. In this case, it was specific to a smaller
 4 subset of BMPs, whereby the agency had brought in
 5 contractors to sit and inspect and maintain,
 6 whatever, baseline and frequency for a specific
 7 type of BMP, but it wasn't comprehensive for all
 8 types of BMPs.
 9 Q. That reference, SWTS, is that a reference
 10 to the type of BMPs being used or --
 11 A. Yes.
 12 Q. And what is an SWTS?
 13 A. I forget what the acronym exactly refers
 14 to. But the structure is stormwater hydrodynamic
 15 devices proprietary for stormwater. But there
 16 are other types of devices.
 17 Q. There are other types of proprietary
 18 devices --
 19 A. There are other types of stormwater
 20 controls beyond that point.
 21 Q. Let's move on the Row 48. What records
 22 were you requesting in that?
 23 A. In 48, we are requesting records of post
 24 inspection stormwater construction maintenance
 25 records.

1 Q. And I see the answer is "Yes," but it
 2 looks like the documents are the same as above.
 3 Are those records of maintenance
 4 post-construction stormwater management practices
 5 in Region 5?
 6 A. They are. They are specific to the
 7 devices I was describing earlier. They were
 8 referring to that contracting process.
 9 Q. And, again, a small subset of the control
 10 -- types of controls that --
 11 A. Right, yeah. For instance, it -- a large
 12 portion of BMPs that are replacing the inputs as
 13 well as in Exhibit 2, six months or longer, on
 14 the -- that BMP system, stormwater in ponds,
 15 roads, things like that, and those types of BMPs
 16 were not included in this inspection.
 17 Q. Thank you. You mentioned you had
 18 conversations with DOT staff at the beginning and
 19 throughout the inspections. Did you speak with
 20 them, did you ask them whether there were
 21 procedures for long-term maintenance of
 22 post-construction stormwater controls in Region
 23 5?
 24 A. We did. And the response we got was the
 25 Region 8 guidance that was provided.

Page 308

1 Q. Likewise for the training and
2 documentation?
3 A. Correct.
4 Q. And you did some field work to check
5 compliance with this requirement; is that right?
6 A. Yes.
7 Q. I'm going to draw your attention now to
8 Plaintiff's Exhibit 39, pages 44 to 53. I'll
9 start with 44. I'm looking at photograph 5, page
10 44 on CX-39.
11 A. Okay.
12 Q. And we are going to talk about a few
13 photos here. Did you take these photographs?
14 A. This particular photograph (indicating),
15 I did not take.
16 Q. Are you aware of who took this
17 photograph?
18 A. Yes.
19 Q. Who was that?
20 A. Max Kuker.
21 Q. Who is Max Kuker?
22 A. Max Kuker was my supervisor and the
23 project leader for this task at that time.
24 Q. Another employee of PG at the time?
25 A. Correct.

Page 309

1 Q. After the inspection, did you collaborate
2 on reviewing records and photographs and how to
3 confirm what they documented?
4 A. Yes, yes.
5 Q. All right. So in photograph 5, what are
6 you depicting or what concerns are you
7 documenting with this photograph?
8 A. This photograph shows erosion on the side
9 slope of a wet pond type BMP, shows an area where
10 the ground had eroded and was no longer
11 stabilized along the edge of the pond.
12 Q. Why is that a problem?
13 A. It's a concern because if there is no
14 stabilization to prevent the slope from going
15 into the pond, that soiled sanitation can wreak
16 havoc on the pond and the facility.
17 Q. Turning your attention to photograph 9 on
18 page 46, and I believe there are several there.
19 There's a few photos that relate to -- I'm going
20 to ask you about photographs 9, 12, and 13
21 specifically.
22 What does photograph 9 depict?
23 A. Photograph 9 shows a stormwater catch
24 basin, maybe some the street roads, Park Avenue
25 area in Newburgh, New York, that presumably

Page 310

1 drains to that hydrodynamic device, HWTS. And it
2 shows the devices more attributed to 30-feet in
3 water. It's a street issue.
4 Q. And that's a down-gradient?
5 A. Down-gradient, uh-huh.
6 Q. So this is actually one of the devices
7 that would have been included in the records
8 that were submitted --
9 A. Correct.
10 Q. -- the maintenance records submitted?
11 And photograph 12, what does that depict?
12 What did you document in that photograph?
13 A. Photograph 12 shows an area downstream of
14 where the outfall was in the -- downstream of
15 where the outfall was and upstream was where Rush
16 Creek was, where there's erosion that happened
17 past this eroded area, which would indicate
18 concentrated flow possibly from the outfall pipe
19 that would cause that erosion.
20 Q. So just to be clear, based on the
21 topography and what you observed, you believe
22 that the water discharged through this -- in this
23 photo would have come through the stormwater
24 treatment system down towards Rush Creek?
25 A. Yes, it was very close to the outfall

Page 311

1 location.
2 Q. And turning your attention to photograph
3 13, please. What does this document show?
4 A. This photograph also shows erosion down
5 the stream of the outfall location, where the
6 pipe was, right underneath, on Rush Creek.
7 Q. And what's the relationship between
8 photograph 12 and photograph 13?
9 A. Photograph 13 is an alternate viewpoint.
10 It expands the viewer's perspective of the
11 location. You can see more of what the scale of
12 the actual erosion was.
13 Q. In relationship to Rush, in 13?
14 A. Correct.
15 Q. So this scouring, what's the concern
16 about that one?
17 A. Like we explained about the pond before,
18 anytime there's an unstabilized portion of
19 landscape around a pond or receding water, grout,
20 soil or sediment that contaminates. In this
21 case, it contaminated the water body.
22 Q. What kind of practice would have been
23 appropriate in this instance to alleviate or
24 prevent this kind of erosion?
25 A. What we would need to see is if an

1 inspection of the area was conducted, if this was
2 identified as a maintenance need, and that it
3 will be recommended to an appropriate entity to
4 mitigate it.

5 Q. And in what form could that mitigation
6 take?

7 A. It could take many different forms. I'm
8 not a civil engineer, but there are a lot of
9 different practices that can be used to stabilize
10 it.

11 Q. Stabilize the soil itself?

12 A. Right, stabilize the soil itself.

13 Q. I just want to step back actually to
14 photograph 5, sir, and ask you the same question
15 about that photograph.

16 A. Uh-huh.

17 Q. You observed the erosion and sediment in
18 the basin. What kind of practice might have been
19 appropriate in that sense for sediment control
20 disposal in that photo?

21 A. Similar. You can see further towards the
22 right side of the photo there's a slope that's
23 vegetated there. And you would expect it to be
24 stabilized and vegetated along the entire
25 perimeter.

1 Q. And by stabilization, are there other
2 methods besides vegetation that can be used to
3 stabilize the perimeter?

4 A. In general, yes. But no, you're not
5 getting detailed information that would be
6 appropriate for this situation.

7 Q. Turning now to photograph 19 on page 51.
8 What is this photograph documenting?

9 A. This photograph shows another wet pond.
10 The pond is located at the entrance of the Erie
11 College, top campus (indicating). This is a
12 photograph of the four bay area of that pond.

13 Q. I'm going to jump over actually to
14 photograph 23. Is that the same pond depicted in
15 photograph 19?

16 A. Yes.

17 Q. And what are you documenting in
18 photograph 19?

19 A. Where it's showing an area of a side
20 slope of that same pond that is observed, the
21 scouring.

22 Q. And also back to 21, same question: What
23 are you documenting in that photograph?

24 A. This is a location, appears to be an
25 inlet from a storm draining into the pond.

1 Whether it's an erosion or grout, it's all going
2 into the pond.

3 Q. And I asked you already about possible
4 control sediments, so I won't repeat it. I
5 assume your answer will be the same?

6 A. Yes. In this case it appears they're
7 using rip rap grout, it dissipates well. It
8 looks like either the flow exceeded the rip rap
9 or the rip rap exceeded -- or rip rap itself had
10 not been adequately installed to prevent erosion.

11 Q. So rip rap is an option if properly
12 designed and installed --

13 A. Right, in specific scenarios, yes.

14 MR. SAPORITA: I have no further
15 questions, Your Honor.

16 CROSS-EXAMINATION

17 BY MS. MC NALLY:

18 Q. Good morning. I'm Alicia McNally. I'm
19 with the New York State Department of
20 Transportation.

21 If you have any questions, or you need me
22 to rephrase the question, just ask me.

23 A. Sure.

24 Q. You talked a little bit about your prior
25 MS4 audit experience. Did you review any audits

1 of state DOTs prior to the Region 5 audit?

2 A. Not prior to this audit, no.

3 Q. So this was your first one?

4 A. Yes.

5 Q. And did you act as a lead or -- as a lead
6 or were you a supporting?

7 A. Supporting.

8 Q. Who took the lead?

9 A. Max Kuker.

10 Q. Did you do anything to prepare for the
11 audit? Did you look at permits?

12 A. Yes. We read the permits. We reviewed,
13 in general whatever was needed prior to the
14 audit, the dec portion, that is, of the audit. I
15 don't recall the number, the COD number.

16 Q. How far back does all of this go?

17 A. I don't have specific dates. It was
18 probably like six or a few months earlier.

19 Q. Were they aware, at all four locations,
20 at every location that --

21 A. Not at every single location.

22 Q. So when were they aware of that?

23 A. Those locations were discussed during
24 office discussions, a large part of it --
25 actually, they sent it from the Department of

1 Transportation.
 2 Q. Did they provide those for you to use?
 3 A. Yeah. And that's typical of our approach
 4 when we talked about protective sites we wanted
 5 to look at. We talked to the people that you
 6 wanted to work with. We don't have any
 7 background to know the design recommendations.
 8 Q. So during the audit process here, I'm
 9 assuming it was your first USD, your first linear
 10 transportation USD MS4 audit, correct?
 11 A. Yes.
 12 Q. Did you learn that New York State
 13 Transportation Agency has limited jurisdiction?
 14 A. I learned that, yes.
 15 Q. Okay. And so how does that affect their
 16 ability to enforce certain aspects of that?
 17 MR. SAPORITA: Objection,
 18 Your Honor. Calls for a legal
 19 conclusion.
 20 MS. MC NALLY: He testified about
 21 the list of discharges at the inspection.
 22 That is what this goes to.
 23 MR. SAPORITA: Your Honor, this goes
 24 beyond the scope of inspection.
 25 ALJ BIRO: Overruled.

1 A. Can you ask the question again, please?
 2 BY MS. McNALLY:
 3 Q. Sure. You're aware that DOT has limited
 4 jurisdiction with respect to some of that right
 5 of way. How does that affect their ability to
 6 have MS4s written up?
 7 A. I'm not directly aware how extensive
 8 their right of way is and what that extends to --
 9 as far as their rights, I can't really answer
 10 what specific challenges it poses for the
 11 department.
 12 ALJ BIRO: Does that limit the type
 13 of management practices they can put in,
 14 in your understanding?
 15 THE WITNESS: It's possible. I
 16 think it probably differs from department
 17 to department. I'm not well versed in
 18 the legal management of the program. We
 19 were just there to make observations
 20 about the site conditions.
 21 ALJ BIRO: Okay.
 22 BY MS. MC NALLY:
 23 Q. So you said when you asked the staff what
 24 they were doing about the list of discharges,
 25 that they didn't know what those were; is that

1 correct?
 2 A. Correct.
 3 Q. And did you explain to them what a list
 4 of discharges was?
 5 A. Yes.
 6 Q. And they said they weren't aware of any
 7 measures to train?
 8 A. They were not aware of any formal
 9 training or guidance to implement that process.
 10 MS. McNALLY: Mark this as my next
 11 exhibit.
 12 MR. SAPORITA: That's 137.
 13 MS. McNALLY: Maybe I wrote it
 14 wrong. Sorry.
 15 (Respondent's Exhibit Number 137 was
 16 marked for identification.)
 17 BY MS. McNALLY:
 18 Q. So regarding the post-construction
 19 meeting and the construction inspection submitted
 20 for Region 8, now you had testified that that was
 21 non-responsive as it was region-specific; is that
 22 correct?
 23 A. Correct.
 24 Q. Were you aware that that was later --
 25 that that was used on a statewide basis and not

1 just in Region 8?
 2 A. I was unaware at that point in time.
 3 Q. You learned that later?
 4 A. I'm learning it now.
 5 Q. Okay. So it would surprise you to know
 6 that was true?
 7 A. Yes.
 8 Q. So I assume you also were unaware that it
 9 was noted in response to a compliance order and
 10 accepted as completing that Notice of Violation?
 11 A. Was that during -- before we did the
 12 audit?
 13 Q. That was after. I'm just saying you were
 14 not aware of that?
 15 A. No, I was not aware of that.
 16 Q. Let's talk about the meeting that
 17 occurred after the audit was over. Were you
 18 present for that?
 19 A. Are you talking about the phone call?
 20 Q. Oh, it was not in person?
 21 A. You are talking about the closing
 22 conference?
 23 Q. Yes.
 24 A. I was present for that.
 25 Q. So can you walk me through what happens

Page 320

1 at the closing conference?

2 A. Yes. The closing conference is typically

3 led by, in our experience, by other staff.

4 Max Kuker led that, the particular discussion.

5 What he does is he goes through some of our

6 preliminary observations at that point as to what

7 we talked about and what we had seen over the

8 couple of days we spent in the field. It

9 provides the permittee a chance to correct and

10 verify things they hear or concerns they have or

11 things they have that are incorrect in our

12 findings. It kind of creates another unended

13 discussion to make sure that we have our facts

14 straight before we read the report.

15 Q. Did you point out significant problems to

16 them and tell them what needs to be corrected?

17 A. No.

18 MS. McNALLY: Okay. I don't have

19 anything else.

20 MR. SAPORITA: Judge, one question.

21 REDIRECT EXAMINATION

22 BY MR. SAPORITA:

23 Q. Since conducting the New York State DOT

24 MS4 inspections, have you conducted any other MS4

25 inspections?

Page 321

1 A. Yes. I've led inspections for West

2 Virginia Department of Highways and New Jersey

3 Department of Transportation.

4 MR. SAPORITA: Thank you. No

5 further questions.

6 MS. MC NALLY: No questions.

7 ALJ BIRO: Thank you. Are we going

8 to recall him for any reason?

9 MR. SAPORITA: No, not now.

10 ALJ BIRO: You are released. The

11 witness is excused.

12 (Witness is excused.)

13 ALJ BIRO: Do you want to take a

14 break or go through lunch?

15 MR. SAPORITA: Quick break.

16 ALJ BIRO: In recess for ten

17 minutes.

18 (Brief recess, 9:48 a.m. to

19 10:04 a.m.)

20 ALJ BIRO: Mr. Saporita, call your

21 next witness.

22 MR. SAPORITA: I call Ms. Arvizu.

23 (Witness takes the stand.)

24 ALJ BIRO: Hello, Ms. Arvizu.

25 THE WITNESS: Yes.

Page 322

1 ALJ BIRO: You are still under oath

2 from yesterday.

3 THE WITNESS: Yes.

4 ALJ BIRO: If you need any

5 assistance at any time besides the

6 translator, indicate to stop or go slow

7 or repeat yourself so that you

8 understand.

9 THE WITNESS: Yes, I understand.

10 CHRISTY ARVIZU,

11 having been previously duly sworn by

12 the Notary Public, was examined

13 and testified as follows:

14 *****

15 DIRECT EXAMINATION

16 BY MR. SAPORITA:

17 Q. Ms. Arvizu, do you consider the proposed

18 penalty in this case -- did you consider the

19 statutory factors in Clean Water Act Section

20 309G3 to determine the proposed penalties in this

21 case?

22 A. Yes.

23 Q. Did you refer to any guides or documents

24 to help you in that determination?

25 A. Yes.

Page 323

1 Q. Okay. I'm going to call your attention

2 to -- can you say what guides and documents that

3 is?

4 A. Yes. That was the 1995 Interim Clean

5 Water Act Settlement Policy.

6 Q. Okay. And that's marked as Complainant's

7 Exhibit 65. You should have a copy handy.

8 A. Yes.

9 MR. SAPORITA: I'm also giving the

10 witness Complainant's Exhibit 60, the

11 complaint, in case she needs it for the

12 questions.

13 BY MR. SAPORITA:

14 Q. And I think you described generally how

15 the policy guides you in considering the statute

16 that it goes back to?

17 A. The statutory factor in 309G3 requires me

18 to consider the nature, the intent, the gravity,

19 the economic benefit, the intent to -- the prior

20 non-compliance, the penalty you pay, and other

21 measures of the statutory policy that they may

22 require.

23 Q. How does the settlement penalty policy

24 guide you through consideration of the statutory

25 factors?

1 A. The policy has a formula that we use
 2 follow, and that formula basically consists of
 3 economic factors, plus gravity and other factors,
 4 assessment factors, the gravity, and supplemental
 5 and environmental policies. That's it.
 6 Q. What is the supplemental environment
 7 project?
 8 A. The supplemental environment project is
 9 something that respondents can enter into that
 10 can be an environmental benefit that can mitigate
 11 the penalty.
 12 Q. So that would act as a reduction of the
 13 proposed penalty?
 14 A. Yes.
 15 Q. Was the SEP involved in this case with
 16 the final determination with the penalty?
 17 A. No.
 18 Q. And as part of your calculations, your
 19 calculation of the proposed penalty, did you
 20 calculate the duration of each of the violations
 21 in the complaint?
 22 A. Can you restate that?
 23 Q. Did you determine the duration, the
 24 amount of time or day that each the violations
 25 lasted?

1 A. Yes, it depended on the violation.
 2 Q. Okay. So let's step through that with
 3 either of the violations.
 4 With regard to paragraph 10-E of the
 5 complaint, DOT's failure to have a written
 6 directive from a person authorized at the time of
 7 the Notice of Intent --
 8 A. Uh-huh.
 9 Q. -- how did you determine the end date of
 10 that violation?
 11 A. It depended on when DOT submitted
 12 violations to the EPA.
 13 Q. Do you know offhand what date that was?
 14 A. I would have to take a look at the
 15 submittals.
 16 Q. Can I ask you to refer to, then,
 17 Complainant's Exhibit 59. They should be in
 18 order there.
 19 A. 59, yes.
 20 Q. I don't need you to get into too much
 21 detail. I know it's a large document.
 22 Did that help you to determine the end
 23 date for violations cited in paragraph 10E?
 24 A. Yes.
 25 Q. What are the documents?

1 A. The document is DOT's submittal to us
 2 dated January 29, 2016, and it is e-mailed to us
 3 on February 6, 2016. That's the date we received
 4 this notice.
 5 Q. What date does it state as the end date
 6 for that violation?
 7 A. February 5th, 2016.
 8 Q. Okay. Thank you. Moving on to the
 9 violation cited in paragraph 10-F, "DOT's failure
 10 to develop and implement a program to protect and
 11 address non-conformative youth structures."
 12 How did you determine the end date of
 13 that violation?
 14 A. Again, that was on the submittal that DOT
 15 submitted to us from that program.
 16 Q. I direct your attention to Complainant's
 17 Exhibit 58.
 18 A. Yes.
 19 Q. Is that the submittal you are referring
 20 to?
 21 A. Yes.
 22 Q. And when was that submitted to you from
 23 the EPA?
 24 A. That was submitted to us on December 1st,
 25 by DOT, December 1st, 2016.

1 Q. And what date did you take as an end date
 2 for that violation?
 3 A. December 1st, 2015.
 4 Q. Step back, actually, to the previous
 5 exhibit. I need to ask you about the start date
 6 for that first violation.
 7 A. 59?
 8 Q. 59. You don't -- you don't really need
 9 the exhibit out for this question.
 10 A. Okay.
 11 Q. How did you decide what the start date
 12 for that, for the violation of failure to have a
 13 written directive was?
 14 A. A written directive, because DOT did not
 15 have it, you must ask for the Facts of
 16 Communication. You could file it and then send
 17 in the complaint.
 18 Q. Do you recall offhand what date -- what
 19 document that was?
 20 A. July 1st, 2011.
 21 Q. Okay. So we have the end date on the MD
 22 Schedule Analysis. Same question for the failure
 23 to develop and implement a program and to protect
 24 and address discharges. What did you take as the
 25 start date for that violation?

1 A. I believe I want to say the start date is
2 July 1st, 2011.
3 Q. In regard to paragraph 10-D on the
4 complaint, the allegation that DOT failed to
5 develop and maintain a new map showing all
6 potential outfalls, how did you determine the end
7 date of that?
8 A. I have to examine, review that prior to
9 the submittal that DOT sent to us.
10 Q. I refer you now to Complainant's Exhibit
11 53. It would also be on there.
12 A. Yes.
13 Q. Is that the submittal you are referring
14 to?
15 A. Yes.
16 Q. And when was that submitted to EPA?
17 A. April 30th, 2015.
18 Q. Is that the date you took as the end date
19 for that matter?
20 A. Yes.
21 Q. And for that violation as well, what did
22 you choose as the start date for the violation?
23 A. I believe I also used the July 1st, 2011
24 start date.
25 Q. Now, for the next allegation in 10-D of

1 the compliant, the failure to conduct an outfall
2 reconnaissance inventory, what did you use to
3 determine the end date of that violation?
4 A. Again, the submittal from DOT.
5 Q. You believe that's the exhibit, same
6 exhibit, 53 --
7 A. Yes.
8 Q. -- is that correct, was that the
9 submittal you stated as final compliance?
10 A. Yes, that's what I said.
11 Q. And so is that -- did you also take April
12 30th, 2015 as an end date for that violation?
13 A. Yes.
14 Q. How did you determine the start date for
15 this violation?
16 A. The start date of this violation was
17 different because it was based on a permit
18 requirement. So the start date for this
19 violation would have to be May 1st, 2015 -- yes,
20 May 1st, 2015.
21 Q. So say a little bit more about that. Is
22 that date a requirement in the permit itself?
23 A. It's based on the 2008, and as far as
24 permit, we outfall the content of inventory, the
25 client was first starting. This was May 25th

1 requirement or with May 1, 2000 dates. That
2 permit expired April 30th, 2013. That permit
3 requirement is supposed to have all
4 reconnaissance inventory done within that five-
5 year permit term. DOT is not meeting that hold
6 and not -- we were told that outfall
7 reconnaissance inventory goal would not be met,
8 and DOT met with me on April 30th, 2013.
9 Q. Moving on to the policies, I'm calling
10 these out of order. But they are grouped
11 according to the minimal control measures, the
12 reconnaissance we focus on only. Moving on to
13 paragraph 10-A-2 -- I'm sorry -- 10-A-2, and I'll
14 draw your attention to Plaintiff's Exhibit 49.
15 A. Okay.
16 Q. What is that exhibit?
17 A. It's a submittal from DOT dated September
18 2nd, 2014.
19 Q. And by submittal, do you mean submittal
20 submitting information about their compliance
21 with the order?
22 A. Yes.
23 Q. And what's the date of that?
24 A. September 2nd, 2014.
25 Q. And what date did you take as the end

1 date for violations ending in paragraphs A-1 of
2 the 2?
3 A. Can you remind what --
4 Q. Sure. That failure to fully implement
5 the swamp claims by failing to perform Alcohol
6 Reconnaissance Field Study according to the
7 procedures in 4B?
8 A. Yes, September 2nd, 2014.
9 Q. How about the start date for that
10 violation?
11 A. Start date, I believe July 1st, 2011 is
12 the date.
13 Q. And moving on to the next violation,
14 paragraph 10G in the complaint, failure to inform
15 the public with a hazmat associated with disposal
16 of waste. I want to draw your attention to
17 Exhibit 52.
18 A. Okay.
19 Q. What is that exhibit?
20 A. It's a submittal from DOT sent to EPA.
21 Q. Regarding their compliance with the
22 order?
23 A. Yes.
24 Q. And what's the date of that submission?
25 A. It's dated April 1st, 2015. Yes.

1 Q. And did that submission demonstrate
 2 compliance with that violation of that
 3 requirement?
 4 A. Let me take a quick look. Yes.
 5 Q. Okay. Did you take that date as the end
 6 date for that violation?
 7 A. April 1st, 2015. Yes.
 8 Q. What date did you choose as a start date
 9 for your violation calculations?
 10 A. I believe I used the July 1st, 2011 date.
 11 Q. All right. For the violation cited in
 12 paragraph 10-L, "Failing to fully implement
 13 swamps by failing to establish goals and
 14 procedures awaiting systems of checklists of
 15 conducting construction projects used," in 89.
 16 Drawing your attention to Plaintiff's
 17 Exhibit 49, what is that exhibit?
 18 A. That's just a submittal from DOT in
 19 response to some letters that's dated September
 20 2nd, 2014.
 21 Q. Did those submissions demonstrate
 22 compliance with that requirement?
 23 A. Yes, they do.
 24 Q. And so did you take that date as the end
 25 date?

1 A. September 2nd, 2014, yes.
 2 Q. Thank you. What date did you take as the
 3 start date for that violation?
 4 A. With this one, I believe I used the start
 5 date of the Region 9 audit. I can't --
 6 Q. That's fine. We are going to get to your
 7 total numbers anyway.
 8 So let's move on to 19, for the
 9 violations cited in paragraph 10A3, "Various hold
 10 implements for swamps by failing to inspect all
 11 temporary controls, every 78, and within 24 hours
 12 of each rainfall greater than half an inch."
 13 I draw your attention to Plaintiff's
 14 Exhibit 54. How did you determine the compliance
 15 date far that?
 16 A. The compliance date for that was -- can
 17 you repeat --
 18 Q. The failure to inspect all temporary
 19 controls every 78 and 24 hours of each rainfall
 20 of half an inch from April to June 2012?
 21 A. That's because I was at the construction
 22 site. That was a one-time violation, and this
 23 was a short-term violation.
 24 Q. Do you recall what date you took as the
 25 end date for that violation?

1 A. Again, that was a one-time violation,
 2 based on a one-time violation based on DOT's
 3 certification which they were in compliance which
 4 said there was adequacy with the swamp.
 5 Q. Do you recall when that certification was
 6 received by DOT?
 7 A. That was the exhibit --
 8 Q. 49?
 9 A. No -- yes. And that was overall the best
 10 professional assessment.
 11 Q. You don't recall the exact date on that?
 12 A. No.
 13 Q. Do you recall the date you chose as a
 14 start date for that violation?
 15 A. It depended on the construction and the
 16 violations during the audit.
 17 Q. During the audit?
 18 A. (Nodding head.)
 19 Q. Those are related to violations in Region
 20 9. The testimony in those audits took place in
 21 June of 2012, is that right, or July of 2012?
 22 A. Yes, June 2012.
 23 Q. So it would have been around that date?
 24 A. Yes.
 25 Q. For violations cited in paragraph 10E of

1 the complaint, they're making sure there are all
 2 worthy to control erosion and sediment at the
 3 site and each slip and remained in effective
 4 operating conditions at all times.
 5 Do you recall what you chose as the end
 6 date for those violations?
 7 A. Can you say that again?
 8 Q. This is the allegation that DOT failed to
 9 ensure that all erosion and sediment control
 10 practices identified in each slip remained in
 11 effective operating condition at all times.
 12 A. Can I look at the compliance again to --
 13 Q. Sure.
 14 A. Okay.
 15 Q. Do you recall what date you took as the
 16 end date for that violation?
 17 A. End date would be again -- I believe it
 18 was a one-time short window.
 19 Q. Then for the allegation in paragraph
 20 10-I, "The failure to develop, implement and
 21 enforce a program that describes procedures for a
 22 seat and follow up for complaints or other
 23 submissions submitted by the public regarding
 24 construction sites stormwater runoff."
 25 I direct your attention to Claimant's

1 Exhibit 57.
 2 A. Yes.
 3 Q. What does that state?
 4 A. It says response was submitted in -- to
 5 EPA from DOT.
 6 Q. From DOT, submissions related to their
 7 compliance with the order?
 8 A. Yes.
 9 Q. What is the date of that submission?
 10 A. September 30, 2015.
 11 Q. Is that the date you chose as the end
 12 date for that violation?
 13 A. Yes.
 14 Q. Do you recall what you chose as the start
 15 date for that violation?
 16 A. I believe I used the July 1st, 2011 date.
 17 Q. Statute of limitations date?
 18 A. Yes.
 19 Q. Regarding the allegation in paragraph
 20 10-J of the complaint, "Failure to develop,
 21 implement and enforce a program that ensures that
 22 construction sites, contractors that received
 23 erosion and sediment control training," do you
 24 recall the date of determining that DOT had come
 25 into compliance?

1 A. Depending on the submittal from DOT.
 2 Q. That submittal is in the record. So you
 3 do not recall what the date --
 4 A. I don't recall if there was anything.
 5 Q. Do you recall the date that you chose as
 6 a start date for that violation?
 7 A. Most likely July 1st, 2011.
 8 Q. Okay. For the count, the allegation in
 9 paragraph 10-K of the complaint, "Failure to
 10 develop, implement and enforce a program that
 11 ensures adequate long-term operations and
 12 maintenance, management practices, attorneys,
 13 staff including assessments to ensure practices
 14 are performing properly." I draw your attention
 15 to Exhibit 50.
 16 A. Yes.
 17 Q. Do you recognize that exhibit?
 18 A. Yes.
 19 Q. What is it?
 20 A. It's a letter from DOT in response to the
 21 order.
 22 Q. Attempting to demonstrate compliance?
 23 A. Yes.
 24 Q. What is the date of that?
 25 A. The date of the submittal is October

1 31st, 2014.
 2 Q. Did you take that as the date for
 3 compliance from the allegations of the
 4 requirement in 10-K?
 5 A. Yes.
 6 Q. What did you choose as your start date
 7 for that violation?
 8 A. I used July 1st, 2011.
 9 Q. For the allegations stated in paragraph
 10 10-L of the complaint, "The failure to develop,
 11 implement pollution prevention and a good
 12 housekeeping program." I draw your attention to
 13 Complainant's Exhibit 58.
 14 A. 58, yes, good housekeeping program. Can
 15 I look at the complaint?
 16 Q. Sure.
 17 A. What paragraph are you talking about?
 18 Q. Paragraph 10-L.
 19 A. Yes, okay.
 20 Q. You've already stated that that date is
 21 December 1, 2015, the submittal, correct?
 22 A. Yes.
 23 Q. Did you choose that date -- is that
 24 submission to demonstrate compliance, is that a
 25 procedural requirement?

1 A. Yes.
 2 Q. Did you take that date as the end date of
 3 the violation?
 4 A. Yes.
 5 Q. What date did you take as your start date
 6 for that violation?
 7 A. I believe I chose July 1st, 2011.
 8 Q. All right. Just a few more. Regarding
 9 the allegation in paragraph 10-M of the
 10 complaint, "The failure to develop and implement
 11 self assessment for pollution prevention and good
 12 housekeeping." I want to direct your attention
 13 back to Complainant's Exhibit 53.
 14 A. Okay.
 15 Q. You testified that submission was dated
 16 April 30, 2015. Did that submission demonstrate
 17 compliance with this requirement?
 18 A. No.
 19 Q. Was there something else, something else
 20 that helped you determine they had come into
 21 compliance with that requirement?
 22 A. Yes.
 23 Q. Do you recall what that is?
 24 A. That is Exhibit 58.
 25 Q. 58, okay. What is the date of Exhibit

1 58?
 2 A. 58 is the September 1st, 2015 submittal.
 3 Q. Is that the date you chose --
 4 A. Yes.
 5 Q. -- as the compliance date for that
 6 allegation?
 7 A. Yes.
 8 Q. What did you choose as the start date for
 9 that violation?
 10 A. July 1st, 2011.
 11 Q. Again, the statute of limitations?
 12 A. Yes, that's correct.
 13 Q. Regarding paragraph 10-N, in the
 14 complaint, that DOT failed to develop and
 15 implement pollution prevention, good housekeeping
 16 program that included employee training
 17 component.
 18 I direct your attention to Complainant's
 19 Exhibit 50.
 20 A. 50, okay.
 21 Q. What is that?
 22 A. It's a submittal from DOT to EPA in
 23 response to the order.
 24 Q. What is the date of that submittal?
 25 A. October 31, 2014.

1 Q. Was that the date you took as the date
 2 DOT had come into compliance with that
 3 requirement?
 4 A. Yes.
 5 Q. What date did you choose as the start
 6 date for that violation?
 7 A. July 1, 2011.
 8 Q. Okay. Last one. Regarding paragraph
 9 10-O of the complaint, that DOT failed to select
 10 and implement appropriate PM or to prevent good
 11 housekeeping.
 12 I refer you to Complainant's Exhibit 48.
 13 A. You asked me a different question
 14 earlier. I'll get back to you on that.
 15 Q. Well, let's do that now. Tell me about
 16 that.
 17 A. You asked about the contractor training.
 18 Q. Uh-huh.
 19 A. That was part of this submittal.
 20 Q. Okay. And let's clarify which contractor
 21 training. Regarding MCM4?
 22 A. Yes.
 23 Q. MCM4, correct?
 24 A. Yes.
 25 Q. And that would be K and J.

1 And does that refresh your recollection
 2 about the date you chose as the date of
 3 compliance for that violation?
 4 A. Yes. That was the July 1st, 2015
 5 submittal. That was actually DOT's response to
 6 us where they -- where the contractor language,
 7 fax submittal, a mandatory certification. At
 8 that time, contractor and subcontractor.
 9 Subcontractor, I understand, kept general
 10 compliant conditions and a response to
 11 compliance.
 12 Q. Did you take that as demonstrating
 13 compliance with that --
 14 A. Yes.
 15 Q. Okay. And you said the date was July
 16 1st, 2014?
 17 A. 2015.
 18 Q. Is that the date that you took as the
 19 compliance date for that requirement?
 20 A. Yes.
 21 Q. Okay. Thank you for clarifying that.
 22 Okay. The last one then --
 23 A. Can I also say something? But they, I
 24 believe, going back, I also looked at the
 25 guidance that DOT submitted, and it also applied

1 all of the guidance prior to the audit, so it's
 2 not included in my calculations.
 3 Q. For J and K?
 4 A. No, I'm sorry. I misspoke. I'm
 5 mistaken.
 6 Q. I know there was lot of back and forth
 7 during the -- regarding the order --
 8 A. Yes, the ordinary process.
 9 Q. Right. You had already explained that
 10 you know there were some 30-on ordered provisions
 11 the complainant only -- in this count, the 17
 12 violations.
 13 A. Yes.
 14 Q. Is that one of the things that got
 15 whittled down from the complaint?
 16 A. Yes.
 17 Q. Okay. So, 10-O, is the failure to select
 18 and implement appropriate BMP for pollution
 19 prevention and good housekeeping.
 20 And I direct your attention to 48.
 21 A. Yes. This is they had submitted
 22 photographs of follow-up actions they had taken
 23 at the ten municipal facilities.
 24 Q. Okay. And did you take that as
 25 demonstrating compliance with that requirement?

Page 344

1 A. Yes.

2 Q. Did you choose the July 1st, 2014 date as

3 the end date for that violation?

4 A. Yes.

5 Q. What date did you choose as the start

6 date for that violation?

7 A. I believe we chose the 31st of August,

8 audit start date, so that was June 27.

9 Q. The 1st, I believe, Region 9?

10 A. Yes.

11 Q. Okay. And then did you calculate total

12 number of days in violation based on --

13 A. Yes.

14 Q. -- the duration that you used? And what

15 is that number?

16 A. Estimated number 16,216 days, the file

17 was breached.

18 Q. Did you then calculate what the statutory

19 maximum penalty would be for 16,218 violations?

20 A. Yes. At 16,000, it would have been

21 259,488,000.

22 Q. Okay. So now I'm going to move on to

23 economic benefit. You mentioned economic

24 benefit. Can you say a little bit about what

25 economic benefit is?

Page 345

1 A. Economic benefit is the cost of

2 noncompliance associated with risk, delayed costs

3 as afforded to them.

4 Q. So is it money a violator paid by not

5 complying timely? Is that an accurate

6 description?

7 A. Yes.

8 Q. Did you calculate the economic benefit

9 for DOT's violations in this case?

10 A. Yes.

11 Q. How much did you calculate the economic

12 benefit was in this case?

13 A. I calculated the amount of expenses of

14 around \$89,000.

15 Q. What did you use to determine, what kind

16 of information did you use to estimate how much

17 benefit you arrived at in this case?

18 A. I used information from DOT's progress

19 report, as well as my best professional

20 judgement.

21 Q. When you say "best professional

22 judgment," what do you mean, estimates of various

23 costs?

24 A. Yes.

25 Q. All right. Let's move on now to gravity

Page 346

1 calculations. Do you consider the gravitus

2 significance of the violations in determining the

3 penalty?

4 A. Yes.

5 Q. You've testified that the focus of this

6 audit was on minimal control measures of

7 assessments finalized.

8 A. Okay.

9 Q. Is that how you approached your gravity

10 determination?

11 A. Yes.

12 Q. So for the violations related to the

13 listed discharge, protection and elimination

14 requirements, what was the significance of the

15 violations in this case?

16 A. The sediment can have an adequate

17 discharge protection elimination program starting

18 to track down inundated issues, and the failure

19 to have a training program for staff, that it

20 would screen potential environmental harms so

21 that we're using a guidance calculation.

22 Q. Did you find that to be a significant

23 violation of failing?

24 A. According to my calculations, yes.

25 Q. And for MCM4 construction site stormwater

Page 347

1 controls, what did you consider to be the

2 significance of the violation related to that?

3 A. To have a life in public to report to

4 DOT, that DOT staff were aware of at the regional

5 level and documenting training as well as the

6 physical observations that were observed at the

7 construction site, which could be used as

8 discharged water potentially being lost.

9 Q. Regarding MCM5, post-construction

10 stormwater controls, what did you assess as the

11 gravitus or significance of those violations to

12 be?

13 A. When I was evaluating my gravitus for

14 post construction, the lack of training programs

15 to ensure proper operation and maintenance and

16 trained staff to ensure that communities post

17 construction stormwater management practices are

18 functioning properly and populating, it would be

19 a factor.

20 Q. And how significant do you feel those

21 violations were?

22 A. Impeccable.

23 Q. And finally, for Minimum Control Measures

24 6, pollution prevention and good housekeeping

25 practices. What's the significance or gravity

1 did you assess for -- did you feel was
 2 attributable to those violations?
 3 A. When I had to do -- track assessments, it
 4 went to a lack of awareness.
 5 Most pollutants of concern existed at
 6 more poor residences, not precluding town
 7 residences.
 8 Anybody knows, if you've watched a lot of
 9 sites and watched potential run-off sites, you
 10 would have problems, water problems, and
 11 potentially other MS4s adjacent to DOT
 12 residencies can lead to environmental harms, as
 13 well as training staff.
 14 Q. Okay. And you mentioned that one of the
 15 statutory factors is the admissible culpability.
 16 Did you consider the DOT's -- the fact
 17 that the DOT first obtained permit coverage in
 18 2003, did that factor in in your culpability?
 19 A. The fact that DOT had been permitted to
 20 nine years prior to that audit, this one was
 21 non-compliant in 2013.
 22 Q. So after considering all these violations
 23 and the potential of environmental harm, what did
 24 you calculate the gravity to be, the penalty
 25 portion?

1 A. I believe my gravity came out to be
 2 around \$77,000.
 3 Q. So you said the economic benefit was
 4 89,000. The gravity was 77,000. So those are
 5 the two main components?
 6 A. Yes.
 7 Q. What are the totals of those numbers?
 8 A. About 165,000.
 9 Q. 165,000. The complaint proposes to
 10 assess a penalty of 150,000.
 11 A. That's correct.
 12 Q. So how did you decide to go from 165 to
 13 assessing a penalty of 150?
 14 A. After I calculating the penalties, we
 15 posted it in the plan of action. The plan of
 16 action has a cap. We decided to apply a
 17 reasonable penalty, a penalty of \$150,000.
 18 MR. SAPORITA: Thank you. That's
 19 all.
 20 MR. WINANS: May I please The Court.
 21 ALJ BIRO: Yes.
 22 CROSS-EXAMINATION
 23 BY MR. WINANS:
 24 Q. Hello, Ms. Arvizu. So, I direct your
 25 attention, I think you have a copy of it, that

1 would be Complainant's Exhibit 60, which is the
 2 actual complaint. Do you have that complaint?
 3 A. Yes.
 4 Q. And I notice that the complaint, it
 5 actually starts with a letter from Dore LaPosta;
 6 is that correct?
 7 A. Yes, that's correct.
 8 Q. And the complaint itself is signed by
 9 Dore LaPosta?
 10 A. Yes, that's correct.
 11 Q. So, is Dore LaPosta the management person
 12 at EPA who approves the amounts of penalties that
 13 go into complaints like this?
 14 A. Dore, yes. The decisions are up to her.
 15 My decision is to request a response.
 16 Q. So is she the person who made the
 17 decision about the 150,000? You've seen the
 18 document that she signed?
 19 A. Yes.
 20 Q. So what is your role in calculating the
 21 recommended penalty?
 22 A. I make the calculations. I approve
 23 through management. I make the penalty as
 24 determined to date.
 25 Q. And did you use the process that you

1 described on direct examination to formulate that
 2 penalty?
 3 A. Yes.
 4 Q. And if I heard you correctly, you
 5 indicated that there were -- the components of
 6 economic benefit and gravity; is that right?
 7 A. Yes.
 8 Q. And those two elements added up to
 9 \$166,000?
 10 A. Lost from the company, \$65,000.
 11 Q. Oh, I added in 77 to get 166. Where did
 12 I make the mistake?
 13 A. I said roughly 89 and roughly 77. So
 14 yes, 166, yes.
 15 Q. If I understood your testimony correctly,
 16 in evaluating the different alleged components of
 17 the violation and calculating the daily penalty
 18 which you set at \$16,000 per day, that worked out
 19 to \$259,488,000. Did I hear that correctly?
 20 A. Yes.
 21 Q. That's based upon your calculation of
 22 16,218 dates?
 23 A. Yes, that's correct.
 24 Q. Correct me if I'm wrong, but it would
 25 seem as though, since there's only 365 days a

1 year, and since you only went back five years on
 2 the worst, in your estimation, violation, you
 3 must have like counted days multiple times in
 4 that calculation. Would that seem correct?
 5 A. That's day per violation.
 6 Q. Right. So there were -- your letter O.
 7 O is the 15th letter in the alphabet. So there
 8 are 15 different alleged violations in the
 9 complaint, and some of them, I think you will
 10 agree, were just one-time violations, correct?
 11 A. I'm not sure.
 12 MR. SAPORITA: Your Honor, it states
 13 for the record there are actually 17 --
 14 ALJ BIRO: I understand.
 15 MR. WINANS: Subparts.
 16 MR. SAPORITA: Oh, there's subparts
 17 to -- (Overlapping)
 18 MR. WINANS: There's three, but
 19 they're inseparable --
 20 MR. SAPORITA: Literally the letter
 21 O is the 15th letter of the alphabet.
 22 Okay. We'll stipulate to that.
 23 BY MR. WINANS:
 24 Q. So were some of the violations one-time
 25 violations that you found?

1 A. In the process of my calculation, I
 2 considered it once for the time of this
 3 calculation, but from the gravity estimate, would
 4 be one.
 5 Q. So it was a one-time, you didn't count it
 6 for a full five years; is that correct?
 7 A. I'm sorry. Do you want to --
 8 Q. If there was a one-time violation, if you
 9 went out and you did an audit and you found, for
 10 example, a situation where a silt fence had been
 11 knocked down, did you calculate the penalties for
 12 that violation based upon a five-year occurrence,
 13 or did you calculate it based on a one-time
 14 occurrence?
 15 A. No.
 16 Q. Which, Ms. Arvizu, was it, five years --
 17 A. To answer your question, no, it was one
 18 time, via one time --
 19 Q. Thank you. That's all I was trying to
 20 figure out.
 21 Now, you testified earlier in these
 22 proceeding about the initial administrative
 23 compliance order that was served back in March of
 24 2014.
 25 A. Correct.

1 Q. And I understand you don't recall any
 2 conversation about a penalty at the meeting that
 3 occurred after the administrative compliance
 4 order that was served; is that correct?
 5 A. Yes.
 6 Q. And we did go over last time the fact
 7 that the administrative compliance order does
 8 mention a penalty of \$37,500 per day. Do you
 9 remember that?
 10 A. Yes, we discussed that.
 11 Q. And when you met with the people from
 12 DOT, you don't recall any questions about the
 13 penalties, but at some point you calculated a
 14 penalty; isn't that right?
 15 A. After they returned the compliance.
 16 Q. Did you ever mention or think to mention
 17 that anyone that you were working with at DOT
 18 that I'm keeping track of the number of days that
 19 you're out of compliance and we're going to
 20 assess a penalty when this is over. Did you tell
 21 them that?
 22 A. No.
 23 Q. Why didn't you tell them that?
 24 A. (No response.)
 25 Q. Did it ever occur to you, Ms. Arvizu,

1 that if the employees at DOT thought that there
 2 would be a daily penalty assessed for their delay
 3 in complying, that they might get the job done
 4 faster to save money?
 5 MR. SAPORITA: Objection, Your
 6 Honor. It's a hypothetical.
 7 ALJ BIRO: Sustained.
 8 BY MR. WINANS:
 9 Q. Okay. Ms. Arvizu, is this the only
 10 matter that you've worked on at EPA in the last
 11 five years?
 12 A. No.
 13 Q. Have you worked on other compliance
 14 orders?
 15 A. Yes.
 16 Q. And I direct your attention to Exhibit
 17 60. There is a number attached to this
 18 proceeding, and the number is CWA02-2016-3403.
 19 Do you see that?
 20 A. Yes.
 21 Q. Now, I take it CWA is a reference to the
 22 Clean Water Act. Would that be correct?
 23 A. Yes.
 24 Q. And it looks like a 02. Is that a
 25 reference to your region?

1 A. Yes.
 2 Q. And 2016, I take it that's the year that
 3 the matter is issued?
 4 A. Yes.
 5 Q. Then the last number, where does that
 6 come from, the 3403 number?
 7 A. That is the docket number.
 8 Q. Does that suggest that Region 2 of the
 9 EPA issued 3,403 proceedings in the year 2016?
 10 A. No.
 11 Q. Is that the total number of matters
 12 pursued in Region 2 of the EPA?
 13 A. No.
 14 Q. Where does that number come from?
 15 A. That number is the docket number. My
 16 class reissued penalty orders for Class 1 and
 17 Class 2. For example, for DOT, this was the
 18 third Class 2, more than -- the last three digits
 19 indicate -- how many -- what that order is to be
 20 that year, so.
 21 Q. So how many matters were pursued by
 22 Region 2 of the EPA 2016?
 23 A. I don't have that information in front of
 24 me.
 25 Q. Would it be correct to state that any

1 matter where an administrative penalty is going
 2 to be assessed, that the EPA, as a regular
 3 practice, files a public notice --
 4 A. Yes.
 5 Q. -- and does that public notice indicate
 6 the nature of the alleged violation, the identity
 7 of the alleged violator and the proposed penalty
 8 that was being sought?
 9 A. Can you say that again? I want to make
 10 sure I understood that.
 11 Q. Rather than have her read it back, I will
 12 say it again. Okay.
 13 Is it correct that the public notices
 14 that are issued by the EPA in connection with
 15 proposed administrative penalties include upper
 16 bid-up work; they include the nature of the
 17 violation; is that correct?
 18 A. The nature of the violation -- they
 19 normally include the type of the order that's
 20 being issued.
 21 Q. Well, do they reference the Clean Water
 22 Act, the Clean Water Act in connection with the
 23 violation?
 24 A. Yes.
 25 Q. Do they reference Section 33 USC 1319,

1 dates of penalties?
 2 A. Yes.
 3 Q. Do these public notices that are issued
 4 by the EPA also identify alleged violations?
 5 A. Yes.
 6 Q. And do the public notices indicate the
 7 amount of the penalties that are being sought?
 8 A. Yes.
 9 Q. Was public notice 2016-26 issued in
 10 connection with the current proceedings against
 11 the New York State Department of Public
 12 Transportation?
 13 A. Yes.
 14 Q. And does that public notice indicate the
 15 penalty being sought of \$150,000?
 16 A. Yes.
 17 Q. And is that penalty consistent with the
 18 penalty that's stated in the complaint, which is
 19 Exhibit 60?
 20 A. The penalty --
 21 Q. Are they both 150?
 22 A. No, they're both not 150, no.
 23 Q. I notice that the date of the complaint
 24 that was issued is June 15, 2016. So assuming,
 25 and I realize you do not have it in front of you,

1 but assuming that the date of the public notice
 2 is July 1st, it would have been sent out about
 3 two weeks later; is that right?
 4 A. That's about right, yes.
 5 Q. Now, does the EPA issue public notices on
 6 all of the matters with Clean Water Act
 7 violations where they seek a penalty?
 8 A. As a practice, yes.
 9 Q. And would you agree that one of the
 10 objectives of the EPA in doing enforcement would
 11 be to be consistent with the rules of the EPA,
 12 the guidelines that you have, and is provided as
 13 Complainant's Exhibit 65, that's the guidelines?
 14 A. The guidelines of the policies?
 15 Q. Yes.
 16 A. What was your question again?
 17 Q. Is this the guide that's used within the
 18 EPA in seeking a penalty?
 19 A. For the Clean Water Act, for the
 20 settlement policies.
 21 Q. Understood. How many matters did the EPA
 22 pursue in Region 2 in 2016 to the present in
 23 seeking penalties?
 24 MR. SAPORITA: Objection. Goes
 25 beyond the scope of this witness's

Page 360

1 testimony. It's completely irrelevant to
 2 the issues in front us today.
 3 MR. WINANS: Your Honor, the
 4 Respondent in these proceedings contend
 5 that she expects that it might be
 6 considered appropriate to impose a
 7 penalty upon the New York State
 8 Department of Transportation, but the
 9 penalty should be consistent with the
 10 penalty being assessed by the EPA for
 11 similar violations.
 12 In short, the penalty should fit the
 13 crime; and therefore, I contend that this
 14 agency's history of extracting penalties
 15 from other respondents is irrelevant.
 16 Now, it may not be that this witness
 17 has knowledge of the specific amounts
 18 being assessed.
 19 I would point out that EPA does have
 20 a web site that does have the
 21 information. It's sort of a list, sort
 22 of like a brag page of what they've
 23 collected on similar penalties. And it
 24 is the Respondent's intention to
 25 introduce evidence from that. This is

Page 361

1 evidence that comes from the EPA itself.
 2 ALJ BIRO: I think you'll find,
 3 Mr. Winans, that the Environmental
 4 Appeals Board has disagreed with your
 5 position on that, and they found that
 6 every case is individual and what has
 7 happened in other cases in terms of
 8 penalties is not necessarily even
 9 influential, much less binding, on any
 10 further penalties determined. But I will
 11 reserve your right to make that argument
 12 one more time, if you wish, and then
 13 proceed with your question.
 14 MR. WINANS: Well, let me simply ask
 15 the witness this one question.
 16 BY MR. WINANS:
 17 Q. Isn't it true, Ms. Arvizu, that in the
 18 year 2016, the penalty expressed in the
 19 complaint, Exhibit 60, against the New York State
 20 Department of Transportation for \$150,000 was, by
 21 far, the largest penalty sought by your region?
 22 MR. SAPORITA: Objection,
 23 Your Honor, for several reasons. One,
 24 particularly, the dialog we just spoke
 25 of; and secondly, there is both

Page 362

1 administrative and civil penalties as
 2 well. And I am required to say that the
 3 both the civil proceedings and the
 4 administrative proceedings that have been
 5 conducted by the EPA are well outside the
 6 witness' knowledge both with respect to
 7 all of the potential actions taken by --
 8 I don't know even know what Region 2 is
 9 here, but it's far beyond the scope of
 10 this witness's testimony, wouldn't be
 11 anything that could remotely be
 12 considered relevant.
 13 ALJ BIRO: Overruled. If she knows,
 14 she can answer.
 15 THE WITNESS: I don't know.
 16 MR. WINANS: Thank you. I don't
 17 have anything further of this witness,
 18 Your Honor.
 19 ALJ BIRO: Did you have anything?
 20 MR. GARELICK: I don't have
 21 anything.
 22 ALJ BIRO: Redirect?
 23 REDIRECT EXAMINATION
 24 BY MR. SAPORITA:
 25 Q. I'm showing the witness Complainant's

Page 363

1 Exhibit 47, which is the June 5th, 2014
 2 Administrative Compliance Order.
 3 Let's step back. Let's go to
 4 Complainant's Exhibit 47. And if you would turn
 5 to page 6. Is that a list of approximately 20
 6 different violations of the Stormwater Pollution
 7 Prevention Plan requirement by the DOT?
 8 A. I'm sorry?
 9 Q. The list would be in your Findings of
 10 Violation, the findings of the fact and the
 11 conclusions of law section. You list a number of
 12 violations of their construction of storm water
 13 control requirements.
 14 A. Stormwater controls?
 15 Q. Can you read Paragraph 9?
 16 A. 9, yes. "Based on the findings, EPA's
 17 findings, that upon" ...
 18 Q. I'm sorry, 9, Sub 9, on Page 6.
 19 A. Are you talking page 6, to start reading
 20 on page 6?
 21 Q. Actually, paragraph.
 22 A. Oh, that's why. That's why. Okay. That
 23 makes sense now.
 24 Q. So that has numerous violations under
 25 "Requirement to develop a program that provided

1 added protection of the construction in general,"
 2 right?
 3 A. Yes.
 4 Q. Numerous violations. Okay. I counted
 5 21. Does that sound about right?
 6 A. Yes, that sounds about right. Yes.
 7 Q. And turning to page 10 -- starting on
 8 page 9, but turning to page 10, is that a list of
 9 numerous -- and I count 51 -- violations of
 10 implementation of pollution prevention and good
 11 housekeeping BMP?
 12 A. No.
 13 Q. Okay. In the complaint, how many
 14 violations is EPA seeking, characterizing the 21
 15 separate violations in the order?
 16 A. Not including us?
 17 Q. Yes. How many counts in the complaint do
 18 all of those violations amount to?
 19 A. One.
 20 Q. Thank you. And for the list of 51
 21 separate EGH violations cited in the order, how
 22 many violations does that amount to?
 23 A. One. Okay.
 24 MR. SAPORITA: I have no further
 25 questions.

1 RE-CROSS-EXAMINATION
 2 BY MR. WINANS:
 3 Q. If I may inquire very briefly.
 4 Ms. Arvizu, in connection with the
 5 violations that were related to the construction
 6 work by contractors, were you advised after the
 7 fact, during the compliance process, that New
 8 York State DOT had contract requirements for its
 9 contractors, telling them they needed to comply?
 10 A. I have to go back into my notes, into my
 11 details. I don't have that in front of me.
 12 Q. We could agree that on a construction
 13 site, where a contractor is working, and there is
 14 not anybody there from DOT, that the contractor
 15 would be in a better position to be involved in
 16 the minutiae of complying?
 17 A. On site, yes. However, DOT has the
 18 responsibility to ensure compliance with the
 19 construction, in general.
 20 Q. In fact, they're supposed to do
 21 inspections on a regular basis; isn't that right?
 22 A. Who?
 23 Q. The DOT, because it's a DOT construction
 24 contract.
 25 A. Yes.

1 Q. And the construction contracts that DOT
 2 has, they're supposed to inspect them at least
 3 once a week; isn't that right, and have
 4 documentation?
 5 A. DOT has to ensure compliance with the
 6 final permit. That permit has four programs.
 7 Q. And isn't it true that that requirement
 8 includes the preparation of the inspection report
 9 at least once a week?
 10 A. I'd have to go back to DOT's program to
 11 see.
 12 MR. WINANS: All right. Nothing
 13 further.
 14 MR. SAPORITA: Nothing further for
 15 this witness.
 16 EXAMINATION BY
 17 ALJ BIRO:
 18 Q. Ms. Arvizu, you said you relied on the
 19 penalty policy?
 20 A. Yes.
 21 Q. Am I correct that the violation in making
 22 your -- the penalty in this case, the penalty
 23 policy referred to is Complainant's Exhibit 65?
 24 A. Yes.
 25 Q. This penalty policy in 13 refers to

1 Exhibit 60; is that correct?
 2 A. Yes.
 3 Q. Previously, you said that this policy
 4 could not be used in litigation; is that correct?
 5 A. That's correct. If we reach a settlement
 6 again, after we run through the next process. I
 7 developed it for settlement purposes.
 8 Q. And the number you developed of 150, was
 9 that also for settlement purposes?
 10 A. It's only for settlement purposes.
 11 MR. SAPORITA: Your Honor, she's
 12 mistaken about that.
 13 ALJ BIRO: I don't think she is.
 14 The settlement policy says you're only
 15 supposed to use the number calculated on
 16 there. It's explicitly for settlement.
 17 And it says it's probably not intended to
 18 be used in the case today. Why isn't it?
 19 Because the administrative judge is the
 20 officer who is there for the trial.
 21 MS. MC NALLY: Where are you?
 22 ALJ BIRO: Or assume, in good faith,
 23 that she says she used it to determine
 24 settlement, and she did that, included
 25 with the policy.

1 MS. MC NALLY: So --
 2 AJR BIRO: I wasn't finished.
 3 MS. MC NALLY: Sorry.
 4 BY AJR BIRO:
 5 Q. My question here is: You developed that
 6 proposed penalty of \$160,000 for settlement
 7 purposes; is that correct?
 8 A. My offer is for settlement purposes.
 9 Q. Is there a different policy or an
 10 additional policy that you relied upon to
 11 calculate the penalty used that you were
 12 proposing in this litigation?
 13 A. No, this is only for settlement. This is
 14 the only policy I used.
 15 Q. There are no other EPA policies you rely
 16 on to determine the penalty for litigation
 17 purposes?
 18 A. Litigation -- beyond the --
 19 Q. For this case. In this case, did you
 20 look at any other policies, any other policies
 21 that would apply to determine a penalty you would
 22 propose here?
 23 A. I'm not sure I'm following your question.
 24 With respect to the EPA, it has since 1995 --
 25 Q. For settlement?

1 A. For settlement.
 2 Q. It has no policy for litigation for the
 3 Clean Water Act?
 4 A. No.
 5 Q. In this case, you did not look at any
 6 other agency's policy to determine the penalty of
 7 litigation in this case?
 8 A. For litigation, like we're in right now,
 9 in litigation?
 10 Q. Yes.
 11 A. No. I only developed the policy for
 12 settlement purposes, so I have nothing to follow
 13 up, anything beyond settlement, if that's what
 14 you're asking.
 15 Q. Yes.
 16 A. No, I'm not, anything beyond settlement.
 17 Q. Okay. The policy says that -- this
 18 policy says that you will not be calculating at a
 19 lower amount, to increase through its staff in
 20 settlement?
 21 A. That is correct.
 22 Q. Taking into account each risk, as going
 23 to a hearing; is that correct?
 24 A. Yes.
 25 Q. So my assumption is that the amount

1 you-all take into account in litigation, you
 2 might calculation in litigation, would be higher
 3 than the amount you-all assessed in settlement;
 4 is that correct?
 5 A. Possibly in settlement. Yes.
 6 Q. In this case, you requested the exact
 7 same amount in litigation on this settlement; is
 8 that correct?
 9 A. I did not re-calculate for ligation.
 10 Q. Okay. You put in your Clean Water Act
 11 public notice \$450,000 as the amount you were
 12 seeking. Did you consider that as the absolute
 13 maximum the agency could obtain in this case or
 14 the settlement amount the agency would obtain?
 15 A. We are -- in the public notice, that was
 16 the amount we were seeking.
 17 Q. The most you were seeking?
 18 A. Yes, the most we were seeking.
 19 Q. Okay. There are a few gravity
 20 instruction factors in this policy, for example,
 21 for internal leave.
 22 A. No.
 23 Q. Did you consider that in your
 24 calculations?
 25 A. No.

1 Q. And why didn't you consider it?
 2 A. Because, like I said, there was no
 3 information that was given to us. I maybe think
 4 that DOT would not be able to obtain a penalty.
 5 Q. Does DOT provide you any information
 6 regarding their financial resources?
 7 A. No.
 8 Q. Did you consider any issues of prior
 9 history of violations in calculating your
 10 penalty?
 11 A. No.
 12 Q. And why did you not consider that?
 13 A. Because like I said, there that was no
 14 prior history to include in my --
 15 Q. So you didn't include the history for
 16 that factor?
 17 A. It's not a factor.
 18 Q. It's not a factor. Okay.
 19 Were there any factors you considered in
 20 your calculations for determining the settlement
 21 now that were not explicitly listed in the
 22 policy, what we might call other factors, as
 23 justice may require?
 24 A. No.
 25 Q. When you reduced the penalty from 165,

1 more or less, to 150, what was the rationale for
 2 that?
 3 A. Ten thousand is a small amount of money.
 4 Q. So you don't know what the specific
 5 rational was; is that correct?
 6 A. Correct.
 7 Q. Did you know, in calculating this penalty
 8 amount, how much the Department of Transportation
 9 had spent in receiving this compliance?
 10 A. Yes. They had made quarterly progress to
 11 us, \$1,000 -- I never sat down and added it up.
 12 Q. But you were aware of those numbers
 13 generally?
 14 A. No.
 15 Q. If they said they spent \$500,000 in
 16 coming into compliance, is that a number that you
 17 considered in calculating your penalty?
 18 A. I wasn't aware of that number. They told
 19 us during the meeting what they were.
 20 Q. Did that number -- is that number, within
 21 your experience, a reasonable number?
 22 A. That number appears to be of staff time.
 23 Q. Do you think that is of staff time?
 24 A. Yes.
 25 Q. Do you think that number is an amount of

1 staff time?
 2 A. Yes.
 3 Q. Was it something you considered in
 4 determining the \$150,000 proposed settlement
 5 figure, whether the respondent was intentionally
 6 violative, negligently violative -- there's
 7 culpability, different types of culpability, like
 8 they know it's a violation, they negligently
 9 dismiss the violation, or knowingly committed
 10 them?
 11 A. The 150,000, you call a penalty?
 12 Q. Well, you said you calculated it for
 13 settlement purposes. Did you take this into
 14 account --
 15 A. I'm sorry. I'm getting confused,
 16 Your Honor, with how the question is posed.
 17 The question of settlement figure, I'm
 18 finding that calculation, the penalty using the
 19 guidance. The penalty has a bottom line that's
 20 based on the calculation.
 21 Q. The fact that the Department of
 22 Environmental Compliance, the New York State
 23 Department of Environmental Compliance, not
 24 filing its own enforcement action a factor in the
 25 calculation of your penalty?

1 A. When you say "did not do," or attachment
 2 to DOT, and since we got the audit, we took
 3 everything as far as -- we did not re-file
 4 --
 5 Q. Thank you. But wouldn't the EPA on its
 6 own also take that into account?
 7 A. Here's why. Often it's not the cause,
 8 it's not the intent of the agency.
 9 Q. Did you take into account the fact that
 10 they would not, or at least did not answer to
 11 their own loss in this case in calculating the
 12 \$150,000 penalty?
 13 A. Not since August of '07.
 14 Q. Did you take into account any issue about
 15 whether the respondent was aware or not aware
 16 that a penalty could be imposed in addition to
 17 being required to be compliant?
 18 A. No.
 19 Q. You said that if you had found out that
 20 DOT, for every day that they were non-responsive
 21 to the violation, it would be 259 million, more
 22 or less, but you've requested a penalty of only
 23 150,000.
 24 A. Okay.
 25 Q. Therefore, would it have made any

1 difference to your calculations if they could
 2 have come into compliance one day after you
 3 issued your compliance order?
 4 A. Would it make a difference if they came
 5 into compliance in one day?
 6 Q. Yes, instead of two years down the road.
 7 A. I would have to ascertain that.
 8 Q. How much you viewed it for or suggested
 9 on this settlement figure of \$150,000?
 10 A. That form was backdated.
 11 Q. Right. What I'm thinking here is the
 12 start date is already going back in many cases
 13 five years. You ended it sometime -- two years
 14 in the process. They actually came into the
 15 process, but to a large extent, even on the first
 16 day, when the administrative compliance order was
 17 issued, were they not already, in many cases,
 18 three or five years out of compliance? I mean,
 19 if you would have picked an end date, literally
 20 one day after the compliance date, they're still
 21 going to be given five years in order to comply.
 22 A. (Witness nods head.)
 23 Q. So would it have made any difference to
 24 the settlement figure, as you indicated, if they
 25 had come into compliance in one day, the first

1 day?
 2 A. I'm not really sure. I'm pulling on the
 3 question.
 4 Q. All right. Forget it. Fine.
 5 ALJ BIRO: All right. Did any of my
 6 questions raise any questions for you,
 7 Mr. Saporita?
 8 MR. SAPORITA: No.
 9 MR. WINANS: Can we just have one
 10 second to discuss?
 11 ALJ BIRO: Sorry. Let me ask just
 12 one more question.
 13 MR. WINANS: Sure.
 14 BY ALJ BIRO:
 15 Q. In doing your calculations for penalty,
 16 did you consider, as to the amounts of
 17 pollutants, or the type of pollutants that might
 18 have entered the stormwater system, as a result
 19 of these violations?
 20 A. The penalty -- I don't believe I did
 21 during the penalty calculation phase.
 22 ALJ BIRO: All right. I'm sorry.
 23 REDIRECT EXAMINATION
 24 BY MR. SAPORITA:
 25 Q. I think I might have gotten this out of

1 the questions from the Judge, but is there an EPA
 2 policy for determining proposed penalties in
 3 litigation outside of the content of settlement?
 4 A. Not that I'm aware of.
 5 Q. And your testimony here today about the
 6 guidance you took from the settlement penalty
 7 policy, was that intended to demonstrate a
 8 consistency in the approach to the way the agency
 9 calculates penalty?
 10 A. Yes.
 11 MR. SAPORITA: That's all I have.
 12 RECROSS-EXAMINATION
 13 BY MR. WINANS:
 14 Q. I just want to verify one more thing.
 15 Ms. Arvizu, I want to direct your
 16 attention to Exhibit 59. Do you have that?
 17 A. It's in front of me.
 18 Q. And on that screen, that happens to be
 19 page 9. This is one of the regular progress
 20 reports that we sent to you. In fact, this one
 21 was sent in February of 2013 by John C. Bass. Do
 22 you recognize that?
 23 ALJ BIRO: You're looking at Exhibit
 24 59, page 9?
 25 MR. WINANS: Page 9 of Exhibit 59.

1 I can show you the first page.
 2 A. Yes, I see. Yes. It's the final
 3 submittal of DOT. Yes, I recognize this now.
 4 BY MR. WINANS:
 5 Q. You were asked by the judge whether DOT
 6 advised you as to the amounts of money and costs
 7 associated with coming into compliance, and you
 8 said that you didn't get that. Do you see it
 9 there on page 9?
 10 A. I recognize it now, yes. Thank you.
 11 Q. Thank you.
 12 MR. WINANS: That's all I wanted.
 13 ALJ BIRO: Okay. Thank you.
 14 Ms. Arvizu, you may step down.
 15 Is there any intention by either of
 16 you recalling Ms. Arvizu for rebuttal?
 17 MR. SAPORITA: No. She is with us.
 18 She's going to stay.
 19 ALJ BIRO: Okay. It's 12:30. We
 20 can break for lunch. How long do you
 21 need? Can we come back a little after 1,
 22 do you think, a shorter lunch so we can
 23 have all afternoon for the Respondent's
 24 case?
 25 MS. MC NALLY: Our designated

1 representative is saying that she doesn't
 2 think she can eat that fast. She has low
 3 blood sugar.
 4 ALJ BIRO: What time do you think,
 5 1:30?
 6 MS. MC NALLY: She says 1:30 is
 7 fine.
 8 ALJ BIRO: Okay. We'll stand in
 9 recess until 1:30. Thank you.
 10 (LUNCH RECESS: 12:30 TO 1:30 P.M.)
 11 THE COURT: Ms. Reporter, are you
 12 ready to begin?
 13 COURT REPORTER: Yes, Judge.
 14 ALJ BIRO: Mr. Saporita, would you
 15 like to call your next witness?
 16 MR. SAPORITA: We rest.
 17 ALJ BIRO: Before you rest, let me
 18 just go over the exhibits in the record
 19 to make sure there are no other exhibits
 20 you wish to put in your case.
 21 I have Complainant's Exhibits 1
 22 through 6, 8 through 11, 13 through 17,
 23 33 through -- 39A through L?
 24 MR. GARELICK: Exhibit 18.
 25 ALJ BIRO: Would you like me to

Page 380

1 start over?

2 MR. GARELICK: Yes, 13 through 17 --

3 ALJ BIRO: 13 through 17, 20 through

4 27, 30 through 37. I have it -- is it

5 39A through L, and then 42?

6 MR. SAPORITA: A through H.

7 ALJ BIRO: A through H, offered,

8 through L.

9 Are we all in agreement?

10 MR. GARELICK: That's fine.

11 ALJ BIRO: 40 through 42, 44, 45

12 through 47, 56, 59, 72 through 77.

13 Now we have Respondent's Exhibits:

14 24 through 29, 31 through 34, 36 through

15 38, 41 through 43, 45 through 47, 49, 50,

16 53, 54, 56, 57, 58, 64, 66, 67, 70

17 through 72, and Respondent's Exhibit 16,

18 pages 1 and 4 only. Are we in agreement?

19 MR. SAPORITA: That's correct.

20 MR. WINANS: Yes, Your Honor.

21 ALJ BIRO: Do you still want to rest

22 or do you want to make any other

23 application?

24 MR. SAPORITA: We rest.

25 ALJ BIRO: Okay. Ms. McNally, would

Page 381

1 you like to make your opening statement

2 now?

3 MS. MC NALLY: I would. Thank you

4 very much.

5 Imposing a penalty in this matter

6 would be patently unfair. This is not a

7 case where there were a list of

8 discharges found. This is not a case

9 where the State had made little or no

10 effort to comply with the permit. The

11 MS4 of the New York State Transportation

12 system is comprised of approximately

13 16,000 miles of lane of highway and

14 includes 16,806 outfalls.

15 Between 2003, when the first MS

16 permit was issued, and 2012, when the

17 first audit was done, there were two

18 additional permits. Each permit remains

19 and works harder to exceed the last.

20 DOT made good-faith efforts to

21 comply and keep up with these changes

22 over approximately 15,000 miles of the

23 entire land and 16,806 outfalls,

24 regularly submitting a MS4 and scheduled

25 report to DEC which covered outfall

Page 382

1 reconnaissance inventory, construction

2 site inspections, improving DOT erosion

3 and sediment control programs, procedures

4 MNS WME, construction site inspection, an

5 acronym, construction site training,

6 documentation for employee training,

7 outfall mapping, watershed mapping, MCM4

8 enforcing, limited discharge infection

9 program, and a list of discharge traps

10 found for raccoons, and public outreach,

11 all of which DEC exempted and the mere

12 actions, all of which, the EPA issued

13 violations.

14 In his opening, opposing counsel

15 described DOT's failures as fundamental,

16 a large agency as we actively know.

17 EPA found that these areas were so

18 important and so fundamental that they

19 waited two years to inform DOT staff of

20 them.

21 Even after the audit reports were

22 completed, the EPA waited. The Region 9

23 audit report was completed in January

24 2013. The Region 8 audit report was also

25 completed in January of 2013. The Region

Page 383

1 5 audit report was completed in December

2 of 2013. The EPA still waited.

3 It wasn't until March 2014 that EPA

4 advised DOT of the fundamental failures

5 that existed in the MS4 system.

6 This lapse in time shows exactly how

7 significant EPA found DOT's failures.

8 They took the stand of compliance and

9 truth.

10 The truth is Region 2 has never

11 audited a state DOT. New York State was

12 an experiment, a trial. Somebody had to

13 go first. EPA was not familiar with the

14 magnitude of this type of MS4 work. They

15 were not familiar with the jurisdictional

16 issues, they decide linear transportation

17 agencies, and they were not familiar with

18 the organizational structure, and, in

19 fact, authority in a state agency. All

20 of this lack of experience and knowledge

21 led to miscited violations and discussed

22 numerous aspects of this permit and what

23 compliance action was required.

24 And DOT expended far more time and

25 far more money than it actually needed

1 to, to comply with the permit. It
 2 expended \$98,000 more than it needed to
 3 just to satisfy EPA for items that were
 4 outside of some of the requirements.
 5 DOT did all of it, happily, because
 6 they were told the EPA's role was
 7 compliance. And once compliance was
 8 issued, there would be no penalty.
 9 Despite this fact, it is apparently
 10 EPA's policy to get compliance and then
 11 issue an order or -- a penalty once you
 12 have done everything that they've asked
 13 you to do.
 14 This is a case where DOT tried to
 15 comply in the first instance. They tried
 16 harder to comply once they were issued
 17 the compliance order, and they expended
 18 \$98,000 more than was required by the
 19 permit upon -- reliance upon EPA's
 20 promise that if compliance was achieved,
 21 there would be no penalty.
 22 That was still not enough for the
 23 EPA.
 24 In closing, I would hope that if EPA
 25 does audit an agency, and it actually has

1 A. Yes.
 2 (Handing witness her glasses.)
 3 Q. Ms. Kubek, who is your current employer?
 4 A. New York State Department of
 5 Transportation.
 6 Q. What is your title?
 7 A. I'm an environmental specialist.
 8 Q. Can you please describe to me your
 9 familiarity about MS4 systems?
 10 A. I have worked with MS4 permit
 11 requirements and compliance with those
 12 requirements for over 15 years.
 13 Q. In what capacity have you done so?
 14 A. My current capacity with the New York
 15 State Department of Transportation Office of
 16 Environment in compliance with the New York State
 17 work requirements. And prior to that, my
 18 employment with the Department of Environmental
 19 Conservation in advising regulated municipalities
 20 and other nontraditional MS4s in meeting those
 21 permit requirements.
 22 Q. Okay. Do you want to give me a little
 23 bit more of your background? What is your
 24 educational credential?
 25 A. I have a bachelor of science degree from

1 fundamental failures, it will not wait
 2 two years before notifying them of that.
 3 Thank you.
 4 ALJ BIRO: Okay, call your first
 5 witness.
 6 MS. MC NALLY: Your Honor, the New
 7 State Department of Transportation calls
 8 Ellen Kubek.
 9 (Witness coming to the stand.)
 10 Ms. Reporter, would you swear in the
 11 witness.
 12 ELLEN KUBEK,
 13 having been first duly sworn by
 14 the Notary Public, was examined
 15 and testified as follows:
 16 *****
 17 MS. MC NALLY: May I approach the
 18 witness, Your Honor?
 19 ALJ BIRO: You may.
 20 DIRECT EXAMINATION
 21 BY MS. MC NALLY:
 22 Q. Ms. Kubek, I'll show you what has been
 23 entered -- or what has been marked as
 24 Respondent's Exhibit 73. Do you need me to get
 25 your glasses?

1 the University of New York in environmental
 2 science and forestry and in water resources
 3 management, with a concentration in stormwater
 4 hydrology and storm management.
 5 Q. Do you have any certifications?
 6 A. I am a certified professional in erosion
 7 and sediment control, certified professional in
 8 stormwater quality, and a certified professional
 9 in stormwater erosion.
 10 Q. And is all of this contained in
 11 Respondent's Exhibit 73 that I handed you?
 12 A. Yes.
 13 Q. Is that correct and accurate, to the best
 14 of your knowledge?
 15 A. Yes.
 16 MS. MC NALLY: I would like to move
 17 that into evidence.
 18 ALJ BIRO: So moved.
 19 (RESPONDENT'S EXHIBIT 73, RECEIVED
 20 IN EVIDENCE AS OF THIS DATE.)
 21 MS. MC NALLY: And based upon her
 22 testimony, and response to Exhibit 73, I
 23 would like move to have her qualified as
 24 an expert in this case.
 25 ALJ BIRO: In what?

1 MS. MC NALLY: Expert in stormwater
 2 specialist and sediment control.
 3 ALJ BIRO: Expert in stormwater, and
 4 what was the other one?
 5 MS. MC NALLY: Do you have a better
 6 way to phrase that? Erosion and sediment
 7 control.
 8 ALJ BIRO: Any objection?
 9 MR. SAPORITA: No, Your Honor.
 10 ALJ BIRO: So qualified as an expert
 11 in stormwater management and erosion and
 12 sediment control.
 13 MS. MC NALLY: Thank you,
 14 Your Honor.
 15 BY MS. MC NALLY:
 16 Q. Can you just describe for me your
 17 familiarity with DEC and EPA jurisdiction over
 18 MS4?
 19 A. The Clean Water Act delegated the
 20 authority or described the authority for
 21 administering those aspects of clean water
 22 compliance to EPA, and the EPA then delegated
 23 that authority to New York State Department of
 24 Environmental Conservation.
 25 Q. Thank you.

1 And you said you had worked with
 2 nontraditional MS4s prior to working with the
 3 EPA; is that right?
 4 A. That is correct.
 5 Q. Can you tell me some common issues that
 6 you have seen in working with nontraditional
 7 MS4s?
 8 A. The common issues with nontraditional
 9 MS4s in complying with permit requirements are
 10 that the permit requirements seem to be geared
 11 more towards the municipal MS4s, the cities,
 12 towns, villages, and to some extent the county,
 13 and nontraditional MS4s, such as the Department
 14 of Transportation, don't have the regulatory
 15 mechanisms or enforcement mechanisms that the
 16 permits want them to have.
 17 Q. Are you involved in any groups that work
 18 with the DEC or EPA in enforcing the
 19 nontraditional MS4s?
 20 A. Yes.
 21 Q. Can you explain that for me?
 22 A. At the New York State Department of
 23 Transportation, or I can shorten that to DOT?
 24 Q. Yes.
 25 A. With the DOT we have -- I have been a

1 member of a subcommittee that was formed in the
 2 summer of 2016 to discuss proposed revisions of
 3 renewal of the current MS4 permits, and in that
 4 subcommittee representing all nontraditional
 5 MS4s.
 6 Q. So there are nontraditional MS4s in that
 7 subcommittee?
 8 A. There was not at that time. That
 9 subcommittee may be reconvened, and there may be
 10 additional nontraditional MS4s asked to
 11 participate. But at this last round, I was the
 12 only one representing nontraditional.
 13 Q. Can you list some other nontraditional
 14 MS4s in New York State?
 15 A. By "category," they would be
 16 universities, prisons, hospitals, post offices.
 17 Q. How about linear transportation?
 18 A. Yes, New York State Thruway Authority is
 19 also a nontraditional MS4 in New York State.
 20 Q. Was there a time in which you were
 21 present for some of the audits that we discussed
 22 in testimony today?
 23 A. Yes, I was present at the audit in the
 24 Region 9 or Binghamton area.
 25 Q. I'm going to ask that you find

1 Respondent's 2 and 6, and I will help you.
 2 A. Okay.
 3 Q. Start with Respondent's 2. Can you
 4 describe for the record what that is.
 5 A. This is an excerpt of the geodatabase,
 6 part of our geographic information system or GIS
 7 database that the department uses to track all of
 8 our outfall inspections or outfall reconnaissance
 9 inventory.
 10 Q. Okay. What is the significance of the
 11 highlighted portion? Just tell me why you
 12 highlighted.
 13 A. Those highlighted portions are three
 14 outfalls that were visited during the audit. And
 15 this happens to be from Region 5 or our
 16 Buffalo/Niagra region. And these are three of
 17 the outfalls that were visited during an audit of
 18 that region.
 19 Q. Can you just describe how this document
 20 is created?
 21 A. During our outfall inspection or outfall
 22 reconnaissance inventory, the inspectors visit
 23 each of the previously mapped outfalls and gather
 24 the information regarding the characteristics of
 25 the outfalls, the physical characteristics,

1 whether it needs maintenance. But primarily they
 2 are looking for if they have discharged anything
 3 other than the stormwater through the outlets at
 4 the time of the inspection.
 5 Q. Is this document kept in the regular
 6 course of business?
 7 A. Yes.
 8 MS. MC NALLY: I would submit this
 9 document into evidence at this time.
 10 MR. GARELICK: I don't think it's
 11 clear exactly who created this document.
 12 ALJ BIRO: Do you want to lay a
 13 better foundation?
 14 MR. GARELICK: I don't think, yeah,
 15 a proper foundation was laid as to
 16 actually who created it. It is unclear
 17 to establish it as a business record who
 18 actually created it.
 19 MS. MC NALLY: Well, an employee or
 20 a consultant gives the information that
 21 is given to the database.
 22 ALJ BIRO: You can't testify.
 23 MS. MC NALLY: I'm sorry.
 24 ALJ BIRO: Maybe give us more
 25 information on how this document comes to

1 those individuals that prepared this are
 2 the consultant staff that has that
 3 training.
 4 ALJ BIRO: Who can modify or delete
 5 this information?
 6 THE WITNESS: The database can only
 7 be modified by the regional staff or the
 8 consultant doing the inspection.
 9 ALJ BIRO: And you said you created
 10 this page from a database?
 11 THE WITNESS: Yes.
 12 ALJ BIRO: When did you do that?
 13 THE WITNESS: I did this in the
 14 previous summer, so this would have been
 15 during July or August of 2017.
 16 ALJ BIRO: What was your request for
 17 information related to this page?
 18 THE WITNESS: This page was based on
 19 the audit conducted, specifically the
 20 audit of those outfalls.
 21 ALJ BIRO: Were all of those
 22 outfalls the ones that you looked at?
 23 THE WITNESS: Just the ones that are
 24 highlighted in blue or in the -- in each
 25 section.

1 be.
 2 THE WITNESS: I created this
 3 particular page with the description
 4 below that excerpt, but the geodatabase
 5 is created through the use of a tablet or
 6 an iPad or in some cases with geographic
 7 positioning system, or GPS unit, hand-
 8 held unit, taken out into the field
 9 during our inspection, and the data are
 10 entered into the geodatabase in the
 11 field.
 12 And this is an excerpt of the
 13 geodatabase in our Region 5 area.
 14 ALJ BIRO: Who is the universe of
 15 people that enters into that database?
 16 THE WITNESS: The individual
 17 conducting the inspection could be our
 18 regional staff, but also in a lot of
 19 cases they are consultant staff that are
 20 hired specifically through a process of a
 21 request for a proposal from a consultant
 22 that wished to do that work for the DOT
 23 and have the qualifications necessary to
 24 do the outfall reconnaissance inventory.
 25 And in the case of this region, Region 5,

1 ALJ BIRO: So that's a page that is
 2 included on the screen?
 3 THE WITNESS: Yes. There are far
 4 more outfalls than we just show here.
 5 ALJ BIRO: All right. Do you have
 6 any more specific objections?
 7 I'll take that as a no.
 8 MR. GARELICK: No, Your Honor.
 9 ALJ BIRO: Okay. We'll admit
 10 Respondent's Exhibit 2 into the record.
 11 (RESPONDENT'S EXHIBIT 2, RECEIVED IN
 12 EVIDENCE AS OF THIS DATE.)
 13 BY MS. MC NALLY: (Cont.d)
 14 Q. Ms. Kubek, can you please discuss the
 15 significance of what was found or what the
 16 database showed for the outfalls listed?
 17 A. The database shows that -- if you can
 18 follow over to the fourth column from the right,
 19 the inspection results, and in that column the
 20 individual conducting the inspection describes
 21 what was found during the inspection.
 22 Q. What does it say?
 23 A. For the first outfall in the far left
 24 column, we have an outfall ID number. Each
 25 outfall in New York State system has a unique

1 outfall ID number.
 2 The first outfall, 106779, was inspected
 3 and no suspected list of discharge was found.
 4 Q. Okay. Then the next one.
 5 A. 106780 was inspected, and they indicated
 6 that a suspected list of discharge was found.
 7 In the very last column in Inspection
 8 Comments, they elaborated on that and indicated
 9 that an oil and gas discharge was found and they
 10 reported pollution.
 11 Q. For the third one?
 12 A. The third one is Outfall 10781. And that
 13 outfall is underground and inspection is not
 14 feasible.
 15 Q. Why do they test the outfalls?
 16 A. We are often unable to inspect the source
 17 because the source of the water discharging
 18 though the outfall often originates off of our
 19 right-of-way on municipally-owned or privately-
 20 owned property.
 21 Q. Is there another reason?
 22 A. We at the DOT are not authorized to do
 23 any inspections outside of our right-of-way.
 24 Q. Why don't they catch it in catch basins
 25 instead of the outfall, like in our facility?

1 A. If our outfall is completely underground,
 2 as this last one was, it's hard to investigate
 3 the catch basin because you could have another
 4 connection that's coming in from another
 5 municipality prior to the actual outfall.
 6 Q. I'm going to have you look at
 7 Respondent's Exhibit 6. Without testifying about
 8 what's written in the document, can you testify
 9 generally about what these photos are?
 10 MR. GARELICK: Which ones,
 11 Your Honor?
 12 ALJ BIRO: Respondent's 6.
 13 A. These are photographs 1 through 4.
 14 Photographs 1 through 4 are an outfall in
 15 Susquehanna River. It's an outfall at stage 3 on
 16 Shore Drive. It discharges to run through the
 17 Susquehanna River in the City of Kingston.
 18 BY MS. MC NALLY:
 19 Q. Respondent's Exhibit 10, which I didn't
 20 hand you. Can you generally describe what is
 21 pictured in that document?
 22 A. These photographs are of the outfalls I
 23 just described and the locations.
 24 Q. So those are the outfalls from
 25 Respondent's Exhibit 6.

1 A. Some of these -- actually, I do not
 2 actually have photos of some of the outfalls.
 3 They are just photos of the vicinity, and the
 4 outfalls are not shown.
 5 Q. Where did these photos originate?
 6 A. These photos were taken by the inspectors
 7 during the audit of Region 5.
 8 Q. So in the original audit report, what do
 9 the photos look like in their original form?
 10 Tell me what was there before you added changes.
 11 A. They are photos of a vegetated area along
 12 roadside, the edge of the highway, guardrail
 13 vegetated area, and the bicycle path.
 14 Q. Was the red --
 15 A. The red text was added by the consultant,
 16 and that was part of the original audit report.
 17 Q. Okay. And what did you add?
 18 A. I added text in the blue squares or
 19 rectangles, with the blue arrows pointing also to
 20 that photograph.
 21 Q. Is this a true and accurate depiction of
 22 what was created? There is some blue on every
 23 page.
 24 A. The copies I have doesn't have any, but
 25 the copies you keep bringing up on the monitor

1 does.
 2 ALJ BIRO: There is no blue.
 3 MS. MC NALLY: Okay.
 4 BY MS. MC NALLY:
 5 Q. I apologize. Obviously, they were
 6 misprinted. I apologize. I will have you
 7 testify to the photos you have in front of you.
 8 A. Okay.
 9 Q. Can you just testify -- you probably
 10 should take that down, those things that are not
 11 on the record.
 12 Can you tell me what you see in the
 13 photos with respect to what these consultants
 14 found or indicated.
 15 MR. GARELICK: Objection,
 16 Your Honor, that's not in evidence --
 17 withdrawn.
 18 BY MS. MC NALLY:
 19 Q. Can you just testify with respect to what
 20 was found by the consultants that took these
 21 photos and in your expert opinion, with a
 22 reasonable degree of certainty, whether you agree
 23 or disagree with their findings.
 24 A. In photograph one, on 266, which is
 25 otherwise known as River Road in Tonawanda -- and

Page 400

1 I do not see the outfall in this photograph, but
 2 what we are looking at is an extensive area of
 3 vegetation. The arrow is pointing towards the
 4 word "wetland," and I do not believe that an
 5 investigation was done to determine whether that
 6 was wetland.
 7 Q. Why would they say that it was a wetland?
 8 A. The vegetation shown in the photograph
 9 looks very similar to vegetation that can
 10 sometimes be found in wetland?
 11 Q. Can that vegetation also be found in
 12 areas that are not wetland?
 13 A. Yes.
 14 Q. How about the second photo?
 15 A. The second photo is looking at that same
 16 area, and I assume that is our road in the photo,
 17 but it may also be the bike path that also exists
 18 in that area. The arrow is also again pointing
 19 towards an area of vegetation that they have
 20 labeled as wetland.
 21 Q. Would you have the same conclusion, that
 22 it is not clear that that's a wetland?
 23 A. Yes, that vegetation can grow in an
 24 upland, it's possible.
 25 Q. How about in Photograph 3?

Page 401

1 A. In Photograph 3, they have a circle
 2 around an approximate location of the drainage
 3 flow to the Niagra River.
 4 Q. And what would that look like if there
 5 was a listed discharge?
 6 A. If there was a listed discharge, I would
 7 be looking at the actual outfall, but I assume
 8 the vegetation in this photo has no -- I cannot
 9 form an opinion as to whether there is or is not
 10 a discharge because I'm not looking at any
 11 discharge.
 12 Q. Is there usually a lot of vegetation when
 13 there's a constant discharge?
 14 A. No. It's undetermined whether there
 15 would or would not be, unless the discharge is a
 16 high end concentration. It could result in
 17 excessive growth of vegetation, or an excessive
 18 discharge could kill off all the vegetation.
 19 Q. Is vegetation one indicator that you use
 20 to determine whether a listed discharge is
 21 present?
 22 A. No. Only vegetation that is abnormally
 23 growing in the area and typically just below the
 24 outfall. This vegetation is upstream of the
 25 outfall.

Page 402

1 Q. Okay. Can you go to Photograph 8.
 2 A. Photograph 8 appears to be the end of a
 3 pipe. It could be a culvert pipe, which is a
 4 pipe that just extends under the road surface
 5 from one side to the other. It could also be the
 6 outlet of a catch basin. But this photograph is
 7 unclear. I don't know what the surrounding
 8 vicinity looks like to determine whether it's a
 9 culvert or an outfall.
 10 Q. What does it say on your Photograph 8?
 11 A. Photograph 8, outfall along State Route
 12 266, River Road, between I-190 and Two Mile
 13 Creek, ID unknown. Significant sedimentation in
 14 outfall in Photograph 7.
 15 Q. Do you agree with that?
 16 A. No, I do not.
 17 Q. Why?
 18 A. From this photograph, I cannot say one
 19 way or another whether there is any
 20 sedimentation. It doesn't appear to have any
 21 sedimentation. It is just a dark area in the
 22 photograph. I don't see any sedimentation.
 23 MS. MC NALLY: Just for clarity of
 24 the record, I know I didn't enter in
 25 Respondent's Exhibit 10, but all of those

Page 403

1 photos, I believe you have in front of
 2 you, Your Honor, are an Attachment 1 of
 3 the Region 5 audit report, which is in
 4 evidence.
 5 ALJ BIRO: Those photos were an
 6 attachment with the Region 5 audit
 7 report?
 8 MS. MC NALLY: Yes.
 9 ALJ BIRO: Which is exhibit number?
 10 MS. MC NALLY: I don't have that up
 11 here with me. Let me check with
 12 co-counsel. One moment. Should be a
 13 conveyance.
 14 MR. GARELICK: Actually,
 15 Complainant's Exhibit 39A through H.
 16 MS. McNALLY: Thank you.
 17 BY MS. MC NALLY:
 18 Q. I'm going to draw your attention to
 19 Respondent's Exhibits 3 and 6. Now take a look
 20 at these.
 21 A. (Witness complied.)
 22 Q. So, Respondent's 3 is a three-page
 23 document, double-sided. Can you describe for me
 24 page by page what each item is.
 25 A. On the first page is an excerpt of the

Page 404

1 geodatabase from our Region 9, Binghamton area.
 2 The same as the database we had in the previous
 3 regions, which is just an excerpt of the outfall
 4 reconnaissance inventory or outfall inspection
 5 conducted by DOT staff.
 6 Q. Did you create this page and the
 7 paragraph underneath?
 8 A. I did. So the blue highlight, again
 9 depicting the outfalls that were inspected during
 10 an audit in Region 9.
 11 Q. And just, generally, what is the second
 12 page of this document, please?
 13 ALJ BIRO: Did you say these
 14 documents were two-sided?
 15 MS. MC NALLY: Yes.
 16 ALJ BIRO: They are only one-sided.
 17 MS. MC NALLY: I didn't realize
 18 that. I'm sorry. I apologize.
 19 ALJ BIRO: The printer printed them
 20 one-sided.
 21 MS. MC NALLY: I apologize. So
 22 there is eight six-page documents as the
 23 one permit?
 24 ALJ BIRO: Yes.
 25 MS. MC NALLY: Okay. My apologies.

Page 405

1 BY MS. MC NALLY:
 2 Q. Can you describe what is on page 2?
 3 A. Page 2 is a screenshot from my computer.
 4 And I looked at the geodatabase in the geographic
 5 information on Arcnet (phonetic). And I used the
 6 linears on there that show the aerial photo of
 7 the vicinity of those outfalls as well as the red
 8 triangles that you see on there to describe the
 9 locations of the outfall.
 10 Q. Is this the same database that produced
 11 the report on that front page?
 12 A. It is.
 13 Q. And is it accessible by the same
 14 individual?
 15 A. Yes.
 16 Q. And who would that be?
 17 A. That would be the regional staff in our
 18 BMP region. I also have access to these
 19 databases after they've completed them.
 20 Q. Do you make any changes?
 21 A. I do not make any changes other than if
 22 an outfall is new or if a new outfall has been
 23 duplicated in another region. In other words, if
 24 regional staff accidentally label an outfall with a
 25 different ID number or an ID number that another

Page 406

1 region is already using, because we have to have
 2 unique ID numbers.
 3 Q. Okay. And the third page?
 4 A. The third page is a street view from
 5 Google Earth of that same outfall, and it is
 6 shown by the yellow arrow. It is the same
 7 outfall that is circled in yellow on the previous
 8 page.
 9 Q. Did you add the yellow arrow?
 10 A. I did add the yellow arrow.
 11 Q. Did you alter this image in any way?
 12 A. No.
 13 Q. And the last page?
 14 A. The last page is, again, an aerial view
 15 from our geographic information system which
 16 shows our stormwater outfall geodatabase with a
 17 red triangle. And the yellow arrow I added to
 18 indicate an area that was inspected during the
 19 audit.
 20 MS. MC NALLY: Judge, may I approach
 21 the witness and make sure we have the
 22 same copy?
 23 ALJ BIRO: Yes, you can.
 24 BY MS. MC NALLY:
 25 Q. So you created two of these documents

Page 407

1 from Google; is that correct?
 2 A. Yes.
 3 Q. And the other documents were created
 4 using the database kept by New York State
 5 Department of transportation to track an outfall;
 6 is that correct?
 7 A. I corrected one survey, and I printed one
 8 from Google Earth, from geodatabase.
 9 Q. Okay. Great. And is the information
 10 included true and accurate to the best of your
 11 knowledge, with the changes that you notated on
 12 the record?
 13 A. Yes.
 14 MS. MC NALLY: Okay. I would like
 15 to move at this time into evidence as 1.
 16 MR. WINANS: Quick voir dire of the
 17 witness with respect to this, please?
 18 ALJ BIRO: You may.
 19 VOIR DIRE EXAMINATION
 20 BY MR. WINANS:
 21 Q. On the first page of this exhibit, looks
 22 like there's different colors cut off, diversions
 23 of colors, like the sheet was truncated. Can you
 24 explain why it appears that the amount of columns
 25 was truncated with the four inches on that

Page 408

1 outfall sheet?

2 A. It is truncated, and that -- to get all

3 of this onto one page, the text would be so

4 small. You would have a hard time reading it.

5 Our geodatabase contains additional columns that

6 indicate covert construction pipe -- or covert

7 concrete pipes that are shown the net column, the

8 diameter, the outfall conditions, structural

9 repairs, all of those things. And then each time

10 we do an inspection, they'll be repeated, the

11 inspection conditions are repeated, and the

12 geodatabase contains numerous columns that in

13 relation to this an inspection would not be

14 needed.

15 Q. So you make the determination to cut out

16 certain columns?

17 A. I did cut out columns just for our

18 purposes here, but the pertinent columns are in

19 there.

20 Q. What you consider pertinent columns,

21 would be essentially columns in --

22 A. For this discussion, the pertinent

23 columns would be the inspection results and the

24 inspection dates around the outfall items.

25 Q. You actually didn't indicate a particular

Page 409

1 person who maintains this database. You just

2 said generally staff. Can you actually name an

3 individual that who maintains this database?

4 A. This are more than one staff person in

5 each region that maintains the database. The

6 individual conducting the inspection enters the

7 information through their hand-held unit in the

8 field. And so in that regard, they are

9 maintaining it, because they're adding the

10 information each time they do an inspection.

11 Q. This is all for Region 9?

12 A. This particular page is for Region 9,

13 yes.

14 Q. So who is the person from Region 9 who

15 maintains the records, that database?

16 A. That person may vary. If that individual

17 staff person that was entering the inspection

18 results in one given year moves on to another

19 job, and another individual takes that position,

20 then it becomes their responsibility?

21 Q. So you can't name an actual individual

22 for Region 9 that maintains these records?

23 A. There are numerous individuals that

24 maintain them over the years. The DOT is a very

25 large agency with thousands of staff people, and

Page 410

1 I'm not personally familiar with each and every

2 one of them. We have 11 regions, and at any

3 given day there could be 11 people working on

4 each of their own individual databases.

5 Q. I guess you're not answering who actually

6 is maintaining this. Can you give an estimate as

7 to how many people actually do have the ability

8 to modify these records?

9 A. Probably two or three in that region, but

10 it may even be only one.

11 Q. We're not even sure who that person

12 actually is?

13 A. I know whose responsibilities it is. And

14 overall that person is the supervisor of the

15 unit, and they delegate tasks depending on the

16 individual's ability to get out and do the

17 inspections. We have several hundred outfalls to

18 inspect, and we have an obligation to inspect

19 those only after 48 hours of dry weather,

20 depending on staff workload. It could be one

21 inspector or it could be a different inspector.

22 According to this chart here, we have two

23 individuals named as an inspector at these

24 particular outfalls. To name them: Brett

25 Perkins (phonetic) and Michael Huff (phonetic),

Page 411

1 who does inspections of these outfalls in

2 question.

3 Q. But they're not the people that would

4 ultimately maintain the database where this

5 information is stored?

6 A. The ultimate maintenance of the database

7 is those inspectors. Once that data is entered

8 into the database, it is not changed.

9 Q. Doesn't there need to be a gatekeeper?

10 A. I am the gatekeeper.

11 Q. You're the gatekeeper for the entire

12 state?

13 A. For the entire state. And as I said, I

14 assembled those geodatabases that are given to me

15 from individual regions. And the only change

16 that I ever make to those databases is the

17 outfall ID numbers or if they happen to be

18 duplicates. I'm not authorized to make any other

19 changes.

20 Q. Did you ever verify the actual

21 information that was entered into the system?

22 A. 16,806 outfalls. And I guess I'm not

23 understanding your question. Am I supposed to

24 dangle over and inspect each one of them?

25 Q. I'm asking who maintains them. I'm

Page 412

1 obviously not asking that you do the check. I
 2 assume no one has checked all 16 or --
 3 A. We check them every five years.
 4 Q. Irrelevant to my question. But who --
 5 assuming there was information that was entered
 6 indirectly into the system, doesn't there need to
 7 be a gatekeeper that can make sure that the
 8 spreadsheet is operating accordingly?
 9 A. I guess I don't follow your question, how
 10 anyone would be -- you would be asking me to call
 11 in question their ability to perform their
 12 duties?
 13 Q. I'm asking you, say there was some
 14 information entered into a spreadsheet, for
 15 instance, that would pop up on the spreadsheet
 16 "void" or not be recognized in the actual column
 17 or row. Is there any person that would do a QAQC
 18 control to make sure that the information entered
 19 is actually viable information that would fit
 20 properly into the spreadsheet?
 21 A. Some of the columns are set up with what
 22 we call "drop downs." And when you access the
 23 database, the column only allows you to enter
 24 certain emotions.
 25 For example, the first entry there, 36

Page 413

1 inches to 59 inches, appears in a drop-down menu.
 2 So the individual who was here, looks at that and
 3 selects the proper diameter.
 4 Another example is outfall pollution.
 5 We're only allowed to select what is in the
 6 outfall pollution drop-down menu. A number of
 7 those are set up that way, the way our
 8 geodatabase is arranged.
 9 Q. There's a number up in the column meaning
 10 some of them, meaning that some of them are not
 11 set up like that, right?
 12 A. The ones where we enter our comments are
 13 set up so that you can actually type in a
 14 comment.
 15 Q. So there is no one that actually reviews
 16 this database or is permanently in charge of
 17 actually making sure that there are no errors in
 18 the spreadsheet or in the system?
 19 A. I'm not following how you think that
 20 there would be an error in someone's ability to
 21 determine whether there is or isn't a listed
 22 discharge in the outfall. If they are the
 23 inspector, they're trained and are able to make
 24 that determination.
 25 It sounds like you're asking for someone

Page 414

1 to go back and verify, field verify, that they
 2 have done their job.
 3 MR. WINANS: Your Honor, I'm going
 4 to continue my objection. It's unclear
 5 who maintains this database or where the
 6 data is stored, or anything in that
 7 regard, and I don't think the witness
 8 actually answered those questions.
 9 ALJ BIRO: All right. Well, I think
 10 that all goes to weight.
 11 EXAMINATION BY
 12 THE ALJ BIRO:
 13 Q. Let me ask you one question. In the
 14 comments section where it says,
 15 "Susquehanna River," is that where the outfall is
 16 releasing the water to?
 17 A. Yes.
 18 Q. And was that part of THE drop-down menu?
 19 A. No, no. That was -- that particular
 20 comment column is typically used by the inspector
 21 so that they know what receiving water that
 22 outfall discharges to. And when they're planning
 23 their route for that day, they may have a section
 24 of the geodatabase that they are going to go
 25 inspect, and it leads them in the right

Page 415

1 direction, so that they know this is where
 2 they're headed.
 3 Q. So they might look at all the outfall and
 4 inflow that's going on.
 5 A. Yes, in one database. It's for
 6 convenience sake so that we're not riding all
 7 over a region, and it makes it easier to
 8 accomplish the inspection.
 9 Q. Do they put any pictures?
 10 A. There are pictures, and I did not include
 11 the columns that includes pictures. This
 12 geodatabase has probably over 30 columns. And
 13 one of the columns was photographs that are taken
 14 at the time of each inspection, and they have an
 15 ID number attached to that, which includes the
 16 outfall ID number. And that's how I determined
 17 the outfalls that were inspected that day, based
 18 on the ID numbers in the photograph that were
 19 taken and the photographs that we have in our
 20 records.
 21 Q. Is there an ID number that's put on the
 22 outfall itself?
 23 A. We tend to not need the ID numbers on the
 24 outfall because paint is included.
 25 Q. Okay. All right.

Page 416

1 A. The photographs that we take are used so
 2 that we can determine that we are at the right
 3 outfall to reinspect it the next time.

4 ALJ BIRO: Okay. So I'm going to
 5 admit into the record -- we are looking
 6 at Respondent's Exhibit 3?

7 MS. MC NALLY: Yes, Your Honor.

8 ALJ BIRO: And I think you have
 9 identified pages 1, 2, 3 and 4?

10 MS. MC NALLY: Yes, Your Honor.

11 ALJ BIRO: Is that correct? The
 12 first four pages of Respondent's Exhibit
 13 3. Over objection.

14 (RESPONDENT'S EXHIBIT 3, PAGES 1, 2,
 15 3 AND 4, WERE RECEIVED IN EVIDENCE, AS OF
 16 THIS DATE.)

17 DIRECT EXAMINATION
 18 BY MS. MC NALLY:

19 Q. Can you just describe for me in this
 20 exhibit, the information contained on page 1 of
 21 Respondent's Exhibit 3?

22 A. Those are -- the four outfalls shown in
 23 this chart are four that include the ones
 24 inspected by the inspectors during the audit, and
 25 the ones on either side of them, on either side

Page 417

1 of that outfall.

2 Q. Why did you include more than just the
 3 one that was inspected?

4 A. Because during the audit the inspectors
 5 indicated that there was a suspected list of
 6 discharge at that location. And in our
 7 inspection records, we indicated that there was
 8 no suspected list of discharge.

9 And if you look at the fourth column
 10 over, labeled "Dry Weather Road Type," they're
 11 labeled as "Spring."

12 Q. What is the significance of that?

13 A. Spring flow can lead to a discharge from
 14 the outlet without there being a reason that
 15 things flow. The rain that occurred several days
 16 prior to the inspection, and you may get water
 17 flowing to that pipe several days after a rain
 18 event.

19 Q. And where did that water come from?

20 A. From the ground. Groundwater.

21 Q. Just for clarity of the record, the
 22 photographs we have taken, what do those show
 23 with respect to the first page?

24 A. Page 2?

25 Q. Yes, all three, correct.

Page 418

1 A. Page 2 is of the geographic information
 2 system screen shot and that shows the aerial
 3 photo of that vicinity.

4 Q. What is the yellow circle?

5 A. The yellow circle is around the red
 6 triangle, which indicates the outfall in question
 7 that was inspected, and the other red triangles
 8 are the outfalls adjacent.

9 Q. Okay. And on the last page, page 4, what
 10 is that yellow arrow pointing to?

11 A. That yellow arrow points to a stormwater
 12 management pond that we constructed in, I
 13 believe, the Endicott area, and that is also in
 14 our Region 9 area.

15 Q. Why is that significant?

16 A. That pond was inspected during the audit
 17 as well.

18 Q. Do you recall the findings on that pond?

19 A. The inspectors indicated that the outfall
 20 from that pond was an outfall to the receiving
 21 water that is then the outfall from the pond.
 22 They are two different things.

23 Q. Explain how they are different.

24 A. An outfall for receiving water is, we
 25 understand from guidance given to us from the

Page 419

1 Department of Environmental Conservation on what
 2 is an outfall, indicates that an outfall is
 3 either a ditch or a pipe directly discharging
 4 towards receiving water.

5 Q. And is a pond receiving it?

6 A. No. The pond in question has a pipe
 7 outfall or outlet from the pond. It is an
 8 outlet: From the pond, and it discharges to
 9 vegetating area, and the creek that this is in
 10 the vicinity of is some distance from the pond.

11 Q. And what is the point of discharging into
 12 a vegetating area?

13 A. The vegetation, as it grows, takes up
 14 excess nutrients that may or may not occur in the
 15 water discharging to it. The vegetation also
 16 stabilizes the embankment to keep it from
 17 eroding.

18 Q. Does the vegetation act as a filtration?

19 A. The vegetation also filters sediments.
 20 It slows down the velocity of the sediment as
 21 it's going along the sloped area, and it then
 22 traps the sediment to keep it from further
 23 eroding down.

24 Q. I'm going to turn your attention to what
 25 we looked at before, which is Respondent's

1 Exhibit 6. And just so I know, are there blue
 2 boxes on there or not, on your exhibit?
 3 A. No.
 4 Q. No? Okay.
 5 MS. McNALLY: If I could just have
 6 one moment so I can get the proper set
 7 for the record, Your Honor.
 8 BY MS. McNALLY:
 9 Q. So, Exhibit 30, Attachment 1, IDE
 10 photograph log. Could you just look at
 11 Photograph 1 for me? Can you see that?
 12 A. That photograph is the outfall that was
 13 inspected by the consultants during the audit in
 14 Region 9, and that is an outfall to the
 15 Susquehanna River outfall.
 16 Q. Okay. And the next photograph?
 17 A. It is a closeup of that same outfall.
 18 Q. Okay. Can you describe for me what that
 19 photograph shows or does not show?
 20 A. That photograph shows some water
 21 discharging from the outfall at the time of
 22 inspection.
 23 Q. And what is indicated in paragraph 2 as a
 24 finding?
 25 A. They indicated that it was by weather

1 flow, which, during normal inspection of the
 2 outfall, because we are required to wait at least
 3 48 hours, preferably 72 hours after a rain event.
 4 There was a rain event the night previous to this
 5 audit, and our inspectors would not inspect that
 6 outfall because we would anticipate that there
 7 would be some flow from that outfall.
 8 Q. So are you saying that it's incorrectly
 9 categorized as dry weather?
 10 A. Yes, I think he incorrectly categorized
 11 it.
 12 Q. And would you repeat that one more time,
 13 please.
 14 A. Yes. It's incorrectly categorized as dry
 15 weather outfall.
 16 Q. Why?
 17 A. Because that outfall had previously been
 18 inspected and the discharge was found to be
 19 spring flow, and that is groundwater flow that
 20 can occur between precipitation events. And in
 21 this case, immediately calling it a precipitation
 22 event, we would consider that to be the spring
 23 flow.
 24 Q. Could you look at photograph 3, please.
 25 A. Photograph 3 is a closeup of that

1 discharge, and the investigators labeled it as
 2 algae growth on the rocks.
 3 Q. Is there a problem with algae growth on
 4 the rocks?
 5 A. The algae can occur if an area has
 6 fluctuating flow water accessing it at any given
 7 time and that's accessing nutrients and can cause
 8 algae to grow in that area.
 9 Q. Can you go to paragraph 4?
 10 A. And that's, again, showing me some green
 11 -- I'm not sure if it is algae. It's something
 12 green in the photo.
 13 And, in that location, as we see in
 14 photograph 1, which is, if you will, what we are
 15 looking at is the area that when the Susquehanna
 16 River rises and falls, which it does naturally,
 17 all of those rocks are covered by flow from the
 18 river. And when the river contains excess
 19 nutrients, it can cause algae growth on the
 20 rocks.
 21 Q. And that wasn't necessarily clarified the
 22 list?
 23 A. Correct. We cannot necessarily include
 24 it in the list of discharges, the area itself.
 25 Q. And you would find that out by testing

1 it, you think?
 2 A. You would, if you were concerned with the
 3 quality of the river, you would test it, the
 4 water.
 5 Q. Okay.
 6 A. It's beyond the scope of our stormwater
 7 and outfall investigation.
 8 Q. Could you go to photograph 8 for me, and
 9 can you just briefly describe what we see in this
 10 photograph and whether or not you agree with the
 11 observations of the consultant group?
 12 A. This is another outfall into the
 13 Susquehanna River, rather than in the city of
 14 Binghamton, as the other one was. This was in
 15 the village of Endicott. And we can see what
 16 looks like some wet concrete in the photo below
 17 the outfall. And the consultant has labeled that
 18 as dry weather flow. And again, because of the
 19 precipitation event the night before, it's water
 20 that we can expect to be discharged from it, but
 21 immediately following a precipitation event.
 22 Q. Does this follow that spring flow as
 23 well?
 24 A. I'd have to look at the total picture --
 25 Q. It should be -- it should be another --

1 A. The outfall in question here was labeled
 2 as "spring flow."
 3 Q. Thank you.
 4 In your expert opinion, would a rainfall
 5 the night before lead to excessive water existing
 6 in that location throughout?
 7 A. Throughout?
 8 Q. Throughout the outfalls in that location
 9 specifically -- for example, all of the other
 10 photos, 10, 11, 12 that indicate water and
 11 discharge, could those also be caused by the
 12 rain?
 13 MR. SAPORITA: Objection,
 14 Your Honor. We don't have enough
 15 information about the water, watershed
 16 leading to this outfall. Also the photo
 17 quality -- there are so many variables
 18 that would be involved in such --
 19 MS. McNALLY: She was there -- I
 20 withdraw my question.
 21 ALJ BIRO: Okay.
 22 A. The photographs 8 and 9 are of that same
 23 outfall that was previously indicated as spring
 24 flow. The precipitation they had the night
 25 before could cause an outfall in these

1 photographs 10, 11, 12 to also have spring flow
 2 or some flow coming from that outfall because of
 3 a precipitation event.
 4 BY MS. McNALLY:
 5 Q. So you were you part of this audit
 6 investigation; is that correct?
 7 A. Yes.
 8 Q. Were you working with anyone else while
 9 you were there?
 10 A. At the time of the audit, I was being
 11 employed as a contractor by the Inter-county Soil
 12 and Water Conservation District, then assigned to
 13 the DEC regional office in Syracuse.
 14 Q. And what was your role in Region 9?
 15 A. I was there as an observer to just gather
 16 information on the EPA's audit process and the
 17 activities that they engaged in during the
 18 audits.
 19 Q. And did you have an opportunity to meet
 20 with the people performing the audits, as the
 21 consultant?
 22 A. I did.
 23 Q. Did you have an opportunity to assess the
 24 issues that they noted in their observations?
 25 A. I did not discuss the issues with them.

1 I was an observer and allowed DOT staff to
 2 conduct all of their activities involved in the
 3 audit, and I just observed.
 4 Q. And did you observe them do anything that
 5 you disagreed with?
 6 A. I would not disagree with what they were
 7 doing at the time of the audit. I believe that
 8 they were doing what they could to the best of
 9 their abilities to meet all of the compliance
 10 requirements of the permit.
 11 Q. Did they say or do anything that made you
 12 believe they were unfamiliar with the
 13 requirements?
 14 A. No.
 15 Q. Did they say or do anything that made you
 16 believe they were unfamiliar with the conditions
 17 the program?
 18 A. I believe to some extent they were
 19 unfamiliar with the name of the activities, the
 20 language we used. And the comments don't always
 21 coincide with the language used for the entities.
 22 The labeling of an activity differs.
 23 Q. Okay. So you were present for a
 24 consultant's testimony, and I just kind of want
 25 to go over a few things that they talked about.

1 First of all, we all looked at the
 2 pictures. We've seen numerous -- what I've
 3 identified as -- I asked one of the consultants
 4 what they would do to clean that up. Do you
 5 recall that he wouldn't?
 6 A. I recall one senior consultant that
 7 claimed that you can use kitty litter to clean up
 8 a stain on a parking lot?
 9 Q. Is that a practice that you believe is
 10 environmentally sound and would actually work in
 11 cleaning up an oil stain?
 12 A. No.
 13 Q. Why?
 14 A. Kitty litter can clean up three products
 15 that we know it as that is a liquid petroleum.
 16 And we can use that in a product called Peedy Dry
 17 or kitty litter to soak up or more of a liquid
 18 product. Once that's removed or once the kitty
 19 litter has soaked up the liquid product, then it
 20 was then removed and disposed of in a proper
 21 location. And what remains on the pavement is a
 22 stain. And the stain of any petroleum product on
 23 pavement that is not gasoline can be absorbed,
 24 and it becomes absorbed into the pavement, which
 25 is also a petroleum product, it's asphalt, and it

1 becomes part of the asphalt. It basically
 2 sequesters into the pavement.
 3 Q. Is there a risk of a control being
 4 properly administered?
 5 A. Not to my knowledge.
 6 Q. One of the consultants testified about
 7 infiltration basins. Do you recall that
 8 testimony?
 9 A. Yes, I do.
 10 Q. Do you agree with that testimony?
 11 A. Not as it pertains to that location. And
 12 to the best of my knowledge, all infiltration
 13 basins constructed by the DOT have an outlet
 14 structure associated with them.
 15 Q. What is the purpose of the outlet
 16 structure?
 17 A. In large rain events, they keep the
 18 capacity of the infiltration basins to contain
 19 water before it can assist in the infiltrate. A
 20 large storm event needs to have an outlet from
 21 that basin so that it doesn't overflow the banks
 22 and cause erosion elsewhere. And the controls
 23 outlet structure guides that flow to the
 24 receiving water or to another location where it
 25 can be discharged.

1 Q. You made yourself familiar with all of
 2 the audit reports in that matter; right?
 3 A. Yes.
 4 Q. You reviewed them at length?
 5 A. Yes.
 6 Q. And looked at all of the photographs?
 7 A. Yes.
 8 Q. Did you see anything that you would
 9 characterize, in your expert opinion, with a
 10 reasonable degree of certainty, that it is an
 11 actual list of discharge?
 12 A. No.
 13 Q. Thank you. So after the June 9th audit,
 14 there was an audit comment session?
 15 A. Yes.
 16 Q. Were you present for that?
 17 A. Yes.
 18 Q. Can you tell me what occurred at that
 19 conference?
 20 A. There's a -- Ms. Arvizu discussed the
 21 locations that were visited and briefly described
 22 that -- and I will have to paraphrase, if I'm
 23 allowed to -- that there were minor issues that
 24 we could address, just a few things that we could
 25 look at and make some tweets to or some minor

1 things. But overall the audit went well and that
 2 we would be receiving a report afterward to just
 3 itemize the things that were looked at.
 4 Q. Did she tell you the action taken?
 5 A. No.
 6 Q. Did she give you examples of what she was
 7 concerned about?
 8 A. No.
 9 Q. So sometime after that audit you started
 10 working for DOT?
 11 A. Correct.
 12 Q. When was that?
 13 A. January 9, 2014.
 14 Q. And was there a time at which you were
 15 involved in a compliance order?
 16 A. Starting with the receipt of that order
 17 March 5th of 2014.
 18 Q. Okay. And can you just give me a brief
 19 outline of what occurred after the order was
 20 received from the department?
 21 A. The Office of Environment stormwater
 22 team, myself, Jonathan Bass, Carl Kochersberger
 23 with Scott Kappeller, met with our director
 24 Daniel to go over all of the alleged violations
 25 in the order and the order's position that were

1 spelled out in the order. And looking through
 2 each of those, preparing a summary or a response
 3 to EPA and trying to digest, basically, what was
 4 entailed in the order.
 5 Q. The director Daniel was there; is that
 6 not correct?
 7 A. Yes.
 8 Q. Did he give you any directions?
 9 A. He did direct us to garnierite everything
 10 to try to understand the language of the order.
 11 Some of the wording was very unfamiliar to us.
 12 The difficulty of the language used was very
 13 unfamiliar. We had a lot of questions.
 14 Q. What was DOT's position?
 15 A. Like I said, I don't know.
 16 Q. Okay. Did DOT, to your knowledge, intend
 17 on fighting the order?
 18 A. No.
 19 Q. Do you recall a meeting that took place
 20 with the EPA after this order?
 21 A. Yes.
 22 Q. Do you recall the date of that meeting?
 23 A. May 13, 2014.
 24 Q. Do you recall who was present at that
 25 meeting?

1 A. Yes.

2 Q. Can you tell me?

3 A. From DOT, Dan Hitt, Jonathan Bass, Howard

4 Cokerburger, Scott Patelus, myself, Keith Martin.

5 Q. I'm going to show you what's partially

6 been admitted as Respondent's Exhibit 2. Okay.

7 So 1 and 4 are admitted. 1 is the Agenda. 4 is

8 the sign-in sheet.

9 Can you describe for me what pages 2 and

10 3 are?

11 A. 2 and 3 are my notes from that meeting.

12 Q. It is your handwriting?

13 A. It is my handwriting.

14 Q. Did you produce a copy of this to be

15 copied into the record?

16 A. Yes.

17 Q. Is this a true and accurate depiction of

18 the notes that you gave, to the best of your

19 knowledge?

20 A. Page 2 is missing.

21 Q. Page 2 is missing?

22 A. They forgot to copy page 2.

23 MR. WINANS: I think it was double-

24 sided.

25 MS. McNALLY: Your Honor, I would

1 like to supplement what has been produced

2 in the record. This was in the

3 pre-hearing exchange accurately but,

4 unfortunately, it went to the copier, and

5 they did not copy it correctly.

6 MR. SAPORITA: 1 and 3 --

7 MR. WINANS: We have 1 and 3.

8 ALJ BIRO: In the prehearing

9 exchange?

10 MR. WINANS: Yes.

11 MS. McNALLY: May I?

12 ALJ BIRO: Gentlemen, let's move on.

13 BY MS. MC NALLY:

14 Q. Can you just look at page 3, please?

15 A. Sure. I have it in front of me.

16 Q. Okay. Is page 3 a copy? Could you tell

17 us what page 3 is?

18 A. That is the last page of my notes which

19 are -- they start with order provision T, as in

20 Tom, and -- the order provisions and the notes

21 below that, that wraps up the meeting.

22 Q. Okay. Is this a true and accurate

23 representation of your notes?

24 A. Yes.

25 MS. MC NALLY: I would like to move

1 them into evidence at this time.

2 MR. SAPORITA: No objection.

3 ALJ BIRO: Admitted Exhibits 1 and

4 2, which completes Exhibits 69 in total.

5 MS. MC NALLY: Thank you,

6 Your Honor.

7 ALJ BIRO: Which is four pages in

8 total and which is not all the exhibit --

9 with the notation, of course, that it's

10 not, in fact, all of the notes --

11 MS. MC NALLY: That's true.

12 ALJ BIRO: -- that were taken at the

13 meeting. Okay.

14 (RESPONDENT'S EXHIBITS 1 AND 2,

15 RECEIVED IN EVIDENCE AS OF THIS DATE.)

16 BY MS. MC NALLY:

17 Q. Can you please describe for me how this

18 meeting went?

19 A. Well, we began the meeting with

20 introductions and then discussed each of the

21 order provisions. And there were 24 of them,

22 numbered A through X. And discussed what was

23 expected of DOT to complete each of those order

24 provisions, to satisfy them. And then after

25 discussing the order provisions, we discussed the

1 New York State DEC's role in it and whether there

2 would be any enforcement actions from DEC after

3 we completed the order.

4 Unfortunately, I didn't take notes on

5 what was discussed then, and that was primarily

6 just a reaffirmation that they were called and

7 would receive calls to be involved in assisting

8 with completing the order provisions.

9 Q. So after you discussed the order

10 provisions, was there any further discussion at

11 the table?

12 A. The last item that we discussed was a

13 question from my bureau director -- acting

14 director of the Office of Environment, Dan Hitt.

15 And his question was whether -- once we satisfied

16 all of the order provisions, what happens after

17 that? Is the order closed or does something else

18 happen after that? Would there be any penalties

19 associated with that?

20 Q. Did someone respond?

21 A. Yes. Justine Magugliana (phonetic) from

22 the EPA responded that if we satisfied each of

23 the order provisions, that the order would be

24 closed and there would be no monetary penalty

25 associated with it.

1 Q. Okay. You have RX page 3 of 4; correct,
 2 in front of you?
 3 A. Yes, I do.
 4 Q. Did you make a notation as to that fact?
 5 A. Yes, I did.
 6 Q. Can you read for me what it says.
 7 A. "No," underline, "monetary penalty
 8 included with this order. Meet all requirements,
 9 and there will be no penalty assessed."
 10 Q. And you wrote that at the end of that
 11 meeting; correct?
 12 A. Yes.
 13 Q. What was your involvement in the
 14 compliance section of this?
 15 A. As a member of the stormwater team in the
 16 Office of Environment, I prepared a lot of the
 17 progress reports, typed them up. I interacted
 18 with regional staff to meet the order provisions,
 19 to draft a lot of the guidance documents, to find
 20 the guidance documents. Not that they were lost,
 21 but to just locate them.
 22 As a fairly new staff member at DOT at
 23 the time, I was not familiar with where on our
 24 computer system to find everything. It's a very
 25 large and intricate system to have to learn, and

1 so it was tasked upon me to do a lot of that work
 2 so that I would know where everything was located
 3 myself. And so gathering up all of those
 4 documents, preparing them and then submitting
 5 them into the progress report.
 6 Q. Do you know who actually submitted the
 7 progress report?
 8 A. Jonathan Bass. He submitted them by
 9 e-mail. I made copies and made PDF documents,
 10 electronic documents of those for submission and
 11 printed the documents for emailing.
 12 Q. Do you recall how many meetings you had
 13 with EPA in order to gain compliance?
 14 A. We had four meetings and a Webinar
 15 presentation and a conference call.
 16 Q. Okay. Let's try this again. I'm going
 17 to show you Respondent's Exhibit 39. You should
 18 see what you have before we go any further.
 19 A. This goes through 35. It appears to be a
 20 complete copy. It's an eight-page document. The
 21 first five pages are typed.
 22 MR. GARELICK: Which exhibit?
 23 MS. MC NALLY: Respondent's Exhibit
 24 39.
 25 BY MS. MC NALLY:

1 Q. Without testifying about what's in the
 2 document, can you just describe for me what it
 3 is.
 4 A. This is a meeting held February 20, 2015.
 5 The first page is the agenda and a couple of
 6 items excerpted from -- one item excerpted from
 7 the order, and the last item on that first page
 8 is an excerpt from the EC MS4 program.
 9 Q. You don't have to go page by page. Maybe
 10 we'll do the first five and then the second
 11 three.
 12 A. The purpose of the meetings was to follow
 13 up with our Webinar presentation where we showed
 14 EPA how we use our safe highway open market plan
 15 for the chart system to find the source for
 16 anyone that looks at discharge should that happen
 17 on our right of way.
 18 Q. What are the first five pages?
 19 A. Oh, the first five pages?
 20 Q. Yeah. Just tell me what they are.
 21 A. They are the notes -- my notes taken from
 22 the meeting, typed up.
 23 Q. What are the last three pages?
 24 A. The last three pages are my handwritten
 25 notes that I then typed up.

1 Q. So the first five pages are a duplicate
 2 of the last three, more or less?
 3 A. Yes.
 4 Q. And you created this entire document?
 5 A. Yes.
 6 Q. And you've reviewed it?
 7 A. Yes.
 8 Q. Is it true and accurate to the best of
 9 your knowledge?
 10 A. Yes.
 11 MS. MC NALLY: I move this into
 12 evidence at this time.
 13 MR. GARELICK: No objection.
 14 ALJ BIRO: Respondent's Exhibit 39
 15 is moved into evidence.
 16 MS. MC NALLY: Thank you.
 17 BY MS. MC NALLY:
 18 Q. Well, let's just generally go through
 19 some of the things that we were talking about at
 20 this meeting, starting with order provision CPQ.
 21 A. Order provision CPQ asked the DOT to
 22 prepare a preliminary boundary map of our storm
 23 sewer for purposes of tracking a list of
 24 discharges.
 25 Q. And what was DOT's response to that?

Page 440

1 A. We prepared a presentation that was given
 2 on Webinar June 24, 2014, to the EPA and DEC to
 3 demonstrate our State Highway and Records Plan
 4 and show that we use those if we find a list of
 5 discharges in our right of way, we use those to
 6 determine if they can be tracked on our right-of-
 7 way and where they would originate from.
 8 Q. So the SHARP, the State Highway and
 9 Records Plans, were those created in the file?
 10 A. No. They exist and have existed for a
 11 very long time. Anytime we build drainage
 12 systems, anytime we're doing work on the highway,
 13 any construction activity, there's record plans
 14 associated with that.
 15 Q. And do they show the boundaries of the
 16 document to look at?
 17 A. They do not show the boundaries of the
 18 storm sewer shed outside of our right of way.
 19 Q. Do they show it within?
 20 A. They show us everything that we
 21 constructed within our right of way. They show
 22 the pipe, they show sizes of the pipes, the
 23 construction of the pipe, whether it's corrugated
 24 metal pipe or copper pipe, the diameter, the
 25 invert elevations, which is the bottom of the

Page 441

1 pipe. And we use that to determine the direction
 2 of the flow.
 3 Q. Was the SHARP system shown to EPA during
 4 the audit?
 5 A. Yes.
 6 Q. And they said we should have an order
 7 provision requiring a map?
 8 A. Yes.
 9 Q. Do you recall how many subsequent
 10 meetings you had with the EPA to discuss this
 11 issue?
 12 A. I believe that we had three meetings
 13 overall that discussed this.
 14 Q. And how long did their business
 15 conversations continue?
 16 A. The Power Point was in a meeting of
 17 importance, and there were, I believe, two
 18 meetings after that to continue to discuss it,
 19 one of which may have been the conference call.
 20 Q. Do you recall what the EPA's issue was
 21 with the type of map?
 22 A. I believe that their issue was the same
 23 as DEC's issue in that they felt that they
 24 couldn't track any list of the discharges beyond
 25 our right of ways by using those plans.

Page 442

1 Q. Do you agree with that assessment?
 2 A. That we should be able to track it
 3 outside of the right of way?
 4 Q. No. That they don't meet the permit
 5 requirements.
 6 A. I think these plans actually go beyond
 7 the permit requirements, as it would relate to a
 8 linear MS4 because we are inherently different
 9 than Ellen's MS4, and our system is extremely
 10 linear and these records plans show our entire
 11 drainage system; whereas, the extraordinary
 12 boundary of storm sewer shed shows photographic
 13 boundaries and does not show the actual complete
 14 drainage system.
 15 Q. Would DOT have the jurisdiction to go off
 16 this right of way and try to map all sewer shed
 17 boundaries?
 18 A. No, we do not.
 19 Q. What was the ultimate conclusion in that
 20 matter?
 21 A. It was accepted as completing the order
 22 provisions.
 23 Q. The State Highway has those records?
 24 A. Yes.
 25 Q. Okay. Let's go on to the next issue,

Page 443

1 development entities. Do you recall what that
 2 was about?
 3 A. I'm not seeing that portion of it.
 4 Q. Developing entities, page 1.
 5 A. Are we looking at the order provisions?
 6 Q. No, no. Just at page 1 of 39.
 7 A. Oh, the second item on the agenda?
 8 Q. No. Go down to the bottom of the page,
 9 eECMS work permit.
 10 A. Oh, that is just an excerpt of EECMS work
 11 permit that describes that section in part
 12 8AB3II, which was highlighted in my original.
 13 And you can look it up, see the boundary of my
 14 highlights there. And that was just highlighting
 15 DEP's preliminary boundaries of stormwater shed
 16 requirements.
 17 Q. Okay. And then the next part where it
 18 says go to the next -- see where it says -- to
 19 water shed system?
 20 A. Yes.
 21 Q. In the next part, a list of discharge
 22 referral. Do you see that?
 23 A. Yes.
 24 Q. Can you tell me what that discussion was
 25 about.

1 A. It is a similar topic to this storm sewer
 2 shed mapping. The EPA and DEC wanted us to
 3 establish an interaction with each municipal MS4
 4 that found our right of way and have a referral
 5 system and an interaction with the local MS4,
 6 which would amount to, I believe, 454 individuals
 7 that they wanted us to have a memorandum of
 8 understanding or some sort of document where
 9 we've established an official arrangement with
 10 them.

11 Q. What was that arrangement?
 12 A. To track down a list of discharges.

13 Q. What did you think it would do?
 14 A. What we would do and what we do is each
 15 of our residencies, or each of our staff that
 16 worked in our residencies, in those areas already
 17 have a relationship with these municipalities,
 18 because we interact with them a lot, especially
 19 during snow and ice season. This is what we call
 20 snow plow season. Anytime where there is snow
 21 removal, we have arrangements when it snows where
 22 we may plow some of their roads and they may plow
 23 some of our roads just to make the routes we use
 24 work. So we have a very open and very working
 25 relationship with each municipality and know who

1 to contact if anything occurs. And there is
 2 always a give-and-take there. There is always an
 3 open relationship. We know who to contact. In
 4 the main office, we don't know who those
 5 individuals are because it's not in our day-to-
 6 day operations to operate that. We directed that
 7 to them, to let them know that we have a system
 8 in place.

9 Q. So what exactly is that system?
 10 A. Whereby if we did have a list of
 11 discharge that we found in our right of way and
 12 found it to originate in the local municipality
 13 or a property, we would refer to that
 14 municipality for their trackdown, because they
 15 have the authority to do that and we do not.

16 Q. And how did this issue conclude?
 17 A. It was ultimately arranged that our
 18 listed discharge protection elimination system
 19 program would -- I guess that in writing that
 20 would be the protocol, to contact the
 21 municipality, but it did not name names.

22 Q. Did you write down what was being done?
 23 A. Right.

24 Q. Let's go on to page 4, procedures for
 25 informing the public. Could you describe that

1 issue to me.

2 A. One of the order provisions wanted us to
 3 provide training to the public, and that was
 4 based on a requirement in the MS4 permit, to
 5 public education. And the DOT considers this
 6 public to be the employees, as identified in the
 7 permit, that the public is, oftentimes, the
 8 employees of the agency rather than the general
 9 public.

10 We don't interact on a day-to-day basis
 11 with the general public. They don't come onto
 12 our residencies to use the maintenance
 13 facilities. It's not like having a Town Hall
 14 where people come in and out of the door
 15 everyday.

16 Q. Okay. And about how long-term solutions
 17 to the run-off?
 18 A. The EPA was looking for containment for
 19 our stockpiles at our facilities?
 20 Q. Did they tell you what that containment
 21 would be or should be?
 22 A. They mentioned that we could put barriers
 23 around them or cover them, and there was a
 24 recommendation to cover the stockpiles, which we
 25 determined wasn't feasible.

1 Q. Did you try?
 2 A. We did try.
 3 Q. What happened?
 4 A. Our Region 5 staff built a sturdy barrier
 5 containment around the stockpile and then covered
 6 it with tarp.

7 Q. What happened?
 8 A. It snowed on the tarp, and the tarp
 9 collapsed. And we provided photographs of the
 10 tarp, that collapsed tarp so the EPA people could
 11 write a progress report.

12 Q. And what was the ultimate decision or
 13 action?
 14 A. It was accepted that we did not misuse in
 15 putting tarps over to cover the stockpiles.

16 Q. Okay. I'm going to ask you to refer to
 17 Respondent's Exhibit 48.
 18 A. Okay.
 19 Q. It appears to be a complete copy.
 20 Without describing what is in this document, can
 21 you just briefly describe for me what it is?
 22 A. This is the agenda and my notes for a
 23 meeting with EPA and DEC on July 10, 2015.

24 Q. Is this your handwriting?
 25 A. On the front page, it is Jonathan Bass'

1 handwriting, and on page 2 and 3 is mine.
 2 Q. Where did you get this from?
 3 A. The front page was given to me by
 4 Jonathan Bass and the other two pages are mine.
 5 Q. Is this a true and accurate description
 6 of the document?
 7 A. Yes.
 8 MS. MC NALLY: I will move this into
 9 evidence at this time.
 10 MR. WINANS: No objection.
 11 ALJ BIRO: Exhibit 48 will be moved
 12 into the record.
 13 (RESPONDENT'S EXHIBIT 48, RECEIVED
 14 IN EVIDENCE AS OF THIS DATE.)
 15 BY MS. MC NALLY:
 16 Q. So looking at the first page, I'm going
 17 to take you directly to number 4. Can you
 18 describe for me what that is.
 19 A. We had a lengthy discussion with the
 20 discharge protection minimum management program.
 21 Q. Is this the same program that we
 22 discussed at the last meeting?
 23 A. Yes.
 24 Q. What did that ultimately result in?
 25 A. We made changes to the established

1 program, which basically amounted to adding more
 2 language to it, more words to describe our
 3 procedures.
 4 Q. Was there also discussion in here with
 5 regards to the Highway and Records Program?
 6 A. No.
 7 Q. We may have talked about that again here.
 8 A. No, I do not believe so.
 9 Q. Can I just direct your attention to page
 10 3.
 11 A. Okay.
 12 Q. Go down to --
 13 A. Yes, we did talk about that.
 14 Q. So if you recall, can you describe for me
 15 how those two interlink.
 16 A. The SHARP system would be used to
 17 identify the source of, you know, a list of
 18 discharge within our right of way.
 19 And we would look, using the asphalt
 20 record plans, once we found the list of
 21 discharge, we would find what direction it may
 22 have come from and then track, using our drainage
 23 system, to the point where a list of discharge
 24 would have entered our drainage system, and at
 25 that point we would identify which municipality,

1 what private property it came from, using the
 2 address or the Global Positioning System's GPS
 3 coordinates and provide that information to the
 4 municipality.
 5 Q. Okay. So why did you have to continue
 6 talking about that for this list of discharge
 7 issues?
 8 A. As of the date of this meeting, it was
 9 still not accepted as complete.
 10 Q. Okay. I'm going to move on to
 11 Respondent's Exhibit 55.
 12 A. They are all here.
 13 Q. Okay. Great.
 14 So for the record, could you just briefly
 15 describe what this document is.
 16 A. The first page is the agenda for a
 17 conference call meeting that we had with EPA on
 18 September 18, 2015.
 19 Q. Okay. And the second page?
 20 A. The second page is my notes from that
 21 conference call.
 22 Q. And the final, like, seven pages, nine
 23 pages?
 24 A. Yes. The remaining pages is a copy of
 25 our compliance schedule and status as of that

1 date.
 2 Q. And is this a true and accurate
 3 description?
 4 A. Yes.
 5 Q. Is that your handwriting?
 6 A. Yes.
 7 MS. MC NALLY: Okay. I would like
 8 to move this into evidence at this time.
 9 MR. SAPORITA: Your Honor, a brief
 10 question regarding the document, the
 11 compliance chart, who -- it's unclear.
 12 The witness hasn't mentioned the fact
 13 that she created --
 14 MS. MC NALLY: With the construction
 15 minutes and exhibits and --
 16 MR. SAPORITA: Withdrawn,
 17 Your Honor.
 18 ALJ BIRO: Respondent's Exhibit 55
 19 is admitted into the record.
 20 (RESPONDENT'S EXHIBIT 55, RECEIVED
 21 IN EVIDENCE AS OF THIS DATE.)
 22 MS. MC NALLY: Thank you,
 23 Your Honor.
 24 BY MS. MC NALLY:
 25 Q. Okay. So let's just go through the

1 agenda and discuss what was talked about at that
 2 meeting.
 3 A. We again talked about the list of
 4 discharge, the protection elimination program,
 5 the additional items that EPA was asking for.
 6 Q. Did they not ask for those items in a
 7 previous meeting?
 8 A. No. They have been -- some of the items
 9 that were asked for in the order provision, we
 10 satisfied those. And then each time we submitted
 11 our items to each program, additional things were
 12 asked for to be included. And this was more of
 13 those items that were asked for in one of EPA's
 14 responses to us.
 15 Q. Okay. How about 2?
 16 A. And that was clarification of the order
 17 provision CQP or a pollution prevention plan that
 18 audited our facility.
 19 Q. What was the clarification there?
 20 A. The EPA was looking for type-specific
 21 pollution prevention measures for each of these
 22 locations, and we needed clarification as to what
 23 they meant when they asked for site-specific
 24 measures.
 25 Q. Why didn't DOT have site-specific

1 measures initially?
 2 A. Our residencies and other facilities,
 3 they are cookie-cutters, so very similar. A DOT
 4 staff member working at one residency would then
 5 move and work in another residency and handle
 6 transitions. Everything's the same. The
 7 operations are the same. The materials are the
 8 same. The activities are the same. So we have
 9 one set of Pollution Prevention Plans in our
 10 environmental handbook for operations that can be
 11 taken at any one of our facilitie. It applies at
 12 any one of them.
 13 Q. Does the permit require site-specific
 14 training?
 15 A. No, it does not.
 16 Q. Okay. What is the next, facility self-
 17 assessment?
 18 A. The self-assessment that the order
 19 provision CTW required, that we assess all of our
 20 facilities and our operations.
 21 Q. Had DOT performed self-assessments like
 22 that?
 23 A. In the past we have performed self-
 24 assessments but not the exact type of self-
 25 assessment or style that EPA was asking for.

1 Q. Are there any requirements on the permit
 2 about frequency of self-assessments?
 3 A. No, there's not.
 4 Q. How about number 5?
 5 A. Number 5, we were asking for whether
 6 certain items in the order provision, as
 7 identified here, were complete, because we had
 8 not yet received complete statements from the EPA
 9 of those provisions.
 10 Q. And did they, if you recall, say that all
 11 those provisions were complete?
 12 A. In my notes, on the following page,
 13 you'll see that C2Q was acceptable, but we were
 14 still not sure that meant, complete. We
 15 considered it complete. And C2R, she just said
 16 it would take some months -- we had said it would
 17 take some months to complete that, and she said
 18 that it was okay, that it would take longer to
 19 complete C2R. And that's why I have the
 20 compliance schedule following that, just to
 21 identify those two order provisions.
 22 Q. Thank you.
 23 A. Can I add anything about my notes on
 24 this?
 25 Q. Sure, you can.

1 A. We specifically asked for clarification
 2 on these items because we were unsure of what was
 3 meant by assessing our operations, and we could
 4 not find the self-assessment form or report or
 5 any guidance to that effect on DEC's website.
 6 Yet it was something that they wanted us to
 7 comply with in their permit, and they had nothing
 8 to give us any guidance on, what they meant by an
 9 operation or how soon to conduct an assessment.
 10 And we figured asking for some guidance on that
 11 would give us some instruction, a form, to let us
 12 know what they meant by that.
 13 Q. What guidance did you get?
 14 A. She told us what operations they wanted
 15 us to assess.
 16 Q. Did they give you a form?
 17 A. No.
 18 Q. How did you know what form they wanted?
 19 A. We just developed a narrative on -- based
 20 on our environmental handbook in transportation
 21 operations, which gives us guidance on how to
 22 perform those activities. And so we assessed
 23 them based on that guidance.
 24 Q. Was that accepted?
 25 A. It was accepted.

1 Q. Are there any specific challenges that
 2 you would note in dealing with the compliance
 3 order?
 4 A. Yes.
 5 Q. Go ahead.
 6 A. As I said previously, the language in the
 7 order was very confusing, and a lot of the
 8 terminology is something that we're not familiar
 9 with, and we found it difficult to understand
 10 what was actually meant for us to do for many of
 11 the order provisions. And some of the terms that
 12 come to mind are updated mechanisms, and site-
 13 specific solution is another one, and written
 14 directive, these are -- these are terms that may
 15 mean different things to agencies other than DOT
 16 transportation agencies?
 17 Q. Was EPA helpful in guiding you on those
 18 issues?
 19 A. Not entirely. We had to ask for
 20 clarification numerous times and resubmit things
 21 because we submitted what we understood to be in
 22 compliance and then we're told that we needed to
 23 submit additional evidence. And we were very
 24 frustrated because we had thought that we had
 25 submitted everything that was needed and then

1 would get a response back from the EPA that there
 2 were additional items we needed to submit.
 3 Q. At any time did you try to get any formal
 4 approval of your submission prior so that this
 5 didn't happen?
 6 A. Any formal approval?
 7 Q. By giving something --
 8 A. We did ask for clarification or
 9 verification that items were submitted previously
 10 were accepted and found out that a lot of the
 11 items we submitted during the audit in the
 12 records request were submitted as exactly the
 13 same items during the order provision and were
 14 accepted as complete during the order provisions
 15 but were not accepted during the audit and were
 16 noted deficiencies. So it was confusing and very
 17 frustrating to know at any given time what would
 18 be accepted and would not be accepted.
 19 Q. Can you think of some examples of those
 20 things that were submitted during the audit and
 21 accepted during the order submission?
 22 A. The stormwater management practices,
 23 operations and maintenance manual that were
 24 prepared by our Region 8 staff is a manual that
 25 is used statewide to inspect and maintain those

1 practices, and it was not accepted during the
 2 audit when it was submitted, but yet when it was
 3 submitted again in the orders provisions it was
 4 accepted.
 5 Another document was our environmental
 6 handbook for transportation operations, which was
 7 submitted in, I believe, all three audits and
 8 found deficient. And then when it was submitted
 9 again during the order submission, it was
 10 accepted.
 11 Q. Is the SHARP system another thing that
 12 was eventually accepted?
 13 A. Yes. That was in -- one of the reasons,
 14 I don't recall which one, one of the reasons --
 15 the asphalt record plans were submitted for a
 16 project and were not accepted during that audit
 17 but then were accepted when we made the
 18 presentation, or sometime after that. It wasn't
 19 accepted at the presentation, but I believe about
 20 a year later.
 21 Q. Okay. I'd like to show you what has been
 22 marked and entered into evidence as Complainant's
 23 Exhibit 68. What is this document?
 24 A. This is the summary of a conversation
 25 conversation/conference call that we had with Tim

1 Murphy, attorney for EPA. And in the room was
 2 myself, my supervisor Melvin Roline, and the DOT
 3 attorney, Keith Martin.
 4 Q. No, I want you to look at Complainant's
 5 Exhibit 68. You're probably looking at it.
 6 A. Oh, I'm sorry.
 7 Q. No, you're fine.
 8 A. I don't know if those are even in order.
 9 Complainant's Exhibit 68, not Respondent's.
 10 Q. Can you describe what that is.
 11 A. This is the summary from DOT in
 12 satisfying order provisions. It's not a complete
 13 summary but a summary to satisfy some of th
 14 provisions. These were the provisions that were
 15 above and beyond what the MS4 permit required.
 16 Q. Let's go through them. If you could just
 17 describe what in your opinion the permit
 18 required, what EPA asked you to do.
 19 A. EPA required that we certify that our
 20 outfalls and inventory inspections were being
 21 done in accordance with the procedures.
 22 Q. Where does the permit say that?
 23 A. The permit does not require
 24 certification.
 25 Q. Okay. Let's go to the next one.

1 A. Ordered provision C-2C, the EPA asked for
2 pollution prevention measures at a number of our
3 facilities. And in our conversations with EPA,
4 they've asked for us to cover our stockpiles and
5 remove stains from the parking lots at the
6 facilities.

7 Q. Were those actions ultimately taken?

8 A. The cover on the stockpiles was attempted
9 and found to be infeasible and it failed.

10 Q. And what about the stains?

11 A. Removing the stains would require a
12 detergent to remove the material from the
13 asphalt, and that would create a falling of
14 contaminated water that would then have to be
15 disposed of and would ultimately result in more
16 pollutants being discharged to the environment
17 somewhere as opposed to being sequestered into
18 the pavement.

19 Q. Okay. Did the EPA ultimately agree with
20 you on that?

21 A. Yes.

22 Q. How about C-2D?

23 A. EPA asked for pollution prevention
24 training at our facilities. And in
25 conversations, they suggested that we have a

1 training video posted to our intranet, which is
2 our internal web site. Originally, they asked
3 for it to be posted to our external website. The
4 video that would be used was proprietary, the
5 copy that was purchased from a company. And if
6 we posted that to our external web site, it would
7 be basically giving it out for free in this
8 world, and we couldn't do that. So we did post
9 it to our internal web site. However, that same
10 video was already used in our facility, and
11 posting it on the website wasn't -- actually
12 wasn't really necessary.

13 Q. And does the permit require that?

14 A. No.

15 Q. Okay. How about the next one, C-2E?

16 A. The order provision asked for us to
17 remedy the issues that were noted at a number of
18 construction sites during the inspections in
19 regions 8 and 9.

20 And we had already addressed all of the
21 issues at all of our construction sites in
22 Region 8, by the time we received the orders,
23 because those were completed -- those sites had
24 been completed long before we received the order.
25 With one construction site in Region 9, it was

1 still active at that time. In order to meet the
2 deadlines established by the EPA for addressing
3 this, we had to engage contractors to do what we
4 call a forced account. We were aware and were
5 contacted, and that accelerates the project and
6 accelerates their schedule for completing the
7 work. And then, as assumed, you go into the
8 costs that would be the contractor.

9 Q. I'll show you what has been marked as
10 Respondent's Exhibit 23.

11 A. Okay.

12 Q. Can you describe for me what that is?

13 A. This is the summation of the Force
14 account. This is the actual cost to the
15 contractors for complying with that accelerated
16 schedule to complete the work at that project
17 Highway 81, New York 17 or Highway 86, that
18 proposal deal, that Park Creek project.

19 Q. How did you obtain this document?

20 A. That was given to us by Region 9
21 construction environmental staff.

22 Q. And is this a true and accurate
23 description of what it purports to be and who is
24 the contractor?

25 A. To the best of my knowledge, yes.

1 MS. McNALLY: I request to admit
2 this into evidence at this time.

3 MR. WINANS: It's unclear whether
4 this was attained in the ordinary course
5 of business, somehow it came from someone
6 with DOT, so I'm not sure how it actually
7 made out -- what is it purported to be, a
8 business record that was kept and
9 maintained in the ordinary course of
10 business?

11 MS. MC NALLY: I can ask --
12 clarification that question.

13 ALJ BIRO: Okay.

14 BY MS. MC NALLY:

15 Q. Did DOT create this document?

16 A. Yes.

17 Q. For what purpose?

18 A. We keep records of every dollar that is
19 spent on every order on a construction project,
20 and this is prepared to summarize that we indeed
21 had to pay the contractor those funds. All of
22 our contacts require that we keep a record of the
23 approximate funds expended for that.

24 Q. And this a document that's kept in the
25 ordinary course of business?

1 A. Yes.
 2 MS. MC NALLY: I'd like to move that
 3 into evidence at this time.
 4 MR. GARELICK: That's fine.
 5 ALJ BIRO: You said the EPA
 6 maintained it for every region.
 7 THE WITNESS: Every region.
 8 ALJ BIRO: Do you have access to
 9 this?
 10 THE WITNESS: We have had to ask
 11 them to submit it, but we -- I personally
 12 can have access to this through the
 13 software that they use.
 14 ALJ BIRO: And who maintains these
 15 records?
 16 THE WITNESS: We have a software
 17 called Site Manager, in that Site Manager
 18 software, they enter all of these
 19 documents. And I don't have that
 20 software installed on my computer but I
 21 could if I wanted to.
 22 ALJ BIRO: Okay. And you got this
 23 document by asking DOT?
 24 THE WITNESS: Yes.
 25 ALJ BIRO: You believe they created

1 it based on a bill they received from the
 2 contractor?
 3 THE WITNESS: Yes. And he is the
 4 construction manager that certifies that.
 5 ALJ BIRO: For DOT construction?
 6 THE WITNESS: Yes.
 7 ALJ BIRO: Okay. I will admit
 8 Respondent's Exhibit 23 into the record.
 9 (RESPONDENT'S EXHIBIT 23, RECEIVED
 10 IN EVIDENCE, AS OF THIS DATE.)
 11 BY MS. MC NALLY:
 12 Q. Okay. Let's go back to the order.
 13 A. So the cost used there is the 4% overhead
 14 that the -- that is backed off from the total
 15 amount on that Force account summary of
 16 \$36,448.79, and the cost documented here is the
 17 4% overhead that the contractor exchanged by
 18 doing the project at an accelerated pace.
 19 ALJ BIRO: You're talking about
 20 Division C-2E?
 21 THE WITNESS: Yes, C-2E.
 22 ALJ BIRO: Okay. That's how you
 23 came up with the amount?
 24 THE WITNESS: Yes. And the 3,318.67
 25 in labor costs, and that's the total --

1 BY MS. MC NALLY:
 2 Q. You can refer to the Exhibit 23, if you
 3 want to refer --
 4 A. Yes. And so the labor costs on here is
 5 actually not DOT labor costs but the contractor
 6 labor costs. It's mislabeled here as NYSDOT
 7 labor costs.
 8 Q. Okay.
 9 A. I had a spelling error, just a labeling
 10 error.
 11 Q. C-2G.
 12 A. That requirement, EPA indicated that we
 13 did not -- as DOT, we had not completed our
 14 quality and control program to include erosion
 15 and sediment control and found that to be a
 16 deficiency or a violation, actually, of our
 17 stormwater management program. However, our
 18 stormwater management program identified that as
 19 an activity that we performed but our stormwater
 20 management program plan does not have the
 21 frequency to perform it. And the purpose of that
 22 program, called a quality control program, is to
 23 discover whether there's anything that needs
 24 improvement in our erosion and sediment control
 25 plan. And a number of those inspections have

1 been conducted, and we found that our program was
 2 in working order and no inspections had been
 3 conducted for some time. It's not something that
 4 the MS4 permit required. It's something that
 5 we've used on our own above and beyond permit
 6 requirements.
 7 Q. Thank you.
 8 A. So we initiated that program.
 9 Q. C-2H?
 10 A. C-2H was asking us for written procedures
 11 to document and maintain records pertaining to
 12 our stormwater and management program
 13 implementation.
 14 Q. Does the permit require that?
 15 A. No. This was an example of one of the
 16 confusing provisions because we looked at this as
 17 procedures to implement procedures. And so it
 18 was very confusing to come up with a written
 19 procedure for implementing our stormwater
 20 management program procedures.
 21 Q. What about C-2I?
 22 A. C-2I had asked us to have a written
 23 program to track our construction site
 24 inspections and to ensure that it's equivalent to
 25 what we described in our stormwater management

Page 468

1 program plan. And we had given to EPA, during
 2 the audit, examples of our construction site
 3 inspection records, which are labeled here as
 4 MURK 6. It's our manual of uniform
 5 recordkeeping, and that's our site inspection
 6 report. And those are kept in a log in that site
 7 manager program that I discussed previously. And
 8 there is nothing in the MS4 permit that says we
 9 need to track our construction site inspections,
 10 but just maintain all of the records, maintain
 11 inventory of those inspection sites in the
 12 records.

13 Q. Did EPA accept this submission?
 14 A. Yes.

15 Q. And that was already done prior to the
 16 audit, correct?
 17 A. Right. We didn't have to create any new
 18 activities but had to assemble all the
 19 information and then submit that.

20 Q. What about C-2K?
 21 A. That order provision asked us to document
 22 and track construction operator training and
 23 wanted us to document that all of the contractors
 24 working on our project receive the proper
 25 training before they could work on our project.

Page 469

1 And the permit does not require us to
 2 track their training. We do verify if they
 3 receive training. And we provided to EPA during
 4 the audit a copy of that certification statement
 5 that one of the consultants discussed previously
 6 that the contractor sign a certification that
 7 they will follow our stormwater pollution
 8 prevention plan and they understand all of the
 9 requirements for that and that they document it
 10 in our CONR-5, C-O-N-R, dash, 5, form.

11 That form also includes their training ID
 12 number. And we have always documented that. It
 13 fits the requirements in the permit.

14 Q. And was EPA also in agreement to how it
 15 was performed?
 16 A. They did accept it. And we had to
 17 prepare all of that documentation to submit to
 18 get that acceptance.

19 Q. C-2L.
 20 A. C-2L asked us to provide updated
 21 mechanisms to ensure compliance and enforcing
 22 mechanisms on our construction project. This was
 23 one of the very confusing ones that we had to ask
 24 for clarification on. And we have mechanisms
 25 already in place. We have highway work permits.

Page 470

1 We have use and occupancy permits. Those were
 2 given to EPA during the audits. And so
 3 subsequently, we gave them to them again, the set
 4 of findings in the order provisions, and they
 5 were accepted.

6 Q. C-2N.
 7 A. We were required to have an employee
 8 pollution prevention and good housekeeping
 9 training program. And we provided examples to
 10 EPA of our training program. Primarily, they're
 11 done at our spring/fall maintenance training
 12 meeting. They're routinely scheduled every year,
 13 held every year, and all of our maintenance
 14 facility staff attend all of these trainings. We
 15 have Power Point presentations and videos to show
 16 during these trainings. And we had to print out
 17 all of those and put them in our progress report,
 18 and they were deemed acceptable and complete.
 19 But the permit doesn't require that we add the
 20 video and posting that.

21 Q. Okay. Next, C-2Q.
 22 A. C2Q, again, is a map of the preliminary
 23 boundaries of the storm sewer shed where we
 24 presented a Power Point presentation, Webinars.
 25 They had a really good record filing system. And

Page 471

1 I had to spend a lot of time going over that
 2 program in several meetings to explain it and get
 3 that accepted.

4 Q. C 2R.
 5 A. C-2R is a written directive from the
 6 person authorized to sign a Notice of Intent,
 7 stating that we will be using updated mechanisms
 8 to comply with our list of discharge, protection
 9 and elimination program.

10 Q. Does the permit require that?
 11 A. The permit does not require a written
 12 directive the way that EPA has asked for a
 13 written directive. We would require for them to
 14 prepare what we have, in DOT, an engineering
 15 bulletin delivered by the office of engineering
 16 to anyone that worked with that program to then
 17 tell them to implement a program that was already
 18 submitted to them.

19 Q. So where were those requirements
 20 previously?
 21 A. Where were they stated?
 22 Q. Yes. You said to implement our program
 23 directly, telling them to follow.
 24 A. We already had an engineering bulletin on
 25 that, and the number escapes me right now, but

Page 472

1 they had already been implementing that program,
 2 and it was a redundancy.
 3 Q. Just look at the top of page 8, to
 4 refresh your recollection.
 5 A. Yes. We have -- we already had a highway
 6 work permit and use and occupancy permit that are
 7 considered by DECMS4 permit to be updated. It
 8 specifically spells that out, the provisions in
 9 that permit. That is MS4 provision, Section 8, A
 10 through F2.
 11 Q. Thank you.
 12 A. In that provision it says that we can use
 13 tenant lease agreement specifications for
 14 proposed standard contract provisions, connection
 15 permits, maintenance directives, access permits,
 16 consultant agreements, internal policy, and we
 17 already had those in place and had to gather the
 18 information.
 19 Q. Okay. So order provision C-2M?
 20 A. That provision is a written program to
 21 detect and address non-stormwater discharges or a
 22 list of discharges. And they were asking us for
 23 an elaborated list of discharge protection
 24 elimination program and the features, which we
 25 had previous to the order referred to "list of

Page 473

1 discharges" that we were not able to address
 2 using our language -- we refer to those to either
 3 the municipality or the DEC or the Department of
 4 Health, depending on the nature of the discharge
 5 charge and the location.
 6 Q. And is that what this department still
 7 does?
 8 A. And it is still what we do. It is the
 9 exact same procedures, and we were required to
 10 elaborate on that program.
 11 Q. C-2T.
 12 A. C-2T had asked us to provide written
 13 procedures to ensure that the public and -- as
 14 written in the permit, it says, for example, an
 15 employee user population, visitors or contractors
 16 and developers are informed to have this
 17 associated with illegal discharges and the
 18 improper disposal for wood. Part A -- 8A through
 19 H, of the Alcore permit.
 20 We, at DOT, have always assumed that our
 21 public is our employee population and visitors,
 22 and our employees like to use those populations.
 23 We are using our maintenance facilities, not just
 24 the general public, and that we have numerous
 25 ways of informing our employees of it and making

Page 474

1 sure all of our spill prevention control and
 2 reconnaissance measures, FCCP training, health
 3 training, they are held every year.
 4 The EPA asked us to develop printed
 5 brochures and Post-Its to identify hazards to the
 6 traveling public. And we posted Post-Its in rest
 7 areas and put up a brochure up on our website,
 8 even though our website already had items on
 9 there to provide to the state department.
 10 Q. And C-2V.
 11 A. C-2V asked us to have an updated solution
 12 prevention and good housekeeping program for our
 13 municipal operations facility. And we had
 14 numerous conversations with EPA and DOT to find
 15 out exactly what they meant by the site-specific
 16 concerns and site-specific exclusion prevention
 17 activity.
 18 Are environmental handbook for
 19 transportation operations had guidance -- it has
 20 that guidance in that document. And so we then
 21 were asked to elaborate on all of that and
 22 provide documents. We gathered all of the
 23 documents we had already, the environmental
 24 handbook, a number of engineering bulletins that
 25 had already been issued, and put that together in

Page 475

1 our progress report and submitted those.
 2 And in addition to that, because there
 3 was so much confusion about the site-specific
 4 concerns, we were directed to prepare four more
 5 prevention plans for each of the facilities that
 6 were audited.
 7 Q. And does this permit require any specific
 8 training?
 9 A. It does not.
 10 Q. I'm referring you to CX-50.
 11 MS. MC NALLY: May I have the
 12 witness's copy of CX-50?
 13 MR. SAPORITA: I think that's up on
 14 the stand, actually.
 15 MS. MC NALLY: Thank you.
 16 (Handing witness the document.)
 17 BY MS. MC NALLY:
 18 Q. I'm going to draw your attention to page
 19 4 now.
 20 MR. GARELICK: You mean 6?
 21 MS. MC NALLY: Yes, read each page
 22 in its entirety, which would be E-10 --
 23 start at 4 go through 10
 24 MR. GARELICK: The page number of
 25 the exhibit --

1 MS. MC NALLY: Yeah, I said 6. I
 2 know I said 4 to start, but I'm sure of
 3 that now. I wasn't sure.
 4 MR. GARELICK: This could be 6?
 5 MS. MC NALLY: Yes, this could be 6.
 6 BY MS. MC NALLY:
 7 Q. Are you there?
 8 A. Yes.
 9 Q. As briefly as you can -- and if we are
 10 covering stuff we covered in the CSCEE, tell me.
 11 I want you to go through and explain what DOT did
 12 to comply with these provisions in the complaint.
 13 So starting at 10.
 14 A. You want me to discuss Part A --
 15 Q. No.
 16 A. -- A on there, or B?
 17 Q. Sorry.
 18 A. The 1, 2, 3?
 19 Q. Yes.
 20 A. The first one asked us to develop a
 21 quality control program to include erosion and
 22 sediment control, and we did that. We had a --
 23 in the middle of the year --
 24 Q. Did you have one in place prior?
 25 A. We had a program in place. But again,

1 our stormwater management program does not
 2 specify the frequency for implementing that.
 3 Q. For implementing the program?
 4 A. For implementing the quality control
 5 program.
 6 Q. Okay. Next one.
 7 A. That stated that we -- at the time of the
 8 audit, we were not following procedures in our
 9 outfall reconnaissance, 303.
 10 Q. What did you do in response to that?
 11 A. We submitted our outfall reconnaissance
 12 inventory geodatabase, and it would be
 13 incomplete.
 14 Q. And that database dates it prior to the
 15 audit?
 16 A. Yes.
 17 Q. So you just handed them something that
 18 was already in existence?
 19 A. Yes.
 20 Q. And they accepted that; is that correct?
 21 A. Yes.
 22 Q. Section 4-I-B.
 23 A. They asked us to conduct construction
 24 site inspections after every rainfall event that
 25 was happening to streamwater with stormwater.

1 The DEC construction permit, which was
 2 all of the inspection requirements for
 3 construction sites, no longer included every
 4 rainfall-related inspection requirement. So by
 5 the permit, we were no longer required to do
 6 those inspections. They had previously been
 7 listed on our inspection report forms as a
 8 requirement, but as of the dates of the audits,
 9 they were no longer required.
 10 Q. Thank you. Part 5-E.
 11 A. I believe this asked us to keep all of
 12 our records in relation to the CD's general
 13 comments for at least five years. And we do keep
 14 all of the records for probably many years after
 15 the five years we're required to keep them for.
 16 I'm not sure for each individual project,
 17 inspection records, but all of our reports have
 18 had it for at least five years. And I still
 19 don't see how that was a violation.
 20 Q. Okay. So Part E-A3.
 21 A. That was asking for a map of all of our
 22 stormwater outfalls, which we've always had and
 23 we provided to EPA during the audits. And they
 24 specifically asked for four outfalls at our
 25 Region 5 audit locations that EPA identified and

1 considered to be unmapped outfalls. However,
 2 those outfalls were owned by the Office of
 3 General Services, OGS, and were not under DOT
 4 ownership. And there was one outfall that they
 5 considered an outfall in our Region 9 area, and
 6 that was the location of the stormwater pond that
 7 we spoke of previously.
 8 Q. Uh-huh.
 9 A. And we do not consider that to be an
 10 outfall because it's the outlet of the pond and
 11 not an outfall to receiving waters.
 12 Q. Did they still map them?
 13 A. No.
 14 Q. 8A3B.
 15 A. They asked us to submit our outfall
 16 reconnaissance inventory, and that's the
 17 geodatabase of all of our outfall inspections,
 18 and we submitted that. We showed them the
 19 outfall reconnaissance geodatabases during the
 20 audits, and then had to subsequently show them
 21 during progress reports when they were accepted
 22 as complete.
 23 Q. Okay. 8A3FII.
 24 A. Which page is that on?
 25 Q. 8.

Page 480

1 A. Which page again?

2 Q. A.

3 A. Oh, I see. We were seeking a permit.

4 Q. Right.

5 A. The written directive from the person to

6 authorize the Notice of Intent, the updated

7 mechanisms must be used.

8 And this is, again, the instructions for

9 conducting the list of discharge protection and

10 elimination system. And we don't need a written

11 directive, the same way that you score on a score

12 board, and we had our own mechanisms already in

13 place that were accepted as progress reports.

14 Q. So they did not require you to create an

15 exhibit and draft of that?

16 A. Right. Well, they required us to prepare

17 an engineering bulletin --

18 Q. Okay.

19 A. -- that stated the same thing, that we

20 already had.

21 Q. Okay. F.

22 A. That section required us to establish a

23 notice of discharge and a protection of

24 elimination program, including procedures for

25 drop-down, a list of discharges. And we had that

Page 481

1 already in place. And through the course of

2 multiple meetings and submissions, progress

3 reports, we lengthened that program by just

4 elaborating on each of the procedures that we've

5 already had in place.

6 Q. And is this part of the referral to other

7 agencies?

8 A. Yes. The referral to the DEC and the

9 Department of Health or the MS4s, the same

10 procedure, in a sense.

11 Q. And G.

12 A. As I discussed the informing -- and it's

13 informing the public of the hazards associated

14 with illegal discharges. And that's what we

15 consider, the public is our employees.

16 Q. You can skip that. Now let's go to H.

17 A. That's developing and enforcing a program

18 to have equivalent protection to the Construction

19 General's permit, to ensure that erosion and

20 sediment and control practices identified in

21 their stormwater pollution prevention plans are

22 maintained in an effective operating condition at

23 all times.

24 Q. What would you have based this on to find

25 that?

Page 482

1 A. The erosion and sediment control issues

2 that were identified during the audits, those

3 sites in Region 8 and our region were completed

4 by the time this order was received, and we had

5 the Force account. We were using that.

6 Q. I.

7 A. That one pertains to having written

8 procedures for addressing public complaints with

9 public inquiries regarding that construction

10 site. And during the audits, the individuals

11 that were asked for that information were not the

12 proper people to ask, that, you know, regional

13 offices, those are your public information

14 officers. And the public information officers,

15 or PIOs, were not present at the audit.

16 Q. So what did you have to do to satisfy

17 this?

18 A. We gathered that information and

19 submitted it during progress reports.

20 Q. Information that already existed?

21 A. Yes.

22 Q. J.

23 A. That one asked us to implement and

24 enforce a program to ensure that the construction

25 site contractors have received erosion and

Page 483

1 sediment control screenings, and we are not

2 required to do that by the permit because we are

3 non-traditional MS4.

4 Q. What did you need to do that you hadn't

5 done?

6 A. We submitted documentation that we

7 already had in existence. The CONR-5 form that

8 the contractor signs and dates, certifying that

9 they had received the same.

10 Q. And that was for sediment?

11 A. Yes.

12 Q. K.

13 A. They were looking for a program for

14 ensuring adequate long-term operations and

15 maintenance of our stormwater management

16 practices, if I'm looking at this correctly.

17 Q. Yes.

18 A. And we had given them our stormwater

19 management practices folder, manual, operations

20 and maintenance manual in the audits, and then we

21 had done that same manual during the progress

22 reports and it was accepted.

23 Q. And L.

24 A. That asks for a pollution prevention and

25 good housekeeping program for our operations and

1 facility. And our environmental handbook for
 2 transportation operations was provided during the
 3 audit and then provided again in the progress
 4 report and accepted.
 5 Q. Did they require you to do anything
 6 additional?
 7 A. They required site-specific stormwater
 8 pollution prevention plans, which are not
 9 required in the permit.
 10 Q. Okay. And M.
 11 A. M asked us for a pollution prevention and
 12 good housekeeping program and included a self-
 13 assessment to determine the sources of pollutants
 14 potentially generated at those facilities and the
 15 operations.
 16 Q. And I believe somewhere you testified
 17 that you had had some, correct?
 18 A. Yes.
 19 Q. N.
 20 A. That required a pollution prevention and
 21 good housekeeping program that incorporates
 22 training for our staff, and we have a semi-annual
 23 training program at each facility that we're
 24 involved in, and we provided that documentation
 25 in our progress reports, and it was accepted as

1 complete.
 2 Q. And O?
 3 A. That's for a site-specific pollution
 4 prevention and good housekeeping program. And we
 5 did not need to put down a site-specific plan,
 6 but we did submit it.
 7 Q. So let's talk about how you calculated
 8 the PIN numbers in Exhibit 3 and also in number
 9 2.
 10 MS. MC NALLY: And this will all go
 11 right to the overall number, then, DOT is
 12 submitting for compliance purposes. So
 13 CX-59. And the final exhibit is 79. I'm
 14 going to submit them, Your Honor, in
 15 evidence.
 16 BY MS. MC NALLY:
 17 Q. So, can you describe for me what CX-59
 18 is?
 19 A. Again, that is the cost summary prepared
 20 to document the costs that DOT -- labor,
 21 materials, all of the costs associated with
 22 meeting the order provisions that went above and
 23 beyond what the MS4s permit required.
 24 Q. And did you come up with that?
 25 A. Yes.

1 Q. Can you tell me how you came up with that
 2 number?
 3 A. I used the labor costs that were in our
 4 exhibit, RX-72. I used the Force account summary
 5 and other documents prepared by the regions. We
 6 document the material costs that they put in to
 7 meeting some of those provisions.
 8 Q. And what is RX-70?
 9 A. That is the personal services detail
 10 report generated from our accounting office.
 11 And what it entails is a report by employees with
 12 all of the costs associated with the labor hours
 13 from each individual employee at that pay rate
 14 that they prepared from our bi-weekly time
 15 sheets. And those are set up with a tracking
 16 system, which we call PINS, with parking tickets,
 17 solution numbers. We also re-sign our time
 18 sheets. And we had a special PIN set up
 19 specifically to track labor costs for satisfying
 20 this order as instructed by the EPA.
 21 Q. So you were being asked to subtract how
 22 much the cost would be?
 23 A. Yes. So every quarterly report, we were
 24 required to prepare a summary of our labor costs
 25 associated with meeting the provisions of the

1 order.
 2 Q. And is EX-59 the Final Summary Report?
 3 A. Yes.
 4 Q. And did you use the payment solution to
 5 create the number of EX-68?
 6 A. Yes.
 7 Q. Who has oversight over the MS4 permits?
 8 A. The official oversight for the MS4
 9 permits, the official signatore is our chief
 10 engineer.
 11 Q. Outside of the agency authority?
 12 A. Outside of the -- oh, DEC. The DEC's
 13 delegated authority.
 14 Q. Are you aware of actions that DEC has
 15 taken against the Department of Transportation to
 16 enforce compliance either with this permit or
 17 other permits?
 18 A. I am only aware by hearsay of any prior
 19 actions taken by DEC for other issues. But to my
 20 knowledge, there has never been any actions taken
 21 against DOT for violations of the MS4 general
 22 permit.
 23 Q. Well, not just that. I mean, any permit.
 24 Were you ever involved in consent orders when
 25 working for DOT?

1 A. No.
 2 Q. So DEC has oversight over the MS4
 3 permits. Today, is there something that is
 4 submitted to them to let them know what DOT did
 5 with respect to the MS4 permit?
 6 A. Yes. The MS4 general permit requires
 7 that we submit an annual report on June 1st of
 8 every year, and that report includes all of the
 9 activities that we have done during a particular
 10 period, from March 10th of each year to March 9th
 11 of the following year. That time period is the
 12 official submittal time period, and all of the
 13 activities that we have done during that time
 14 period to meet the permit requirements.
 15 Q. Does that cover outfall reconnaissance
 16 inventory?
 17 A. Yes.
 18 Q. Does that cover general construction
 19 permit violations?
 20 A. Violations or --
 21 Q. General construction permit --
 22 A. Activities?
 23 Q. Yes.
 24 A. Yes.
 25 Q. How about the quality control program?

1 A. We have been mentioning that on our
 2 annual report, any activities that we do to
 3 satisfy that.
 4 Q. Procedures for the stormwater pollution
 5 plan?
 6 A. Yes.
 7 Q. Construction site inspection, tracking
 8 and training?
 9 A. We're not required to do tracking but we
 10 do keep records of our inspections of
 11 construction sites, and we train our own staff.
 12 Q. And you submit that to DEC?
 13 A. I would submit that, yes.
 14 Q. Okay. Documentation of employee
 15 pollution prevention program?
 16 A. Yes.
 17 Q. The outfall map?
 18 A. We are providing -- we are required to
 19 provide the DEC every five years with our outfall
 20 mapping, and we provide them our geodatabase
 21 electronically, and we provide every year the
 22 total of the number of outfalls that have been
 23 inspected each year.
 24 Q. How about this stormwater shed mapping?
 25 A. Because we use our SHARP system, we don't

1 do the sewer shed mapping; although, we have done
 2 mapping in one area of the state.
 3 Q. Does the DEC accept the SHARP system for
 4 replacing the storm sewer mapping?
 5 MR. GARELICK: Objection. She's
 6 asking of the DEC agency. That's not
 7 involved in this. She's leading the
 8 witness --
 9 MS. MC NALLY: Okay.
 10 ALF BIRO: I've told her
 11 inadvertently --
 12 MR. GARELICK: -- that we weren't
 13 aware of -- she's --
 14 MR. GARELICK: -- also leading the
 15 witness with every question.
 16 ALJ BIRO: All right. Stop. Let
 17 him finish his objection. Then you can
 18 respond.
 19 MR. GARELICK: My original objection
 20 was to the fact that she was asked a
 21 question, which was, A, a leading
 22 question; B, calling for speculation
 23 regarding a party that is not privy to
 24 this court proceeding. Well, those are
 25 my three reasons.

1 MS. MC NALLY: I can withdraw the
 2 question.
 3 ALJ BIRO: Okay.
 4 Our court reporter has to get this
 5 all on the record in a nice manner. It's
 6 better to have one person talk.
 7 BY MS. MC NALLY:
 8 Q. Did you ever have a conversation with the
 9 DEC about the SHARP system prior to the audit?
 10 A. No.
 11 Q. Did DEC ever inquire about the particular
 12 SHARP system requirements?
 13 MR. GARELICK: Objection. Sort of a
 14 continuous objection to leading questions
 15 of the witness.
 16 MS. MC NALLY: May I say something?
 17 ALJ BIRO: Sure, you can respond.
 18 MS. MC NALLY: We've allowed a lot
 19 of leading questions. If you want to
 20 object, that's fine, but I expect the
 21 same courtesy.
 22 ALJ BIRO: We are not going to argue
 23 about this at all. It's sustained. Go
 24 ahead.
 25 BY MS. MC NALLY:

1 Q. Can you think of anything else that DEC
 2 had oversight on?
 3 A. They have oversight over their entire
 4 permit requirements, entire staff requirements,
 5 and a number of the things that -- they inspect
 6 our construction sites on a routine basis
 7 statewide. And they also can inspect our
 8 facilities at any time. And then their oversight
 9 will go over all aspects of that. They inspect
 10 our petroleum bulk storage facilities and permits
 11 that we have over that. They inspected -- we
 12 prepare an environmental audit for them after a
 13 year that indicates anytime we've had any
 14 violations. And each region prepares that and
 15 submits the audit. They can contact us at any
 16 time to inspect any of our facilities, and we're
 17 obligated by the permit to allow them access to
 18 do that.
 19 Q. What type of training was being provided
 20 prior to the audit?
 21 A. We provided training to all of our
 22 facilities, as I said, on a semi-annual basis
 23 regarding pollution prevention, storm prevention
 24 control recon measures, safety and health,
 25 petroleum bulk storage training, scrap metal

1 training, stock pile. It's all part of the same
 2 lump training session that they have. We also
 3 provide training every year to our construction
 4 staff, and they're trained specifically with a
 5 pre-packaged program from DEC titled, "The four-
 6 hour working in sediment control training." And
 7 that's a training that's required of, at least,
 8 contractors that are working on the construction
 9 permitted site in New York State. And we train
 10 all of our construction staff in that same
 11 training.
 12 Q. And who is that training created by?
 13 A. DEC.
 14 MS. MC NALLY: Thank you. I have no
 15 further questions.
 16 ALJ BIRO: Mr. Garelick, do you want
 17 to take a break or stop for the day?
 18 MR. GARELICK: Given the timing, and
 19 we expect to be a lengthy cross-
 20 examination, I think it makes sense to
 21 break for the day, if that's all right
 22 with Your Honor, and begin cross-
 23 examination tomorrow.
 24 ALJ BIRO: How many more witnesses
 25 do you intend to call?

1 MS. MC NALLY: Three more. They
 2 should not be as long as this. They
 3 should be much more brief.
 4 ALJ BIRO: Okay. Our greatest hope
 5 is to conclude tomorrow, if possible. A
 6 snowstorm is coming over the weekend, so
 7 we want to leave Friday. Not that Albany
 8 is not a lovely place to be, but we'd
 9 rather not spend the weekend here. So,
 10 you know, if we can conclude tomorrow,
 11 that would be great. If we run over to
 12 Friday, of course, you know we can, and
 13 we will come on Friday, but that will be
 14 my preference.
 15 MR. GARELICK: I guess just
 16 following up on that. To make clear
 17 regarding closing arguments and policies
 18 that --
 19 ALJ BIRO: We don't do closing
 20 arguments. You get extended time. After
 21 you get the transcript, you submit your
 22 brief.
 23 So I'd rather have whatever
 24 arguments you want to put, legal or
 25 objectionable arguments, in your brief,

1 citing for the benefits, citing for the
 2 documents and records --
 3 MR. GARELICK: Understood.
 4 ALJ BIRO: I'll send you out an
 5 order after the hearing, as soon as we
 6 get the transcript. I'll send the
 7 deadline for the briefs. And then if
 8 those dates don't work for you, you can
 9 move to extend them. I don't know what
 10 the time frame is for getting the
 11 transcript is. But you will get a chance
 12 to read over the transcript, file a
 13 motion to conform, correcting any errors
 14 in the transcript. I strongly encourage
 15 you to do that and you know, we'll have
 16 plenty of time for that as well. Then
 17 usually we'll have a response to the
 18 briefs. If you want an exhibit
 19 submitted, where you would like me to see
 20 them, or you file them too, that will be
 21 fine.
 22 MR. GARELICK: Would you like that
 23 at the close of the proceedings?
 24 ALJ BIRO: That would be great. But
 25 either way, you can only file them

Page 496

1 shortly after the hearing, when you get
 2 the transcript, if you want to think
 3 about it, we're flexible that way. Okay.
 4 Maybe we can also talk about how we
 5 will get all these exhibits back. We
 6 have an original set of exhibits that has
 7 to go back to the hearing clerk, the
 8 headquarters hearing clerk, to be
 9 maintained along with the transcript in
 10 pristine condition in the event anybody
 11 in the future time wants to appeal it.
 12 THE CLERK: I think that would be
 13 the court reporter.
 14 ALJ BIRO: Right. The court
 15 reporter we'll take it --
 16 MR. GARELICK: Right. It is
 17 referred to as the original set of
 18 exhibits, 5, 7, 12, 3 --
 19 ALJ BIRO: Usually it's a set -- it
 20 may be a set that you've given to the
 21 court reporter, but it's not a separate
 22 set. I believe the set is what the
 23 witness has been using.
 24 But you're obliged to make sure that
 25 each set that the court reporter has,

Page 497

1 that it's in pristine condition, other
 2 than as modified by any witness, and it's
 3 noted that way. And that set, it remains
 4 exactly that set. Okay. And if it goes
 5 to the EAP, that's the set of documents
 6 we'll look at.
 7 MR. SAPORITA: You can review that,
 8 either one of the sets.
 9 ALJ BIRO: Then the defendant can
 10 share it. Make sure it has everything,
 11 you know, we agreed is in the record.
 12 Okay.
 13 And my mind set, you know, I'll take
 14 it --
 15 MR. SAPORITA: Yeah.
 16 ALJ BIRO: -- you can ship it. You
 17 can ship it to me. But my set, I put my
 18 name on them. I'd like to get it back.
 19 Anything you want to know, why I
 20 look at that, at the hearing, okay.
 21 Any other issues we should talk
 22 about for administrative purposes?
 23 THE CLERK: The rebuttal.
 24 ALJ BIRO: At the conclusion of the
 25 case you should put on a rebuttal

Page 498

1 witness. We'll make time for that.
 2 Off the record.
 3 (DISCUSSION HELD OFF THE RECORD.)
 4 ALJ BIRO: All right. Okay. All
 5 right. Okay. Thank you. Have a good
 6 night.
 7 Matter adjourned until 8:30 in the
 8 morning.
 9 (PROCEEDINGS CONCLUDED: 4:37 p.m.)
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

Page 499

1 CERTIFICATION
 2
 3 STATE OF NEW YORK)
 4 ss.
 5 COUNTY OF ALBANY)
 6
 7
 8 I, Robyn Harrell, Notary Public within
 9 and for the State of New York, do hereby
 10 certify:
 11 That I reported the proceedings in the
 12 within entitled matter, and thAt the within
 13 transcript is a true record of said
 14 proceedings.
 15 I further certify that I am not related
 16 to any of the parties to this action by
 17 blood or marriage, and that I am in no way
 18 interested in the outcome of this matter.
 19 IN WITNESS WHEREOF, I have hereunto set
 20 my hand this 22nd day of April, 2018.
 21
 22
 23 _____
 24 ROBYN HARRELL, RPR
 25

| A | | | | |
|-------------------------------------|------------------------------------|----------------------------------|---|------------------------------|
| A-1 331:1 | accident 282:18 | 287:17,23 | 346:16 483:14 | 374:8 377:8 |
| a.m. 240:14 | accidentally 405:24 | 288:1,6 382:16 | adequately 314:10 | 382:16 383:19 |
| 296:18 321:18 | accompanied 299:16 302:9 | activities 290:19 | adjacent 276:17 | 384:25 409:25 |
| 321:19 | accomplish 415:8 | 298:18 299:14 | 278:24 281:15 | 446:8 487:11 |
| abandoned 266:18 | account 369:22 | 304:14 425:17 | 348:11 418:8 | 490:6 |
| abilities 426:9 | 370:1 373:14 | 426:2,19 453:8 | adjourned 498:7 | agency's 360:14 |
| ability 316:16 | 374:6,9,14 | 455:22 468:18 | administered 428:4 | 369:6 |
| 317:5 410:7,16 | 462:4,14 | 488:9,13,22 | administering 388:21 | agenda 290:19 |
| 412:11 413:20 | 465:15 482:5 | 489:2 | ADMINISTR... 240:15 | 432:7 438:5 |
| able 288:23 | 486:4 | activity 250:3 | administrative 353:22 354:3,7 | 443:7 447:22 |
| 302:11 371:4 | accounting 486:10 | 262:3 275:15 | 357:1,15 362:1 | 440:16 452:1 |
| 413:23 442:2 | accumulated 261:1 264:7 | 278:7 300:1,1 | 362:4 363:2 | aggregate 272:6 |
| 473:1 | 276:21 | 301:24 426:22 | 367:19 375:16 | 272:16 |
| abnormally 401:22 | accurate 345:5 | 440:13 466:19 | 497:22 | aggregates 272:21 |
| absolute 370:12 | 387:13 398:21 | 474:17 | admissible 348:15 | ago 299:10 |
| absorbed 427:23,24 | 407:10 432:17 | actual 251:15 | admit 395:9 | agree 352:10 |
| accelerated 462:15 465:18 | 433:22 439:8 | 311:12 350:2 | 416:5 463:1 | 359:9 365:12 |
| accelerates 462:5,6 | 448:5 451:2 | 397:5 401:7 | 465:7 | 399:22 402:15 |
| accept 468:13 | 462:22 | 409:21 411:20 | admitted 432:6 | 423:10 428:10 |
| 469:16 490:3 | accurately 244:19 433:3 | 412:16 429:11 | 432:7 434:3 | 442:1 460:19 |
| acceptable 454:13 470:18 | achieved 384:20 | 442:13 462:14 | 451:19 | agreed 497:11 |
| acceptance 469:18 | acronym 306:13 | add 398:17 | advanced 290:21 | agreement 380:9,18 |
| accepted 319:10 | 382:5 | 406:9,10 | 290:21 | 469:14 472:13 |
| 442:21 447:14 | act 246:7 298:4 | 454:23 470:19 | advised 365:6 | agreements 472:16 |
| 450:9 455:24 | 315:5 322:19 | added 351:8,11 | 378:6 383:4 | ahead 456:5 |
| 455:25 457:10 | 323:5 324:12 | 364:1 372:11 | advising 386:19 | 491:24 |
| 457:14,15,18 | 355:22 357:22 | 398:10,15,18 | aerial 405:6 | AJR 368:2,4 |
| 457:18,21 | 357:22 359:6 | 406:17 | 406:14 418:2 | al 429:6 |
| 458:1,4,10,12 | 359:19 369:3 | adding 409:9 | affect 316:15 | Albany 240:7 |
| 458:16,17,19 | 370:10 388:19 | 449:1 | 317:5 | 241:7 242:16 |
| 470:5 471:3 | 419:18 | addition 247:13 | afforded 345:3 | 494:7 499:5 |
| 477:20 479:21 | acting 254:22 | 269:13 374:16 | afternoon 378:23 | Albright 243:8 |
| 480:13 483:22 | 258:6 435:13 | 475:2 | afterward 430:2 | 297:11,15,21 |
| 484:4,25 | action 349:15,16 | additional 295:4 | agencies 383:17 | Alcohol 331:5 |
| access 290:13 | 373:24 383:23 | 295:23,24 | 456:15,16 | Alcore 473:19 |
| 405:18 412:22 | 430:4 447:13 | 368:10 381:18 | 481:7 | ALF 490:10 |
| 464:8,12 | 499:16 | 390:10 408:5 | agency 240:2 | algae 422:2,3,5 |
| 472:15 492:17 | actions 343:22 | 452:5,11 | 242:4,7 301:1 | 422:8,11,19 |
| accessible 294:13 405:13 | 362:7 382:12 | 456:23 457:2 | 301:7 302:24 | Alicia 242:13 |
| accessing 422:6 | 435:2 460:7 | 484:6 | 303:16 305:10 | 282:2 314:18 |
| 422:7 | 487:14,19,20 | address 326:11 | 306:4 316:13 | ALJ 243:6,17,23 |
| | active 462:1 | 327:24 429:24 | 370:13,14 | 244:2,16,22 |
| | actively 259:6 | 450:2 472:21 | | 245:5,11,14 |
| | 261:25 278:6 | 473:1 | | 281:23 285:1 |
| | | addressed 461:20 | | 286:17,21 |
| | | addressing 462:2 482:8 | | 290:2 296:6,10 |
| | | adequacy 334:4 | | 296:12,16,19 |
| | | adequate 337:11 | | |

| | | | | |
|--|---|---|---|--|
| 296:23 297:2,9 297:13 316:25 317:12,21 321:7,10,13,16 321:20,24 322:1,4 349:21 352:14 355:7 361:2 362:13 362:19,22 366:17 367:13 367:22 376:5 376:11,14,22 377:23 378:13 378:19 379:4,8 379:14,17,25 380:3,7,11,21 380:25 385:4 385:19 387:18 387:25 388:3,8 388:10 392:12 392:22,24 393:14 394:4,9 394:12,16,21 395:1,5,9 397:12 399:2 403:5,9 404:13 404:16,19,24 406:23 407:18 414:9,12 416:4 416:8,11 424:21 433:8 433:12 434:3,7 434:12 439:14 448:11 451:18 463:13 464:5,8 464:14,22,25 465:5,7,19,22 490:16 491:3 491:17,22 493:16,24 494:4,19 495:4 495:24 496:14 496:19 497:9 497:16,24 498:4 allegation 328:4 328:25 335:8 335:19 336:19 337:8 339:9 340:6 | allegations 338:3,9 alleged 351:16 352:8 357:6,7 358:4 430:24 alleviate 311:23 allow 293:14,14 295:2,3 492:17 allowed 293:19 413:5 426:1 429:23 491:18 allows 412:23 alphabet 352:7 352:21 alter 406:11 alternate 311:9 amount 324:24 345:13 358:7 364:18,22 369:19,25 370:3,7,11,14 370:16 372:3,8 372:25 407:24 444:6 465:15 465:23 amounted 449:1 amounts 350:12 360:17 376:16 378:6 Analysis 327:22 and/or 260:1 annual 303:17 303:23 488:7 489:2 answer 284:25 305:19,19 307:1 314:5 317:9 353:17 362:14 374:10 answered 305:4 414:8 answering 410:5 Anthony 243:2 245:2,7,24 anticipate 421:6 antifreeze 279:2 anybody 348:8 365:14 496:10 anytime 311:18 440:11,12 | 444:20 492:13 anyway 333:7 apologies 404:25 apologize 287:16 399:5,6 404:18,21 apparently 384:9 appeal 496:11 Appeals 361:4 appear 402:20 appeared 265:12 268:1 268:22 269:5,8 275:11 Appearing 242:3,11 appears 313:24 314:6 372:22 402:2 407:24 413:1 437:19 447:19 applicable 305:3 application 285:14 380:23 applied 342:25 applies 453:11 apply 349:16 368:21 approach 300:21 301:11 301:21 304:11 316:3 377:8 385:17 406:20 approached 261:23 276:19 304:9 346:9 appropriate 311:23 312:3 312:19 313:6 341:10 343:18 360:6 approval 457:4 457:6 approve 350:22 approves 350:12 approximate 401:2 463:23 approximately | 246:16 247:2 249:2 298:15 363:5 381:12 381:22 April 240:13 328:17 329:11 330:2,8 331:25 332:7 333:20 339:16 499:20 Arcnet 405:5 area 259:4,9,15 265:11,24 266:7,18 273:13 276:5,6 276:8 281:14 289:20 309:9 309:25 310:13 310:17 312:1 313:12,19 390:24 393:13 398:11,13 400:2,16,18,19 401:23 402:21 404:1 406:18 418:13,14 419:9,12,21 422:5,8,15,24 479:5 490:2 areas 251:3 290:10 304:7 382:17 400:12 444:16 474:7 argue 491:22 argument 361:11 arguments 494:17,20,24 494:25 arranged 413:8 445:17 arrangement 444:9,11 arrangements 444:21 arrive 252:5 arrived 258:4,5 258:7 263:12 267:6 277:13 345:17 arriving 274:4 | 291:13 arrow 400:3,18 406:6,9,10,17 418:10,11 arrows 398:19 arterial 271:17 Arvizu 243:13 321:22,24 322:10,17 349:24 353:16 354:25 355:9 361:17 365:4 366:18 377:15 378:14,16 429:20 ascertain 375:7 asked 250:25 252:23 254:7 256:4 279:17 280:7 301:1 314:3 317:23 341:13,17 378:5 384:12 390:10 427:3 439:21 452:9 452:12,13,23 455:1 459:18 460:1,4,23 461:2,16 467:22 468:21 469:20 471:12 473:12 474:4 474:11,21 476:20 477:23 478:11,24 479:15 482:11 482:23 484:11 486:21 490:20 asking 284:20 306:2 369:14 411:25 412:1 412:10,13 413:25 452:5 453:25 454:5 455:10 464:23 467:10 472:22 478:21 490:6 asks 483:24 aspects 316:16 383:22 388:21 |
|--|---|---|---|--|

| | | | | |
|-------------------------|-------------------------|------------------------|------------------------|-------------------------|
| 492:9 | 358:24 359:1 | audit 249:13,19 | 298:13 299:3 | backdated |
| asphalt 273:3,7 | 412:5 | 250:13,24 | 314:25 334:20 | 375:10 |
| 279:15 280:10 | assumption | 251:11,15,16 | 390:21 425:18 | backed 465:14 |
| 280:18 427:25 | 369:25 | 251:18,19,21 | 425:20 458:7 | background |
| 428:1 449:19 | attached 355:17 | 251:24 252:1 | 470:2 478:8,23 | 248:17 298:10 |
| 458:15 460:13 | 415:15 | 254:20 255:7 | 479:20 482:2 | 316:7 386:23 |
| assemble 468:18 | attachment | 255:22 263:3 | 482:10 483:20 | banks 428:21 |
| assembled | 374:1 403:2,6 | 266:23 277:7 | August 344:7 | barely 250:21 |
| 411:14 | 420:9 | 282:15,18,24 | 374:13 394:15 | barrier 447:4 |
| assess 296:5 | attained 463:4 | 284:1,4 285:3 | authority | barriers 446:22 |
| 347:10 348:1 | attempted | 287:9 288:5 | 247:11 383:19 | based 251:2 |
| 349:10 354:20 | 290:16 460:8 | 290:20,22 | 388:20,20,23 | 264:15 284:13 |
| 425:23 453:19 | Attempting | 291:2 300:5,7 | 390:18 445:15 | 284:14 290:18 |
| 455:15 | 337:22 | 300:10 301:3,4 | 487:11,13 | 310:20 329:17 |
| assessed 355:2 | attend 470:14 | 314:25 315:1,2 | authorize 480:6 | 329:23 334:2,2 |
| 357:2 360:10 | attended 248:18 | 315:11,14,14 | authorized | 344:12 351:21 |
| 360:18 370:3 | 248:20 249:13 | 316:8,10 | 325:6 396:22 | 353:12,13 |
| 436:9 455:22 | 277:9 283:10 | 319:12,17 | 411:18 471:6 | 363:16 373:20 |
| assessing 349:13 | attention 257:11 | 333:5 334:16 | Avenue 309:24 | 387:21 394:18 |
| 455:3 | 258:17 260:3 | 334:17 343:1 | awaiting 332:14 | 415:17 446:4 |
| assessment | 260:20 263:1 | 344:8 346:6 | aware 308:16 | 455:19,23 |
| 254:15 324:4 | 263:23 265:7 | 348:20 353:9 | 315:19,22 | 465:1 481:24 |
| 334:10 339:11 | 266:21 267:21 | 374:2 381:17 | 317:3,7 318:6 | baseline 306:6 |
| 442:1 453:17 | 268:18 269:25 | 382:21,23,24 | 318:8,24 | basically 257:23 |
| 453:25 455:9 | 270:18 272:2 | 383:1 384:25 | 319:14,15 | 291:10 324:2 |
| 484:13 | 272:24 273:10 | 390:23 391:14 | 347:4 372:12 | 428:1 431:3 |
| assessments | 273:20 274:19 | 391:17 394:19 | 372:18 374:15 | 449:1 461:7 |
| 254:25 255:15 | 275:6 276:1,13 | 394:20 398:7,8 | 374:15 377:4 | basin 261:2 |
| 255:20 337:13 | 277:4 278:2,19 | 398:16 403:3,6 | 462:4 487:14 | 264:5,7,9 |
| 346:7 348:3 | 279:10 280:1 | 404:10 406:19 | 487:18 490:13 | 276:20,22 |
| 453:24 | 280:21 281:11 | 416:24 417:4 | awareness 348:4 | 277:3 309:24 |
| assigned 425:12 | 303:10 304:19 | 418:16 420:13 | awning 273:4 | 312:18 397:3 |
| assist 428:19 | 305:12 308:7 | 421:5 425:5,10 | | 402:6 428:21 |
| assistance 322:5 | 309:17 311:2 | 425:16 426:3,7 | B | basins 396:24 |
| assistant 267:10 | 323:1 326:16 | 429:2,13,14 | B 476:16 490:22 | 428:7,13,18 |
| assisting 435:7 | 330:14 331:16 | 430:1,9 441:4 | bachelor 248:21 | basis 318:25 |
| associated | 332:16 333:13 | 457:11,15,20 | 298:11 386:25 | 365:21 446:10 |
| 331:15 345:2 | 335:25 337:14 | 458:2,16 468:2 | back 244:2 | 492:6,22 |
| 378:7 428:14 | 338:12 339:12 | 468:16 469:4 | 251:22 312:13 | Bass 377:21 |
| 435:19,25 | 340:18 343:20 | 477:8,15 | 313:22 315:16 | 430:22 432:3 |
| 440:14 473:17 | 349:25 355:16 | 478:25 482:15 | 323:16 327:4 | 437:8 448:4 |
| 481:13 485:21 | 377:16 403:18 | 484:3 491:9 | 339:13 341:14 | Bass' 447:25 |
| 486:12,25 | 419:24 449:9 | 492:12,15,20 | 342:24 343:6 | batteries 262:12 |
| assume 285:6 | 475:18 | audited 290:6 | 352:1 353:23 | 262:13 |
| 314:5 319:8 | attorney 459:1,3 | 291:11 383:11 | 357:11 363:3 | bay 313:12 |
| 367:22 400:16 | attorneys | 452:18 475:6 | 365:10 366:10 | becoming 249:7 |
| 401:7 412:2 | 337:12 | auditors 294:22 | 375:12 378:21 | began 434:19 |
| assumed 462:7 | attributable | audits 246:24 | 414:1 457:1 | beginning |
| 473:20 | 348:2 | 247:13 250:14 | 465:12 496:5,7 | 251:10 252:6 |
| assuming 316:9 | attributed 310:2 | 282:14 294:7 | 497:18 | 307:18 |

| | | | | |
|---|--|--|--|---|
| believe 268:25 276:22 289:18 299:25 303:16 309:18 310:21 328:1,23 329:5 331:11 332:10 333:4 335:17 336:16 339:7 342:24 344:7,9 349:1 376:20 400:4 403:1 418:13 426:7 426:12,16,18 427:9 441:12 441:17,22 444:6 449:8 458:7,19 464:25 478:11 484:16 496:22 | 467:5 485:23 bi-weekly 486:14 bicycle 398:13 bid-up 357:16 big 295:22 bike 400:17 bill 465:1 binding 361:9 Binghampton 423:14 Binghamton 390:24 404:1 Biro 240:15 243:6,17,23 244:2,16,22 245:5,11,14 281:23 285:1 286:17,21 290:2 296:6,10 296:12,16,19 296:23 297:2,9 297:13 316:25 317:12,21 321:7,10,13,16 321:20,24 322:1,4 349:21 352:14 355:7 361:2 362:13 362:19,22 366:17 367:13 367:22 368:2,4 376:5,11,14,22 377:23 378:13 378:19 379:4,8 379:14,17,25 380:3,7,11,21 380:25 385:4 385:19 387:18 387:25 388:3,8 388:10 392:12 392:22,24 393:14 394:4,9 394:12,16,21 395:1,5,9 397:12 399:2 403:5,9 404:13 404:16,19,24 406:23 407:18 414:9,12 416:4 | 416:8,11 424:21 433:8 433:12 434:3,7 434:12 439:14 448:11 451:18 463:13 464:5,8 464:14,22,25 465:5,7,19,22 490:10,16 491:3,17,22 493:16,24 494:4,19 495:4 495:24 496:14 496:19 497:9 497:16,24 498:4 bit 288:4,11 293:8 294:5 314:24 329:21 344:24 386:23 black 280:6,11 280:12 blood 379:3 499:17 blue 394:24 398:18,19,22 399:2 404:8 420:1 BMP 253:13 286:6 289:15 289:22 306:7 307:14 309:9 343:18 364:11 405:18 BMPs 253:10,14 257:6,9 285:17 286:4 306:4,8 306:10 307:12 307:15 board 361:4 480:12 body 311:21 bottom 373:19 440:25 443:8 Boulder 248:18 Boulevard 275:1 boundaries 440:15,17 442:13,17 | 443:15 470:23 boundary 439:22 442:12 443:13 boxes 285:23 420:2 boys 304:4 Braaten 244:18 brag 360:22 breached 344:17 break 296:24 297:5 321:14 321:15 378:20 493:17,21 Brett 410:24 brief 321:18 430:18 451:9 494:3,22,25 briefly 247:22 248:16 249:23 305:8 365:3 423:9 429:21 447:21 450:14 476:9 briefs 495:7,18 brine 261:17,18 261:20,24 bringing 398:25 BROADWAY 241:6 242:8 brochure 474:7 brochures 474:5 Brook 274:15,18 275:2,4,5,22 275:24 brought 306:4 Brown 263:14 brushes 280:11 bucket 265:20 268:22,24 269:4,7,8,14 273:2,4 279:17 280:4,7,8,9,16 280:19 buckets 279:15 279:19,23 Buffalo 270:20 270:24 292:3 Buffalo/Niagra | 391:16 build 440:11 building 280:5 built 447:4 bulk 492:10,25 bulletin 471:15 471:24 480:17 bulletins 474:24 bureau 435:13 business 392:6 392:17 441:14 463:5,8,10,25 by-product 269:22 |
| C | | | | |
| C 242:1 244:1 258:8 377:21 471:4 499:1,1 C-2C 460:1 C-2D 460:22 C-2E 461:15 465:20,21 C-2G 466:11 C-2H 467:9,10 C-2I 467:21,22 C-2K 468:20 C-2L 469:19,20 C-2M 472:19 C-2N 470:6 C-2Q 470:21 C-2R 471:5 C-2T 473:11,12 C-2V 474:10,11 C-O-N-R 469:10 C2Q 454:13 470:22 C2R 454:15,19 caculating 372:17 calculate 324:20 344:11,18 345:8,11 348:24 353:11 353:13 368:11 calculated 345:13 354:13 367:15 373:12 485:7 | | | | |

| | | | | |
|-------------------------|------------------------|--------------------------|--------------------------|-------------------------|
| calculates 377:9 | captured 259:25 | 454:6 | chief 487:9 | class 356:16,16 |
| calculating | career 298:14 | certainty 399:22 | children 261:23 | 356:17,18 |
| 349:14 350:20 | 299:18 | 429:10 | choose 290:5,15 | clean 246:6 |
| 351:17 369:18 | Carl 430:22 | certification | 328:22 332:8 | 280:10 298:3 |
| 371:9 372:7 | Carmel 266:24 | 334:3,5 342:7 | 338:6,23 340:8 | 305:16 322:19 |
| 374:11 | 267:3 | 459:24 469:4,6 | 341:5 344:2,5 | 323:4 355:22 |
| calculation | case 248:24 | certifications | chose 334:13 | 357:21,22 |
| 324:19 346:21 | 249:8 283:4,7 | 387:5 | 335:5 336:11 | 359:6,19 369:3 |
| 351:21 352:4 | 303:12 306:3 | certified 387:6,7 | 336:14 337:5 | 370:10 388:19 |
| 353:1,3 370:2 | 311:21 314:6 | 387:8 | 339:7 340:3 | 388:21 427:4,7 |
| 373:18,20,25 | 322:18,21 | certifies 465:4 | 342:2 344:7 | 427:14 |
| 376:21 | 323:11 324:15 | certify 459:19 | Chris 254:23 | cleaned 262:22 |
| calculations | 345:9,12,17 | 499:10,15 | 258:6 | 281:20 |
| 324:18 332:9 | 346:15 361:6 | certifying 483:8 | Christopher | cleaner 280:10 |
| 343:2 346:1,24 | 366:22 367:18 | challenges | 242:5 271:4 | 280:17 |
| 350:22 370:24 | 368:19,19 | 317:10 456:1 | 277:17,19 | cleaning 250:3 |
| 371:20 375:1 | 369:5,7 370:6 | chance 320:9 | CHRISTY | 260:17 266:6 |
| 376:15 | 370:13 374:11 | 495:11 | 243:13 322:10 | 427:11 |
| California | 378:24 379:20 | change 411:15 | circle 401:1 | clear 310:20 |
| 247:16 282:13 | 381:7,8 384:14 | changed 411:8 | 418:4,5 | 392:11 400:22 |
| 282:16,22,25 | 387:24 393:25 | changes 381:21 | circled 406:7 | 494:16 |
| 300:2 | 421:21 497:25 | 398:10 405:20 | cited 325:23 | clerk 263:14,18 |
| call 244:23 | cases 361:7 | 405:21 407:11 | 326:9 332:11 | 496:7,8,12 |
| 255:9 296:20 | 375:12,17 | 411:19 448:25 | 333:9 334:25 | 497:23 |
| 319:19 321:20 | 393:6,19 | characteristics | 364:21 | client 329:25 |
| 321:22 323:1 | Casper 263:22 | 391:24,25 | cities 389:11 | close 262:22 |
| 371:22 373:11 | 264:17 266:2 | characterize | citing 495:1,1 | 290:10 298:19 |
| 379:15 385:4 | catch 261:2 | 429:9 | citrus 280:10,17 | 310:25 495:23 |
| 412:10,22 | 264:4,7,9 | characterized | city 397:17 | closed 435:17,24 |
| 437:15 441:19 | 276:20,22 | 283:2 | 423:13 | closer 265:17 |
| 444:19 450:17 | 277:3 309:23 | characterizing | city's 274:23 | 280:6 281:1 |
| 450:21 458:25 | 396:24,24 | 364:14 | civil 312:8 362:1 | closeup 420:17 |
| 462:4 486:16 | 397:3 402:6 | charge 413:16 | 362:3 | 421:25 |
| 493:25 | categorized | 473:5 | Claimant's | closing 252:8,10 |
| called 289:18 | 421:9,10,14 | charged 261:16 | 335:25 | 283:22 284:4,7 |
| 427:16 435:6 | category 390:15 | chart 410:22 | claimed 427:7 | 284:8,14 294:5 |
| 464:17 466:22 | cause 310:19 | 416:23 438:15 | claims 331:5 | 294:11,16,22 |
| calling 291:15 | 374:7 422:7,19 | 451:11 | clarification | 319:21 320:1,2 |
| 330:9 421:21 | 424:25 428:22 | check 308:4 | 452:16,19,22 | 384:24 494:17 |
| 490:22 | caused 424:11 | 403:11 412:1,3 | 455:1 456:20 | 494:19 |
| calls 245:2 | causing 269:10 | checked 412:2 | 457:8 463:12 | co-counsel |
| 297:10 316:18 | Cayuga 278:1 | checklist 305:3 | 469:24 | 403:12 |
| 385:7 435:7 | CD's 478:12 | checklists | clarified 422:21 | coated 281:3,7 |
| CalTran 247:18 | cell 304:20 | 332:14 | clarify 257:21 | COD 315:15 |
| cameras 294:14 | central 264:2 | chemical 265:10 | 282:6 290:4 | coincide 426:21 |
| 294:24 | 281:14 | 265:24 273:8 | 341:20 | Cokerburger |
| campus 313:11 | certain 257:7 | chemicals | clarifying | 432:4 |
| cap 349:16 | 290:12 299:4 | 265:15 279:7 | 342:21 | collaborate |
| capacity 386:13 | 301:2 316:16 | chemistry | clarity 402:23 | 309:1 |
| 386:14 428:18 | 408:16 412:24 | 298:12 | 417:21 | collapsed 447:9 |

| | | | | |
|--|---|---|---|--|
| 447:10 collected 264:23 360:23 collecting 264:25 College 298:12 313:11 Colmer 267:10 Colorado 248:19,20 colors 407:22,23 column 304:19 304:20 395:18 395:19,24 396:7 408:7 412:16,23 413:9 414:20 417:9 columns 407:24 408:5,12,16,17 408:18,20,21 408:23 412:21 415:11,12,13 combined 271:21 come 248:23 257:17 263:3 266:23 270:20 273:22 277:6 296:2 310:23 336:24 339:20 341:2 356:6,14 375:2,25 378:21 417:19 446:11,14 449:22 456:12 467:18 485:24 494:13 comes 361:1 392:25 coming 272:23 276:22 296:22 372:16 378:7 385:9 397:4 425:2 494:6 comment 413:14 414:20 429:14 comments 396:8 413:12 414:14 | 426:20 478:13 commingle 262:6 275:20 281:9 commingled 256:21 260:13 280:18 committed 373:9 common 389:5,8 communication 284:21 327:16 communities 347:16 company 248:10 298:5 351:10 461:5 compile 251:25 294:25 complainant 297:10 343:11 Complainant's 257:12 263:2 266:22 270:19 273:21 277:5 303:6,9 304:18 323:6,10 325:17 326:16 328:10 338:13 339:13 340:18 341:12 350:1 359:13 362:25 363:4 366:23 379:21 403:15 458:22 459:4,9 COMPLAIN... 242:3 complaint 323:11 324:21 325:5 327:17 328:4 331:14 335:1 336:20 337:9 338:10 338:15 339:10 340:14 341:9 343:15 349:9 350:2,2,4,8 352:9 358:18 358:23 361:19 364:13,17 | 476:12 complaints 301:18 335:22 350:13 482:8 complete 251:18 288:19 434:23 437:20 442:13 447:19 450:9 454:7,8,11,14 454:15,17,19 457:14 459:12 462:16 470:18 479:22 485:1 completed 251:19,25 382:22,23,25 383:1 405:19 435:3 461:23 461:24 466:13 482:3 completely 360:1 397:1 completes 434:4 completing 319:10 435:8 442:21 462:6 compliance 246:7 247:25 296:2,4,5 300:23 308:5 319:9 329:9 330:20 331:21 332:2,22 333:14,16 334:3 335:12 336:7,25 337:22 338:3 338:24 339:17 339:21 340:5 341:2 342:3,11 342:13,19 343:25 353:23 354:3,7,15,19 355:13 363:2 365:7,18 366:5 372:9,16 373:22,23 375:2,3,5,16 375:18,20,25 378:7 383:8,23 | 384:7,7,10,17 384:20 386:11 386:16 388:22 426:9 430:15 436:14 437:13 450:25 451:11 454:20 456:2 456:22 469:21 485:12 487:16 compliance-re... 298:4 compliant 329:1 342:10 374:17 complied 403:21 comply 365:9 375:21 381:10 381:21 384:1 384:15,16 455:7 471:8 476:12 complying 345:5 355:3 365:16 389:9 462:15 component 293:4 301:15 340:17 components 293:3 298:25 349:5 351:5,16 comprehensive 306:7 comprised 381:12 computer 405:3 436:24 464:20 concentrated 310:18 concentration 387:3 401:16 concern 253:17 256:10 257:3 259:23 260:10 261:6 262:2 264:11,15 265:18 266:10 269:12 275:15 275:21 278:7 278:25 279:22 280:15 281:5 | 281:17 309:13 311:15 348:5 concerned 423:2 430:7 concerning 270:7 273:6 276:10 concerns 259:16 272:14 295:11 309:6 320:10 474:16 475:4 conclude 445:16 494:5,10 CONCLUDED 498:9 conclusion 316:19 400:21 442:19 497:24 conclusions 363:11 concrete 408:7 423:16 condition 335:11 481:22 496:10 497:1 conditions 301:22 317:20 335:4 342:10 408:8,11 426:16 conduct 246:6 250:16 252:8 253:24 298:3 299:3 329:1 426:2 455:9 477:23 conducted 247:1 247:14 254:4 254:13,19 255:5,14 256:7 261:15 270:15 273:23 277:7 282:20 298:14 299:24 312:1 320:24 362:5 394:19 404:5 467:1,3 conducting 246:23 299:7 302:1 320:23 |
|--|---|---|---|--|

| | | | | |
|--|---|---|---|---|
| 332:15 393:17 395:20 409:6 480:9 conference 251:4,8 252:8 252:11,24 254:8 255:9 256:3 284:5,7 290:25 291:1,7 291:15 294:16 294:20,22 295:18 301:12 319:22 320:1,2 429:19 437:15 441:19 450:17 450:21 conferences 283:22 284:8 284:14 302:2 confident 271:20 confirm 309:3 conform 495:13 confused 373:15 confusing 456:7 457:16 467:16 467:18 469:23 confusion 475:3 connected 259:21 261:10 261:19 271:25 connection 357:14,22 358:10 365:4 397:4 472:14 CONR-5 469:10 483:7 consent 487:24 Conservation 386:19 388:24 419:1 425:12 consider 322:17 322:18 323:18 346:1 347:1 348:16 370:12 370:23 371:1,8 371:12 376:16 408:20 421:22 479:9 481:15 consideration | 323:24 considered 262:14 293:2 353:2 360:6 362:12 371:19 372:17 373:3 454:15 472:7 479:1,5 considering 323:15 348:22 considers 446:5 consistency 377:8 consistent 358:17 359:11 360:9 consists 324:2 constant 401:13 constructed 418:12 428:13 440:21 construction 247:14 282:17 282:23,25 287:2,5,12,14 290:24 298:25 306:24 318:19 332:15 333:21 334:15 335:24 336:22 346:25 347:7,14,17 363:12 364:1 365:5,12,19,23 366:1 382:1,4 382:5 408:6 440:13,23 451:14 461:18 461:21,25 462:21 463:19 465:4,5 467:23 468:2,9,22 469:22 477:23 478:1,3 481:18 482:9,24 488:18,21 489:7,11 492:6 493:3,8,10 consultant 392:20 393:19 393:21 394:2,8 | 398:15 423:11 423:17 425:21 427:6 472:16 consultant's 426:24 consultants 399:13,20 420:13 427:3 428:6 469:5 consulting 302:17 Cont.d 395:13 contact 271:3 272:23 445:1,3 445:20 492:15 contacted 462:5 contacts 298:23 463:22 contain 259:19 275:11 278:14 428:18 contained 256:18 261:13 262:15 265:19 265:21 275:14 280:9 387:10 416:20 container 269:21 278:23 281:2,3 containers 265:12,16,18 containment 266:12 273:9 279:9,25 280:20 446:18 446:20 447:5 contains 408:5 408:12 422:18 contaminated 260:18 269:13 279:24 311:21 460:14 contaminates 311:20 contend 360:4 360:13 content 304:1 329:24 377:3 contents 280:8 | 280:16 continue 251:22 414:4 441:15 441:18 450:5 continued 299:18 continuous 491:14 contract 365:8 365:24 472:14 contracting 307:8 contractor 291:23,25 292:1,3 341:17 341:20 342:6,8 365:13,14 425:11 462:8 462:24 463:21 465:2,17 466:5 469:6 483:8 contractors 306:5 336:22 365:6,9 462:3 462:15 468:23 473:15 482:25 493:8 contracts 298:5 366:1 contribution 261:8 272:16 control 249:15 249:25 250:7 257:10 293:2,4 294:1 300:15 300:17,19 301:9 307:9 312:19 314:4 330:11 335:2,9 336:23 346:6 347:23 363:13 382:3 387:7 388:2,7,12 412:18 428:3 466:14,15,22 466:24 474:1 476:21,22 477:4 481:20 482:1 483:1 488:25 492:24 | 493:6 controls 268:14 272:20 294:4 298:14,23 300:20 306:20 307:10,22 333:11,19 347:1,10 363:14 428:22 convenience 415:6 conversation 254:21 255:3 255:12,13,17 283:25 354:2 458:24 491:8 conversation/... 458:25 conversations 254:10 302:5 302:10 307:18 441:15 460:3 460:25 474:14 convey 292:25 294:19 conveyance 268:1,4,9 403:13 conveyances 263:22 conveyed 263:20 267:17 303:19 cookie-cutters 453:3 coordinate 285:13 coordinates 450:3 coordinator 254:23 267:12 Copella 258:6 copied 432:15 copier 433:4 copies 257:14 398:24,25 437:9 copper 440:24 copy 285:18 323:7 349:25 |
|--|---|---|---|---|

| | | | | |
|------------------------|------------------------|-------------------------|-------------------------|--------------------|
| 406:22 432:14 | cost 345:1 | 476:10 | 286:25 | 267:2 270:23 |
| 432:22 433:5 | 462:14 465:13 | covering 272:22 | cut 279:16 | 274:1 325:9,13 |
| 433:16 437:20 | 465:16 485:19 | 476:10 | 407:22 408:15 | 325:23 326:3,5 |
| 447:19 450:24 | 486:22 | covers 266:17 | 408:17 | 326:5,12 327:1 |
| 461:5 469:4 | costs 345:2,23 | covert 408:6,6 | CWA 244:6 | 327:1,5,11,18 |
| 475:12 | 378:6 462:8 | CPQ 439:20,21 | 355:21 | 327:21,25 |
| corner 265:11 | 465:25 466:4,5 | CQP 452:17 | CWA-02-2016... | 328:1,7,18,18 |
| correct 244:25 | 466:6,7 485:20 | create 404:6 | 240:10 | 328:22,24 |
| 261:5 270:16 | 485:21 486:3,6 | 460:13 463:15 | CWA02-2016-... | 329:3,12,14,16 |
| 270:17 275:5 | 486:12,19,24 | 468:17 480:14 | 355:18 | 329:18,22 |
| 276:12 283:5,8 | counsel 382:14 | 487:5 | CX-39 308:10 | 330:23,25 |
| 285:6,17 286:5 | count 337:8 | created 391:20 | CX-4 285:19 | 331:1,9,11,12 |
| 286:24 287:11 | 343:11 353:5 | 392:11,16,18 | 286:19 | 331:24 332:5,6 |
| 288:8 291:21 | 364:9 | 393:2,5 394:9 | CX-50 475:10 | 332:8,8,10,24 |
| 291:22 292:13 | counted 352:3 | 398:22 406:25 | 475:12 | 332:25 333:2,3 |
| 292:14,19 | 364:4 | 407:3 439:4 | CX-59 485:13 | 333:5,15,16,24 |
| 294:9,10 308:3 | country 300:3 | 440:9 451:13 | 485:17 | 333:25 334:11 |
| 308:25 310:9 | counts 364:17 | 464:25 493:12 | | 334:13,14,23 |
| 311:14 316:10 | county 389:12 | creates 320:12 | D | 335:6,15,16,17 |
| 318:1,2,22,23 | 499:5 | credential | D 244:1 | 336:9,11,12,15 |
| 320:9 329:8 | couple 290:3 | 386:24 | D'Angelo 243:2 | 336:16,17,24 |
| 338:21 340:12 | 320:8 438:5 | creek 263:22 | 245:2,7,20,24 | 337:3,5,6,24 |
| 341:23 349:11 | course 251:5 | 264:17 266:2 | 282:1 290:3 | 337:25 338:2,6 |
| 350:6,7,10 | 254:20 392:6 | 267:20 268:11 | 296:13 | 338:20,23 |
| 351:23,24 | 434:9 463:4,9 | 268:17 278:1 | daily 351:17 | 339:2,2,5,5,25 |
| 352:4,10 353:6 | 463:25 481:1 | 310:16,24 | 355:2 | 340:3,5,8,24 |
| 353:25 354:4 | 494:12 | 311:6 402:13 | Dan 432:3 | 341:1,1,5,6 |
| 355:22 356:25 | court 241:10 | 419:9 462:18 | 435:14 | 342:2,2,15,18 |
| 357:13,17 | 245:5 250:20 | crew 264:14 | dangle 411:24 | 342:19 344:2,3 |
| 366:21 367:1,4 | 349:20 379:11 | 280:5 | Daniel 430:24 | 344:5,6,8 |
| 367:5 368:7 | 379:13 490:24 | crews 263:5,8 | 431:5 | 350:24 358:23 |
| 369:21,23 | 491:4 496:13 | 263:13 264:13 | dark 402:21 | 359:1 375:12 |
| 370:4,8 372:5 | 496:14,21,25 | 264:16 283:15 | dash 469:10 | 375:19,20 |
| 372:6 380:19 | courtesy 295:3 | crime 360:13 | data 393:9 411:7 | 387:20 395:12 |
| 387:13 389:4 | 491:21 | cross- 493:19,22 | 414:6 | 416:16 431:22 |
| 407:1,6 416:11 | COURTHOU... | CROSS-EXA... | database 391:7 | 434:15 448:14 |
| 417:25 422:23 | 241:5 | 281:24 314:16 | 392:21 393:15 | 450:8 451:1,21 |
| 425:6 430:11 | COURTROOM | 349:22 | 394:6,10 | 465:10 |
| 431:6 436:1,11 | 241:6 | CSCEE 476:10 | 395:16,17 | dated 326:2 |
| 468:16 477:20 | cover 273:8 | CTW 453:19 | 404:2 405:10 | 330:17 331:25 |
| 484:17 | 279:8 288:23 | culpability | 407:4 409:1,3 | 332:19 339:15 |
| corrected | 304:2 446:23 | 348:15,18 | 409:5,15 411:4 | dates 300:9 |
| 320:16 407:7 | 446:24 447:15 | 373:7,7 | 411:6,8 412:23 | 315:17 330:1 |
| correcting | 460:4,8 488:15 | culvert 267:18 | 413:16 414:5 | 351:22 358:1 |
| 495:13 | 488:18 | 268:16 402:3,9 | 415:5 477:14 | 408:24 477:14 |
| correctly 351:4 | coverage 266:12 | culvert-pipe | databases | 478:8 483:8 |
| 351:15,19 | 348:17 | 268:9 | 405:19 410:4 | 495:8 |
| 433:5 483:16 | covered 262:15 | current 358:10 | 411:16 | Dave 267:9 |
| corrugated | 303:24 381:25 | 386:3,14 390:3 | date 247:2 | 271:4 277:16 |
| 440:23 | 422:17 447:5 | currently | 257:24 263:7 | 277:19 |

| | | | | |
|------------------------|-------------------------|------------------------|------------------------|--------------------------|
| DAVID 242:14 | 349:12 383:16 | 388:23 389:13 | 323:14 351:1 | determining |
| day 269:7 | decided 271:10 | 389:22 391:7 | 382:15 388:20 | 336:24 346:2 |
| 290:17 291:7 | 349:16 | 407:5 419:1 | 397:23 429:21 | 371:20 373:4 |
| 324:24 351:18 | decision 350:15 | 430:20 473:3,6 | 467:25 | 377:2 |
| 352:5 354:8 | 350:17 447:12 | 474:9 481:9 | describes | develop 284:3 |
| 374:20 375:2,5 | decisions 350:14 | 487:15 | 335:21 395:20 | 288:19 326:10 |
| 375:16,20,25 | DECMS4 472:7 | depended 325:1 | 443:11 | 327:23 328:5 |
| 376:1 410:3 | deemed 470:18 | 325:11 334:15 | describing | 335:20 336:20 |
| 414:23 415:17 | defendant 497:9 | depending | 307:7 447:20 | 337:10 338:10 |
| 445:6 493:17 | defense 293:5 | 337:1 410:15 | description | 339:10 340:14 |
| 493:21 499:20 | deficiencies | 410:20 473:4 | 345:6 393:3 | 363:25 474:4 |
| day-to- 445:5 | 457:16 | depict 259:3 | 448:5 451:3 | 476:20 |
| day-to-day | deficiency | 270:3 272:5 | 462:23 | developed 253:6 |
| 446:10 | 466:16 | 309:22 310:11 | design 316:7 | 257:9 286:7,14 |
| days 251:6,14 | deficient 458:8 | depicted 258:19 | designated | 367:7,8 368:5 |
| 287:10 290:15 | degree 386:25 | 259:1 260:4,22 | 378:25 | 369:11 455:19 |
| 320:8 344:12 | 399:22 429:10 | 261:4,14 262:9 | designed 292:22 | developers |
| 344:16 351:25 | delay 355:2 | 262:19 263:25 | 292:25 293:16 | 473:16 |
| 352:3 354:18 | delayed 345:2 | 264:8,12 265:8 | 314:12 | developing |
| 417:15,17 | delegate 410:15 | 265:19,21 | Despite 384:9 | 443:4 481:17 |
| de-icing 259:6 | delegated | 266:4 267:23 | detached 261:20 | development |
| 261:17 | 388:19,22 | 268:20 270:1 | detail 325:21 | 443:1 |
| deadline 495:7 | 487:13 | 272:3,25 | 486:9 | device 310:1 |
| deadlines 462:2 | delete 394:4 | 273:11 274:20 | detailed 313:5 | devices 306:15 |
| deal 260:16 | delivered | 275:16 276:2 | details 365:11 | 306:16,18 |
| 264:19 266:15 | 471:15 | 276:14 278:4 | detect 472:21 | 307:7 310:2,6 |
| 268:13 462:18 | demonstrate | 278:20 280:2 | detection 304:3 | dialog 361:24 |
| dealing 259:23 | 332:1,21 | 280:13,22 | detergent | diameter 408:8 |
| 269:18 456:2 | 337:22 338:24 | 281:12 313:14 | 460:12 | 413:3 440:24 |
| dec 285:13 | 339:16 377:7 | depicting 309:6 | determination | diesel 275:12 |
| 315:14 381:25 | 440:3 | 404:9 | 322:24 324:16 | difference 292:6 |
| 382:11 388:17 | demonstrating | depiction | 346:10 408:15 | 292:8 375:1,4 |
| 389:18 425:13 | 342:12 343:25 | 398:21 432:17 | 413:24 | 375:23 |
| 435:2 440:2 | DENISE 242:20 | derived 250:8 | determine | differences |
| 444:2 447:23 | DEP's 443:15 | describe 247:22 | 284:11 286:11 | 304:8 |
| 473:3 478:1 | departing 269:7 | 248:16 251:9 | 286:13 322:20 | different 304:7 |
| 481:8 487:12 | department | 255:18 300:13 | 324:23 325:9 | 304:14,15 |
| 487:14,19 | 240:5 241:2 | 386:8 388:16 | 325:22 326:12 | 312:7,9 329:17 |
| 488:2 489:12 | 242:11 244:4 | 391:4,19 | 328:6 329:3,14 | 341:13 351:16 |
| 489:19 490:3,6 | 247:7,9,10,11 | 397:20 403:23 | 333:14 339:20 | 352:8 363:6 |
| 491:9,11 492:1 | 247:15,17 | 405:2,8 416:19 | 345:15 367:23 | 368:9 373:7 |
| 493:5,13 | 248:4 249:20 | 420:18 423:9 | 368:16,21 | 405:25 407:22 |
| DEC's 435:1 | 250:5 282:3,19 | 432:9 434:17 | 369:6 400:5 | 410:21 418:22 |
| 441:23 455:5 | 314:19 315:25 | 438:2 445:25 | 401:20 402:8 | 418:23 442:8 |
| 487:12 | 317:11,16,17 | 447:21 448:18 | 413:21 416:2 | 456:15 |
| December | 321:2,3 358:11 | 449:2,14 | 440:6 441:1 | differs 317:16 |
| 326:24,25 | 360:8 361:20 | 450:15 459:10 | 484:13 | 426:22 |
| 327:3 338:21 | 372:8 373:21 | 459:17 462:12 | determined | difficult 288:21 |
| 383:1 | 373:23 385:7 | 485:17 | 350:24 361:10 | 456:9 |
| decide 327:11 | 386:4,15,18 | described | 415:16 446:25 | difficulty 431:12 |

| | | | | |
|-------------------------|------------------------|-------------------------|-----------------------|------------------------|
| digest 431:3 | disagreed 361:4 | discharging | diversions | 437:10,11 |
| digits 356:18 | 426:5 | 262:7,7 396:17 | 407:22 | 464:19 474:22 |
| dire 243:22 | discharge | 419:3,11,15 | Division 244:5 | 474:23 486:5 |
| 407:16,19 | 256:22 258:15 | 420:21 | 247:16 465:20 | 495:2 497:5 |
| direct 245:18 | 261:11 263:21 | discover 466:23 | docket 240:10 | doing 259:6 |
| 257:11 258:17 | 269:16 274:11 | discuss 296:1 | 244:6 356:7,15 | 317:24 359:10 |
| 263:23 265:7 | 274:11 275:21 | 376:10 390:2 | document | 376:15 394:8 |
| 266:21 267:21 | 277:25 278:17 | 395:14 425:25 | 256:14 303:7 | 426:7,8 440:12 |
| 268:18 270:18 | 286:15 293:21 | 441:10,18 | 305:9 310:12 | 465:18 |
| 274:19 275:6 | 293:24 294:2 | 452:1 476:14 | 311:3 325:21 | Dolhasky 271:7 |
| 276:1 277:4 | 300:18,20 | discussed | 326:1 327:19 | dollar 463:18 |
| 278:2,19 | 301:14,17 | 251:12 255:2 | 350:18 391:19 | dome 272:7 |
| 279:10 297:19 | 302:11,13,19 | 255:18 276:9 | 392:5,9,11,25 | door 446:14 |
| 303:10 322:15 | 303:14,21 | 315:23 354:10 | 397:8,21 | Dore 350:5,9,11 |
| 326:16 335:25 | 304:3 346:13 | 383:21 390:21 | 403:23 404:12 | 350:14 |
| 339:12 340:18 | 346:17 382:8,9 | 429:20 434:20 | 437:20 438:2 | DOT 248:25 |
| 343:20 349:24 | 396:3,6,9 | 434:22,25 | 439:4 440:16 | 249:19,24 |
| 351:1 355:16 | 401:5,6,10,11 | 435:5,9,12 | 444:8 447:20 | 250:2,11,24,25 |
| 377:15 385:20 | 401:13,15,18 | 441:13 448:22 | 448:6 450:15 | 251:12 252:14 |
| 416:17 431:9 | 401:20 413:22 | 468:7 469:5 | 451:10 458:5 | 254:24,25 |
| 449:9 | 417:6,8,13 | 481:12 | 458:23 462:19 | 255:5,14,15 |
| directed 445:6 | 421:18 422:1 | discussing | 463:15,24 | 261:16 263:4 |
| 475:4 | 424:11 429:11 | 434:25 | 464:23 467:11 | 263:11 271:1 |
| Directing 260:3 | 438:16 443:21 | discussion | 468:21,23 | 274:6 282:10 |
| 260:20 263:1 | 445:11,18 | 255:13 320:4 | 469:9 474:20 | 289:15 302:9 |
| 269:25 272:2 | 448:20 449:18 | 320:13 408:22 | 475:16 485:20 | 302:16,17 |
| 272:24 273:10 | 449:21,23 | 435:10 443:24 | 486:6 | 304:4 305:4 |
| 273:20 276:13 | 450:6 452:4 | 448:19 449:4 | documentation | 307:18 317:3 |
| 280:1,21 | 471:8 472:23 | 498:3 | 302:23 303:2 | 320:23 325:11 |
| 281:11 | 473:4 480:9,23 | discussions | 303:15,20 | 326:14,25 |
| direction 277:22 | discharged | 284:13 301:6,9 | 308:2 366:4 | 327:14 328:4,9 |
| 415:1 441:1 | 258:13 260:1 | 301:14 304:12 | 382:6 469:17 | 329:4 330:5,8 |
| 449:21 | 264:21 267:18 | 315:24 | 483:6 484:24 | 330:17 331:20 |
| directions 431:8 | 271:15,17 | dismiss 373:9 | 489:14 | 332:18 334:6 |
| directive 325:6 | 274:12 277:21 | dispatchers | documented | 335:8 336:5,6 |
| 327:13,14 | 310:22 347:8 | 268:11 | 254:4,11,24 | 336:24 337:1 |
| 456:14 471:5 | 392:2 423:20 | dispensing | 255:4,14,20,24 | 337:20 340:14 |
| 471:12,13 | 428:25 460:16 | 270:4 | 256:7,25 309:3 | 340:22 341:2,9 |
| 480:5,11 | discharges | disposal 265:3 | 465:16 469:12 | 342:25 347:4,4 |
| directives | 274:14 275:2 | 312:20 331:15 | documenting | 348:11,17,19 |
| 472:15 | 316:21 317:24 | 473:18 | 309:7 313:8,17 | 354:12,17 |
| directly 270:11 | 318:4 327:24 | disposed 269:6 | 313:23 347:5 | 355:1 356:17 |
| 275:4 301:4 | 381:8 397:16 | 269:24 427:20 | documents | 363:7 365:8,14 |
| 317:7 419:3 | 414:22 419:8 | 460:15 | 301:2 305:5,6 | 365:17,23,23 |
| 448:17 471:23 | 422:24 439:24 | dissipates 314:7 | 305:23 307:2 | 366:1,5 371:4 |
| director 430:23 | 440:5 441:24 | distance 419:10 | 322:23 323:2 | 371:5 374:2,20 |
| 431:5 435:13 | 444:12 472:21 | district 247:8 | 325:25 404:14 | 378:3,5 381:20 |
| 435:14 | 472:22 473:1 | 289:24 290:10 | 404:22 406:25 | 382:2,19 383:4 |
| disagree 399:23 | 473:17 480:25 | 291:2 425:12 | 407:3 436:19 | 383:11,24 |
| 426:6 | 481:14 | ditch 419:3 | 436:20 437:4,9 | 384:5,14 |

| | | | | |
|-----------------------|------------------------|------------------------|------------------------|------------------------|
| 389:23,25 | 278:22,24 | duration 324:20 | 260:12 262:15 | 486:11 |
| 393:22 396:22 | 279:3 281:10 | 324:23 344:14 | 314:8 325:3 | employer 386:3 |
| 404:5 409:24 | 288:13 292:11 | duties 246:17 | 378:15 416:25 | employment |
| 426:1 428:13 | 292:24,24 | 248:14 298:1 | 416:25 419:3 | 386:18 |
| 430:10 431:16 | drainage 401:2 | 412:12 | 473:2 487:16 | emptied 279:19 |
| 432:3 434:23 | 440:11 442:11 | duty 246:6 | 495:25 497:8 | empty 281:9 |
| 436:22 439:21 | 442:14 449:22 | dynamic 260:10 | elaborate | enable 278:16 |
| 442:15 446:5 | 449:24 | | 473:10 474:21 | encourage |
| 452:25 453:3 | drained 262:5 | E | elaborated | 495:14 |
| 453:21 456:15 | 269:2 | E 242:1,1 244:1 | 396:8 472:23 | ended 375:13 |
| 459:2,11 463:6 | draining 261:22 | 244:1 499:1 | elaborating | Endicott 418:13 |
| 463:15 464:23 | 287:18,23 | E-10 475:22 | 481:4 | 423:15 |
| 465:5 466:5,13 | 288:1,6,7,9,13 | E-A3 478:20 | electronic | enforce 316:16 |
| 471:14 473:20 | 313:25 | e-mail 437:9 | 437:10 | 335:21 336:21 |
| 474:14 476:11 | drains 258:11 | e-mailed 326:2 | electronically | 337:10 482:24 |
| 479:3 485:11 | 258:12,15 | EAP 497:5 | 489:21 | 487:16 |
| 485:20 487:21 | 263:17,21 | earlier 307:7 | elements 275:18 | enforcement |
| 487:25 488:4 | 267:16,18 | 315:18 341:14 | 351:8 | 248:3 305:3 |
| DOT's 300:6,23 | 270:13 271:14 | 353:21 | elevations | 359:10 373:24 |
| 325:5 326:1,9 | 271:17 274:14 | Earth 406:5 | 440:25 | 389:15 435:2 |
| 334:2 342:5 | 277:20 279:8 | 407:8 | Eliminating | enforcing 382:8 |
| 345:9,18 | 287:25 288:6 | easier 257:15 | 268:14 | 389:18 469:21 |
| 348:16 366:10 | 310:1 | 415:7 | elimination | 481:17 |
| 382:15 383:7 | draw 304:19 | eat 379:2 | 300:19 346:13 | engage 250:15 |
| 431:14 439:25 | 305:12 308:7 | EC 438:8 | 346:17 445:18 | 292:17 462:3 |
| DOTs 315:1 | 330:14 331:16 | economic | 452:4 471:9 | engaged 249:4 |
| double- 432:23 | 333:13 337:14 | 323:19 324:3 | 472:24 480:10 | 425:17 |
| double-sided | 338:12 403:18 | 344:23,23,25 | 480:24 | engineer 258:8 |
| 403:23 | 475:18 | 345:1,8,11 | Ellen 243:19 | 259:5 267:9,11 |
| down-gradient | Drawing 332:16 | 349:3 351:6 | 385:8,12 | 271:4 277:16 |
| 310:4,5 | Drive 397:16 | edge 309:11 | Ellen's 442:9 | 312:8 487:10 |
| downs 412:22 | drop 412:22 | 398:12 | emailing 437:11 | engineering |
| downstream | drop-down | educate 253:20 | embankment | 471:14,15,24 |
| 310:13,14 | 413:1,6 414:18 | educated 299:20 | 419:16 | 474:24 480:17 |
| draft 284:1,4 | 480:25 | education 446:5 | emotions 412:24 | English 244:20 |
| 290:19 436:19 | drum 265:18 | educational | employed | ensure 254:17 |
| 480:15 | 278:23 | 248:16 298:10 | 425:11 | 335:9 337:13 |
| drain 258:14 | dry 410:19 | 386:24 | employee 278:5 | 347:15,16 |
| 259:11,20 | 417:10 421:9 | eECMS 443:9 | 288:22 291:20 | 365:18 366:5 |
| 260:23 261:1,3 | 421:14 423:18 | 443:10 | 308:24 340:16 | 467:24 469:21 |
| 261:10 262:23 | 427:16 | effect 455:5 | 382:6 392:19 | 473:13 481:19 |
| 262:25 264:1 | Due 275:22 | effective 335:3 | 470:7 473:15 | 482:24 |
| 264:17 265:23 | duly 245:8 | 335:11 481:22 | 473:21 486:13 | ensures 336:21 |
| 265:25 269:20 | 297:16 322:11 | effort 381:10 | 489:14 | 337:11 |
| 270:5,10,11 | 385:13 | efforts 381:20 | employees | ensuring 483:14 |
| 272:11 273:16 | duplicate 439:1 | EGH 364:21 | 253:20,22 | entailed 431:4 |
| 273:17,19 | duplicated | eight 404:22 | 256:4 269:1 | entails 486:11 |
| 274:23 276:15 | 405:23 | eight-page | 271:5,6 355:1 | enter 324:9 |
| 276:19 277:1 | duplicates | 437:20 | 446:6,8 473:22 | 402:24 412:23 |
| 277:24 278:9 | 411:18 | either 257:9 | 473:25 481:15 | 413:12 464:18 |

| | | | | |
|---|--|---|--|--|
| entered 376:18 385:23 393:10 411:7,21 412:5 412:14,18 449:24 458:22 | environmenta... 246:23 environmenta... 427:10 EPA 244:5 | 269:3 273:16 273:19,24 274:2 276:4,8 283:13 | evaluate 299:1 evaluating 347:13 351:16 event 266:18 279:4 417:18 421:3,4,22 423:19,21 425:3 428:20 477:24 496:10 | 414:11 416:17 493:20,23 examine 328:8 examined 245:9 297:17 322:12 385:14 example 306:2 353:10 356:17 370:20 412:25 413:4 424:9 467:15 473:14 |
| entering 260:19 261:9 292:16 292:23 293:6 409:17 | EPA 244:5 247:25 250:23 251:12 285:13 325:12 326:23 328:16 331:20 | equivalent 467:24 481:18 Erie 277:8,9 283:18 313:10 | events 421:20 428:17 eventually 267:20 458:12 everybody 244:7 everyday 446:15 Everything's 453:6 evidence 265:4 268:2 273:14 360:25 361:1 387:17,20 392:9 395:12 399:16 403:4 407:15 416:15 434:1,15 439:12,15 448:9,14 451:8 451:21 456:23 458:22 463:2 464:3 465:10 485:15 | examined 245:9 297:17 322:12 385:14 example 306:2 353:10 356:17 370:20 412:25 413:4 424:9 467:15 473:14 examples 430:6 457:19 468:2 470:9 exceed 381:19 exceeded 314:8 314:9 excerpt 391:5 393:4,12 403:25 404:3 438:8 443:10 excerpted 438:6 438:6 excess 268:16 419:14 422:18 excessive 401:17 401:17 424:5 exchange 433:3 433:9 exchanged 465:17 exclusion 474:16 excuse 282:16 excused 296:18 321:11,12 exempted 382:11 exhibit 257:12 263:2 266:22 266:22 270:19 273:21,21 277:5,5 303:6 303:9 304:18 307:13 308:8 318:11,15 323:7,10 325:17 326:17 327:5,9 328:10 329:5,6 330:14 |
| enters 393:15 409:6 entire 287:9 312:24 381:23 411:11,13 439:4 442:10 492:3,4 entirely 292:20 456:19 entirety 475:22 entities 426:21 443:1,4 entitled 499:12 entity 294:15 312:3 entrance 313:10 entry 412:25 environment 324:6,8 386:16 430:21 435:14 436:16 460:16 environmental 240:2 242:3,7 246:1,2,3,4,12 248:6,21 249:10 250:19 254:22 289:17 296:3 297:23 297:25 298:2 324:5,10 346:20 348:12 348:23 361:3 373:22,23 386:7,18 387:1 388:24 419:1 453:10 455:20 458:5 462:21 474:18,23 484:1 492:12 | EPA 244:5 247:25 250:23 251:12 285:13 325:12 326:23 328:16 331:20 336:5 340:22 350:12 355:10 356:9,12,22 357:2,14 358:4 359:5,10,11,18 359:21 360:10 360:19 361:1 362:5 364:14 368:15,24 374:5 377:1 382:12,17,22 383:2,3,7,13 384:3,23,24 388:17,22,22 389:3,18 431:3 431:20 435:22 437:13 438:14 440:2 441:3,10 444:2 446:18 447:10,23 450:17 452:5 452:20 453:25 454:8 456:17 457:1 459:1,18 459:19 460:1,3 460:19,23 462:2 464:5 466:12 468:1 468:13 469:3 469:14 470:2 470:10 471:12 474:4,14 478:23,25 486:20 EPA's 247:24 248:3 363:16 384:6,10,19 425:16 441:20 452:13 equipment 260:12 264:16 | eroded 268:8 309:10 310:17 eroding 268:15 419:17,23 erosion 268:2,14 309:8 310:16 310:19 311:4 311:12,24 312:17 314:1 314:10 335:2,9 336:23 382:2 387:6,9 388:6 388:11 428:22 466:14,24 476:21 481:19 482:1,25 error 413:20 466:9,10 errors 413:17 495:13 escapes 471:25 especially 301:21 444:18 ESQ 242:5,6,13 242:14 essentially 291:17 295:10 408:21 establish 332:13 392:17 444:3 480:22 established 444:9 448:25 462:2 estimate 345:16 353:3 410:6 Estimated 344:16 estimates 345:22 estimation 352:2 | EX-59 487:2 EX-68 487:5 exact 303:25 334:11 370:6 453:24 473:9 exactly 283:25 292:8 306:13 383:6 392:11 445:9 457:12 474:15 497:4 examination 243:1,3 245:18 288:16 290:1 297:19 304:9 320:21 322:15 351:1 362:23 366:16 376:23 385:20 407:19 | |

| | | | | |
|-------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 330:16 331:17 | expect 312:23 | F2 472:10 | facility's 252:24 | far 250:18,22,23 |
| 331:19 332:17 | 423:20 491:20 | face-to-face | Facility-specific | 301:12 305:7 |
| 332:17 333:14 | 493:19 | 251:11 | 271:6 | 315:16 317:9 |
| 334:7 336:1 | expected 434:23 | facilitated 284:8 | facing 275:1 | 329:23 333:15 |
| 337:15,17 | expects 360:5 | facilitating | fact 348:16,19 | 361:21 362:9 |
| 338:13 339:13 | expended | 246:23 | 354:6 363:10 | 374:3 383:24 |
| 339:24,25 | 383:24 384:2 | facilitie 453:11 | 365:7,20 | 383:25 395:3 |
| 340:19 341:12 | 384:17 463:23 | facilities 250:6 | 373:21 374:9 | 395:23 |
| 350:1 355:16 | expenses 345:13 | 250:25 251:2,5 | 377:20 383:19 | fast 379:2 |
| 358:19 359:13 | experience | 252:18 253:6 | 384:9 434:10 | faster 355:4 |
| 361:19 363:1,4 | 282:10 314:25 | 254:5,25 255:5 | 436:4 451:12 | fax 342:7 |
| 366:23 367:1 | 320:3 372:21 | 255:15,21 | 490:20 | FCCP 474:2 |
| 377:16,23,25 | 383:20 | 265:4 270:16 | factor 323:17 | feasible 396:14 |
| 379:24 380:17 | experiment | 284:23 286:12 | 347:19 348:18 | 446:25 |
| 385:24 387:11 | 383:12 | 287:6,8,19 | 371:16,17,18 | features 472:24 |
| 387:19,22 | expert 387:24 | 289:1 290:9,23 | 373:24 | February |
| 395:10,11 | 388:1,3,10 | 291:10,19,24 | factors 322:19 | 246:13 326:3,7 |
| 397:7,19,25 | 399:21 424:4 | 291:25 343:23 | 323:25 324:3,3 | 377:21 438:4 |
| 402:25 403:9 | 429:9 | 446:13,19 | 324:4 348:15 | feel 347:20 |
| 403:15 407:21 | expired 330:2 | 453:2,20 460:3 | 370:20 371:19 | 348:1 |
| 416:6,12,14,20 | explain 249:23 | 460:6,24 | 371:22 | felt 441:23 |
| 416:21 420:1,2 | 255:2 271:22 | 473:23 475:5 | facts 320:13 | fence 353:10 |
| 420:9 432:6 | 292:21 295:24 | 484:14 492:8 | 327:15 | field 267:11 |
| 434:8 437:17 | 318:3 389:21 | 492:10,16,22 | failed 328:4 | 290:18 299:21 |
| 437:22,23 | 407:24 418:23 | facility 252:7 | 335:8 340:14 | 301:15,18 |
| 439:14 447:17 | 471:2 476:11 | 256:4,4 257:18 | 341:9 460:9 | 302:5 303:23 |
| 448:11,13 | explained | 257:19,22,25 | failing 331:5 | 308:4 320:8 |
| 450:11 451:18 | 311:17 343:9 | 258:1,11 260:6 | 332:12,13 | 331:6 393:8,11 |
| 451:20 458:23 | explicitly 367:16 | 260:9 263:5,8 | 333:10 346:23 | 409:8 414:1 |
| 459:5,9 462:10 | 371:21 | 264:14,23 | failure 325:5 | field-based |
| 465:8,9 466:2 | exposed 275:18 | 265:5,12,14 | 326:9 327:12 | 299:17 304:13 |
| 475:25 480:15 | expressed | 266:1,24 267:7 | 327:22 329:1 | fighting 431:17 |
| 485:8,13 486:4 | 361:18 | 267:15 268:21 | 331:4,14 | figure 353:20 |
| 495:18 | extend 495:9 | 269:1 270:21 | 333:18 335:20 | 373:5,17 375:9 |
| exhibits 379:18 | extended 494:20 | 270:25 273:23 | 336:20 337:9 | 375:24 |
| 379:19,21 | extends 317:8 | 273:24 274:3 | 338:10 339:10 | figured 455:10 |
| 380:13 403:19 | 402:4 | 274:17,24 | 343:17 346:18 | file 327:16 |
| 434:3,4,14 | extensive 317:7 | 275:10 276:6 | failures 382:15 | 344:16 440:9 |
| 451:15 496:5,6 | 400:2 | 276:16 277:8,8 | 383:4,7 385:1 | 495:12,20,25 |
| 496:18 | extent 375:15 | 277:10,23 | fairly 436:22 | files 357:3 |
| exist 440:10 | 389:12 426:18 | 278:5 279:14 | faith 367:22 | filing 373:24 |
| existed 265:6 | external 461:3,6 | 279:17 280:9 | falling 277:3 | 470:25 |
| 348:5 383:5 | extracting | 281:1,15 | 460:13 | filled 269:9 |
| 440:10 482:20 | 360:14 | 288:12 291:5,9 | falls 422:16 | 279:20 |
| existence 252:20 | extraordinary | 292:4 293:12 | familiar 249:15 | filters 419:19 |
| 253:3 477:18 | 442:11 | 295:8 309:16 | 383:13,15,17 | filtration 419:18 |
| 483:7 | extremely 442:9 | 396:25 452:18 | 410:1 429:1 | final 295:19 |
| existing 424:5 | | 453:16 461:10 | 436:23 456:8 | 324:16 329:9 |
| exists 400:17 | F | 470:14 474:13 | familiarity | 366:6 378:2 |
| expands 311:10 | F 480:21 499:1 | 484:1,23 | 386:9 388:17 | 450:22 485:13 |

| | | | | |
|--------------------------|-------------------------|------------------------|------------------------|-------------------------|
| 487:2 | 353:16 355:11 | 368:23 413:19 | 467:1 | 499:15 |
| finalized 346:7 | 375:13,18,21 | 423:21 454:12 | foundation | future 296:14 |
| finally 301:13 | 412:3 437:21 | 454:20 477:8 | 392:13,15 | 496:11 |
| 347:23 | 438:10,18,19 | 488:11 494:16 | four 279:14 | |
| financial 371:6 | 439:1 478:13 | follows 245:10 | 313:12 315:19 | G |
| find 346:22 | 478:15,18 | 297:18 322:13 | 366:6 407:25 | G 244:1 481:11 |
| 361:2 390:25 | 489:19 | 385:15 | 416:12,22,23 | gain 437:13 |
| 422:25 436:19 | five- 330:4 | Force 462:13 | 434:7 437:14 | garage 257:23 |
| 436:24 438:15 | five-year 353:12 | 465:15 482:5 | 475:4 478:24 | Garelick 242:6 |
| 440:4 449:21 | fleet 274:7 | 486:4 | four- 493:5 | 243:4 244:11 |
| 455:4 474:14 | flexible 496:3 | forced 462:4 | fourth 395:18 | 244:23,25 |
| 481:24 | floor 242:8 | forestry 387:2 | 417:9 | 245:19 251:7 |
| finding 373:18 | 261:21 | forget 306:13 | frame 495:10 | 281:21 284:18 |
| 420:24 | flow 263:22 | 376:4 | free 461:7 | 285:22 288:17 |
| findings 304:6 | 274:17 277:22 | forgot 432:22 | frequency 306:6 | 289:4 296:7,9 |
| 320:12 363:9 | 293:14 310:18 | form 255:4 | 454:2 466:21 | 296:15,19,21 |
| 363:10,16,17 | 314:8 401:3 | 263:20 312:5 | 477:2 | 296:25 362:20 |
| 399:23 418:18 | 417:13,15 | 375:10 398:9 | Friday 494:7,12 | 379:24 380:2 |
| 470:4 | 421:1,7,19,19 | 401:9 455:4,11 | 494:13 | 380:10 392:10 |
| fine 284:25 | 421:23 422:6 | 455:16,18 | front 304:17 | 392:14 395:8 |
| 333:6 376:4 | 422:17 423:18 | 469:10,11 | 356:23 358:25 | 397:10 399:15 |
| 379:7 380:10 | 423:22 424:2 | 483:7 | 360:2 365:11 | 403:14 437:22 |
| 459:7 464:4 | 424:24 425:1,2 | formal 303:20 | 377:17 399:7 | 439:13 464:4 |
| 491:20 495:21 | 428:23 441:2 | 318:8 457:3,6 | 403:1 405:11 | 475:20,24 |
| finish 251:21 | flowing 417:17 | formally 255:20 | 433:15 436:2 | 476:4 490:5,12 |
| 490:17 | flows 264:17 | formed 390:1 | 447:25 448:3 | 490:14,19 |
| finished 368:2 | 266:1 267:20 | forms 312:7 | frustrated | 491:13 493:16 |
| first 245:8 291:6 | 268:11 274:14 | 478:7 | 456:24 | 493:18 494:15 |
| 291:9 292:17 | 274:17 278:1 | formula 324:1,2 | frustrating | 495:3,22 |
| 297:16 299:9 | fluctuating | formulate 351:1 | 457:17 | 496:16 |
| 299:15 304:20 | 422:6 | forth 300:1 | fuel 278:23 | garnierite 431:9 |
| 315:3 316:9,9 | fluid 265:19,21 | 343:6 | 279:7 292:2 | gas 396:9 |
| 327:6 329:25 | 269:6 | Foster 274:15 | fuels 279:2 | gasoline 427:23 |
| 348:17 375:15 | fluids 269:10 | 274:18 275:1,4 | full 353:6 | gatekeeper |
| 375:25 378:1 | focus 249:18 | 275:5,22,24 | fully 331:4 | 411:9,10,11 |
| 381:15,17 | 330:12 346:5 | found 295:10 | 332:12 | 412:7 |
| 383:13 384:15 | focused 300:14 | 302:15 305:8 | functioning | gather 391:23 |
| 385:4,13 | folder 483:19 | 352:25 353:9 | 347:18 | 425:15 472:17 |
| 395:23 396:2 | FOLEY 241:5 | 361:5 374:19 | fundamental | gathered 474:22 |
| 403:25 407:21 | follow 299:2 | 381:8 382:10 | 382:15,18 | 482:18 |
| 412:25 416:12 | 302:20 303:22 | 382:17 383:7 | 383:4 385:1 | gathering 437:3 |
| 417:23 427:1 | 324:2 335:22 | 395:15,21 | funds 463:21,23 | geared 389:10 |
| 437:21 438:5,7 | 369:12 395:18 | 396:3,6,9 | further 281:21 | general 282:11 |
| 438:10,18,19 | 412:9 423:22 | 399:14,20 | 289:4 295:25 | 289:24 300:25 |
| 439:1 448:16 | 438:12 469:7 | 400:10,11 | 312:21 314:14 | 301:21 302:10 |
| 450:16 476:20 | 471:23 | 421:18 444:4 | 321:5 361:10 | 302:15,18 |
| fit 360:12 | follow-up | 445:11,12 | 362:17 364:24 | 313:4 315:13 |
| 412:19 | 343:22 | 449:20 456:9 | 366:13,14 | 342:9 364:1 |
| fits 469:13 | followed 268:4,5 | 457:10 458:8 | 419:22 435:10 | 365:19 446:8 |
| five 352:1 353:6 | following | 460:9 466:15 | 437:18 493:15 | 446:11 473:24 |

| | | | | |
|------------------------|------------------------|-------------------------|------------------------|------------------------|
| 478:12 479:3 | 457:17 462:20 | 313:13 314:1 | 370:19 | 428:23 |
| 487:21 488:6 | 468:1 470:2 | 321:7 323:1 | grease 259:19 | guiding 456:17 |
| 488:18,21 | 483:18 493:18 | 333:6 342:24 | 278:14 281:2,4 | gutter 272:12 |
| General's | 496:20 | 344:22 354:19 | 281:8 293:9,16 | guys 255:2 |
| 481:19 | gives 392:20 | 357:1 369:22 | greasy 275:14 | |
| generally | 455:21 | 375:12,21 | great 283:1 | <hr/> H <hr/> |
| 250:17 256:17 | giving 291:16 | 378:18 390:25 | 407:9 450:13 | H 380:6,7 |
| 258:22 300:24 | 323:9 457:7 | 397:6 403:18 | 494:11 495:24 | 403:15 473:19 |
| 323:14 372:13 | 461:7 | 414:3,24 415:4 | greater 333:12 | 481:16 |
| 397:9,20 | glasses 385:25 | 416:4 419:21 | greatest 494:4 | half 333:12,20 |
| 404:11 409:2 | 386:2 | 419:24 432:5 | green 422:10,12 | Hall 446:13 |
| 439:18 | Global 450:2 | 437:16 447:16 | ground 268:25 | hand 397:20 |
| generated | go 244:2 251:22 | 448:16 450:10 | 269:11 280:25 | 499:20 |
| 286:12 484:14 | 263:17 267:16 | 471:1 475:18 | 309:10 417:20 | hand- 393:7 |
| 486:10 | 283:25 294:12 | 485:14 491:22 | groundwater | hand-held 409:7 |
| Gentlemen | 295:20,21 | good 244:7,8,9 | 417:20 421:19 | handbook |
| 433:12 | 297:4 315:16 | 244:11,13,14 | group 277:14 | 299:12 453:10 |
| genuinely 304:4 | 321:14 322:6 | 245:11,12,20 | 423:11 | 455:20 458:6 |
| geodatabase | 349:12 350:13 | 245:21 249:21 | grouped 330:10 | 474:18,24 |
| 391:5 393:4,10 | 354:6 363:3 | 252:21 256:2 | groups 389:17 | 484:1 |
| 393:13 404:1 | 365:10 366:10 | 256:11 288:14 | grout 311:19 | handed 387:11 |
| 405:4 406:16 | 379:18 383:13 | 295:7 297:6,21 | 314:1,7 | 477:17 |
| 407:8 408:5,12 | 402:1 414:1,24 | 314:18 338:11 | grow 400:23 | Handing 386:2 |
| 413:8 414:24 | 422:9 423:8 | 338:14 339:11 | 422:8 | 475:16 |
| 415:12 477:12 | 426:25 430:24 | 340:15 341:10 | growing 401:23 | handle 253:21 |
| 479:17 489:20 | 437:18 438:9 | 343:19 347:24 | grows 419:13 | 253:24 453:5 |
| geodatabases | 439:18 442:6 | 364:10 367:22 | growth 401:17 | handling 254:18 |
| 411:14 479:19 | 442:15,25 | 470:8,25 | 422:2,3,19 | handwriting |
| geographic | 443:8,18 | 474:12 483:25 | guardrail | 432:12,13 |
| 251:3 391:6 | 445:24 449:12 | 484:12,21 | 398:12 | 447:24 448:1 |
| 393:6 405:4 | 451:25 456:5 | 485:4 498:5 | guess 269:17 | 451:5 |
| 406:15 418:1 | 459:16,25 | good-faith | 291:14 294:23 | handwritten |
| geographical | 462:7 465:12 | 381:20 | 410:5 411:22 | 438:24 |
| 290:10 | 475:23 476:11 | Google 406:5 | 412:9 445:19 | handy 323:7 |
| gesture 244:19 | 481:16 485:10 | 407:1,8 | 494:15 | happen 278:12 |
| getting 313:5 | 491:23 492:9 | gotten 376:25 | guidance 253:22 | 411:17 435:18 |
| 373:15 495:10 | 496:7 | GPS 393:7 | 307:25 318:9 | 438:16 457:5 |
| GIS 391:6 | goal 330:7 | 450:2 | 342:25 343:1 | happened |
| give 386:22 | goals 332:13 | graduated | 346:21 373:19 | 310:16 361:7 |
| 392:24 410:6 | goes 275:2,4 | 248:19,21 | 377:6 418:25 | 447:3,7 |
| 430:6,18 431:8 | 316:22,23 | grate 264:4 | 436:19,20 | happening |
| 455:8,11,16 | 320:5 323:16 | gravel 276:18,21 | 455:5,8,10,13 | 477:25 |
| give-and-take | 359:24 414:10 | 276:23 277:2 | 455:21,23 | happens 251:16 |
| 445:2 | 437:19 497:4 | gravitus 346:1 | 474:19,20 | 251:18 319:25 |
| given 289:9 | going 244:2,23 | 347:11,13 | guide 253:20 | 377:18 391:15 |
| 371:3 375:21 | 270:18 282:4 | gravity 323:18 | 323:24 359:17 | 435:16 |
| 392:21 409:18 | 290:22 294:6,7 | 324:3,4 345:25 | guidelines | happily 384:5 |
| 410:3 411:14 | 297:2 300:16 | 346:9 347:25 | 359:12,13,14 | hard 257:14 |
| 418:25 422:6 | 308:7,12 | 348:24 349:1,4 | guides 322:23 | 288:4 397:2 |
| 440:1 448:3 | 309:14,19 | 351:6 353:3 | 323:2,15 | 408:4 |

| | | | | |
|--|--|---|--|--|
| harder 381:19 384:16 | highlight 404:8 | 451:23 485:14 | 259:8 260:18 | 482:23 |
| harm 348:23 | highlighted 391:11,12,13 | 493:22 | 264:1,3 265:17 | implementation 364:10 467:13 |
| harms 346:20 348:12 | 394:24 443:12 | hope 384:24 494:4 | 268:22 272:9 | implemented 253:11 257:6 286:15 |
| Harrell 241:10 499:8,23 | highlighting 443:14 | hose 261:19,25 | 273:2,13 | implementing 272:20 277:1 301:12 467:19 472:1 477:2,3 477:4 |
| hauled 265:2 266:9 | highlights 443:14 | hospitals 390:16 | 274:23 275:8 | implements 333:10 |
| havoc 309:16 | highway 247:11 | hour 493:6 | 276:7,20 278:5 | importance 441:17 |
| Hawaii 247:15 282:13 | 247:15 250:3 | hours 291:16 333:11,19 | 278:22,23 | important 382:18 |
| hazards 474:5 481:13 | 261:19 381:13 | 410:19 421:3,3 | 279:14 280:4 | impose 360:6 |
| hazmat 331:15 | 398:12 438:14 | 486:12 | 280:24 281:1 | imposed 374:16 |
| head 334:18 375:22 | 440:3,8,12 | housekeeping 249:22 252:22 | 281:13 284:9 | Imposing 381:5 |
| headed 415:2 | 442:23 449:5 | 256:2,11 | 290:9,23 312:2 | improper 473:18 |
| headquarters 291:13 496:8 | 462:17,17 | 338:12,14 | 335:10 416:9 | improperly 261:22 |
| health 473:4 474:2 481:9 492:24 | 469:25 472:5 | 339:12 340:15 | 427:3 446:6 | improvement 466:24 |
| hear 320:10 351:19 | highways 261:17 321:2 | 341:11 343:19 | 454:7 466:18 | improving 382:2 |
| heard 351:4 | hired 393:20 | 347:24 364:11 | 478:25 481:20 | inadvertently 490:11 |
| hearing 241:1 369:23 495:5 496:1,7,8 497:20 | history 360:14 371:9,14,15 | 470:8 474:12 | 482:2 | inch 333:12,20 |
| hearsay 487:18 | hit 290:16 295:17 | 483:25 484:12 | identifies 260:23 265:23 267:24 274:22 276:15 | inches 407:25 413:1,1 |
| Heath 267:11 | Hitt 432:3 435:14 | 484:21 485:4 | identify 252:12 252:14 254:16 259:10,13 262:20 265:10 292:1 296:4 301:16 358:4 449:17,25 454:21 474:5 | include 246:8,17 292:10 357:15 357:16,19 371:14,15 415:10 416:23 417:2 422:23 466:14 476:21 |
| held 240:13 241:2 393:8 438:4 470:13 474:3 498:3 | HMS 268:25 | Howard 432:3 | illegal 473:17 481:14 | included 247:3 307:16 310:7 340:16 343:2 367:24 395:2 407:10 415:24 436:8 452:12 478:3 484:12 |
| Hello 282:1 321:24 349:24 | HMS-1 271:7 | Howells 247:4 248:10 | image 406:11 | includes 366:8 381:14 415:11 415:15 469:11 |
| help 261:24 322:24 325:22 391:1 | HMS-2 271:8 | Hudson 258:16 261:11 262:8 | immediately 270:4 421:21 423:21 | |
| helped 339:20 | HMSC 267:13 | Huff 410:25 | immobilize 273:19 | |
| helpful 303:5 456:17 | hold 330:5 333:9 | hundred 298:19 410:17 | immobilized 268:8 272:10 272:11 | |
| hereunto 499:19 | hole 279:15 | HWTS 310:1 | Impeccable 347:22 | |
| high 248:18 401:16 | hole 279:15 | hydraulic 269:2 | implement 318:9 326:10 327:23 331:4 332:12 335:20 336:21 337:10 338:11 339:10 340:15 341:10 343:18 467:17 471:17,22 | |
| high-level 295:22 | Holmes 271:19 | hydrodynamic 306:14 310:1 | | |
| higher 370:2 | Home 283:19 | hydrology 387:4 | | |
| | Honor 244:10 244:12 245:1 245:13 284:19 296:21 297:8 314:15 316:18 316:23 352:12 355:6 360:3 361:23 362:18 367:11 373:16 380:20 385:6 385:18 388:9 388:14 395:8 397:11 399:16 403:2 414:3 416:7,10 420:7 424:14 432:25 434:6 451:9,17 | hypothetical 355:6 | | |
| | | I | | |
| | | I-190 402:12 | | |
| | | ice 444:19 | | |
| | | ID 395:24 396:1 402:13 405:25 405:25 406:2 411:17 415:15 415:16,18,21 415:23 469:11 | | |
| | | IDE 420:9 | | |
| | | identification 318:16 | | |
| | | identified 259:4 | | |

| | | | | |
|-------------------------|--------------------------|-------------------------|-------------------------|-------------------------|
| 488:8 | 267:5 271:13 | 300:25 453:1 | 394:8 395:19 | instructions |
| including 274:5 | 274:5 394:1 | initiated 271:3 | 395:20,21 | 300:20 480:8 |
| 305:3 337:13 | 409:23 410:23 | 467:8 | 396:7,13 404:4 | intend 296:13 |
| 364:16 480:24 | 444:6 445:5 | initiation 271:2 | 408:10,11,13 | 431:16 493:25 |
| incomplete | 482:10 | inlet 260:24 | 408:23,24 | intended 253:20 |
| 477:13 | indoors 266:17 | 264:3,4 268:9 | 409:6,10,17 | 290:23 367:17 |
| incorporates | 273:9 | 270:11 276:16 | 415:8,14 417:7 | 377:7 |
| 484:21 | industrial | 276:18 278:22 | 417:16 420:22 | intent 323:18,19 |
| incorrect 320:11 | 298:18,21,24 | 313:25 | 421:1 468:3,5 | 325:7 374:8 |
| incorrectly | infeasible 460:9 | inputs 307:12 | 468:11 478:2,4 | 471:6 480:6 |
| 421:8,10,14 | infection 382:8 | inquire 365:3 | 478:7,17 489:7 | intention 360:24 |
| increase 369:19 | infiltrate 428:19 | 491:11 | inspections | 378:15 |
| INDEX 243:1 | infiltration | inquiries 482:9 | 246:7,9,14,18 | intentionally |
| Indian 281:16 | 428:7,12,18 | inseparable | 246:21,25 | 373:5 |
| indicate 310:17 | inflow 415:4 | 352:19 | 247:14,20 | Inter-county |
| 322:6 356:19 | influential 361:9 | inside 261:2 | 250:16 270:16 | 425:11 |
| 357:5 358:6,14 | inform 331:14 | 262:15 264:4,9 | 298:4 299:7 | interact 444:18 |
| 406:18 408:6 | 382:19 | 276:19 279:8 | 300:14 305:16 | 446:10 |
| 408:25 424:10 | informally | 280:6 | 307:19 320:24 | interacted |
| indicated | 303:19 | inspect 287:2,12 | 320:25 321:1 | 436:17 |
| 263:19 268:23 | information | 287:14 306:5 | 365:21 382:2 | interaction |
| 351:5 375:24 | 267:14 295:4 | 333:10,18 | 391:8 396:23 | 444:3,5 |
| 396:5,8 399:14 | 303:18 313:5 | 366:2 396:16 | 410:17 411:1 | Interactively |
| 417:5,7 418:19 | 330:20 345:16 | 410:18,18 | 459:20 461:18 | 246:22 |
| 420:23,25 | 345:18 356:23 | 411:24 414:25 | 466:25 467:2 | interested |
| 424:23 466:12 | 360:21 371:3,5 | 421:5 457:25 | 467:24 468:9 | 499:18 |
| indicates 418:6 | 391:6,24 | 492:5,7,9,16 | 477:24 478:6 | Interim 323:4 |
| 419:2 492:13 | 392:20,25 | inspected | 479:17 489:10 | interlink 449:15 |
| indicating | 394:5,17 405:5 | 252:19 266:24 | inspector | internal 294:21 |
| 252:14 266:8 | 406:15 407:9 | 270:20 287:6 | 246:22 249:9 | 370:21 461:2,9 |
| 303:3 308:14 | 409:7,10 411:5 | 290:8 396:2,5 | 299:16,19 | 472:16 |
| 313:11 | 411:21 412:5 | 404:9 406:18 | 410:21,21,23 | interpretation |
| indicative | 412:14,18,19 | 415:17 416:24 | 413:23 414:20 | 285:14 |
| 256:19 257:8 | 416:20 418:1 | 417:3 418:7,16 | inspectors | Interpreter |
| indicator 401:19 | 424:15 425:16 | 420:13 421:18 | 299:12 391:22 | 242:21,22 |
| indirectly 412:6 | 450:3 468:19 | 489:23 492:11 | 398:6 411:7 | INTERPRET... |
| individual | 472:18 482:11 | inspecting 251:3 | 416:24 417:4 | 244:14,21 |
| 268:25 282:16 | 482:13,14,18 | inspection | 418:19 421:5 | intranet 461:1 |
| 284:22 295:21 | 482:20 | 247:25 249:13 | install 248:1 | intricate 436:25 |
| 361:6 393:16 | informed | 255:10 257:18 | installed 293:11 | introduce |
| 395:20 405:14 | 255:19 265:1 | 273:22,23 | 314:10,12 | 360:25 |
| 409:3,6,16,19 | 265:25 266:8 | 274:1 277:7 | 464:20 | introductions |
| 409:21 410:4 | 269:1 271:16 | 289:20 304:10 | installing 292:2 | 434:20 |
| 411:15 413:2 | 280:8 473:16 | 305:2,24 | instance 249:25 | inundated 268:1 |
| 478:16 486:13 | informing | 306:24 307:16 | 307:11 311:23 | 346:18 |
| individual's | 445:25 473:25 | 309:1 312:1 | 384:15 412:15 | inventory 329:2 |
| 410:16 | 481:12,13 | 316:21,24 | instructed | 329:24 330:4,7 |
| individuals | inherently 442:8 | 318:19 366:8 | 486:20 | 382:1 391:9,22 |
| 252:3,6 253:2 | initial 353:22 | 382:4 391:21 | instruction | 393:24 404:4 |
| 254:2 258:10 | initially 293:6 | 392:4 393:9,17 | 370:20 455:11 | 459:20 468:11 |

| | | | | |
|---|---|---|--|---|
| 477:12 479:16 488:16 invert 440:25 investigate 300:23 397:2 investigation 400:5 423:7 425:6 investigators 422:1 invite 301:7 involved 248:24 249:3,8 277:20 300:9 304:13 324:15 365:15 389:17 424:18 426:2 430:15 435:7 484:24 487:24 490:7 involvement 300:5 436:13 iPad 393:6 irrelevant 360:1 360:15 412:4 issue 260:16 264:19 268:13 269:19 276:25 310:3 359:5 374:14 384:11 441:11,20,22 441:23 442:25 445:16 446:1 issued 356:3,9 357:14,20 358:3,9,24 375:3,17 381:16 382:12 384:8,16 474:25 issues 256:9 257:3 259:23 264:11 270:7 272:15,19 276:9 346:18 360:2 371:8 383:16 389:5,8 425:24,25 429:23 450:7 456:18 461:17 461:21 482:1 | 487:19 497:21 item 295:21 403:24 435:12 438:6,7 443:7 itemize 430:3 items 384:3 408:24 438:6 452:5,6,8,11 452:13 454:6 455:2 457:2,9 457:11,13 474:8 <hr/> J J 341:25 343:3 482:22 Jacob 243:8 297:11,15 JAMES 241:5 January 326:2 382:23,25 430:13 JASON 242:6 Jeffrey 274:8,10 Jerroy 267:12 Jersey 247:10 282:12 321:2 JESS 242:22 job 248:5 297:24 355:3 409:19 414:2 jobs 248:8 John 245:24 377:21 Jonathan 430:22 432:3 437:8 447:25 448:4 judge 240:15 320:20 367:19 377:1 378:5 379:13 406:20 judgement 345:20 judgment 345:22 July 255:9 327:20 328:2 328:23 331:11 332:10 334:21 | 336:16 337:7 338:8 339:7 340:10 341:7 342:4,15 344:2 359:2 394:15 447:23 jump 313:13 June 270:25 274:3 277:10 300:11 333:20 334:21,22 344:8 358:24 363:1 429:13 440:2 488:7 jurisdiction 316:13 317:4 388:17 442:15 jurisdictional 383:15 justice 371:23 Justine 435:21 <hr/> K K 341:25 343:3 483:12 K-U-K-E-R 283:6 Kahler- 244:17 KAHLER-BR... 242:20 Kappeller 254:23 430:23 keep 268:15 297:2 381:21 398:25 419:16 419:22 428:17 463:18,22 478:11,13,15 489:10 keeping 354:18 Keith 258:8 432:4 459:3 kept 273:9 342:9 392:5 407:4 463:8,24 468:6 kill 401:18 kind 283:2 295:21 311:22 311:24 312:18 320:12 345:15 | 426:24 Kingston 257:19 397:17 kitty 427:7,14 427:17,18 knocked 353:11 know 260:21 282:6 285:4 286:1 299:17 301:7 302:11 316:7 317:25 319:5 325:13 325:21 343:6 343:10 362:8,8 362:15 372:4,7 373:8 382:16 402:7,24 410:13 414:21 415:1 420:1 427:15 431:15 437:2,6 444:25 445:3,4,7 449:17 455:12 455:18 457:17 459:8 476:2 482:12 488:4 494:10,12 495:9,15 497:11,13,19 knowing 249:12 knowingly 373:9 knowledge 253:23 299:13 360:17 362:6 383:20 387:14 407:11 428:5 428:12 431:16 432:19 439:9 462:25 487:20 known 247:17 273:24 277:8 399:25 knows 348:8 362:13 Kochersberger 430:22 Krall 274:8,10 Kubek 243:19 385:8,12,22 | 386:3 395:14 Kuker 249:10 283:4,6 284:9 285:4 308:20 308:21,22 315:9 320:4 <hr/> L L 240:15 242:13 379:23 380:5,8 483:23 label 405:24 labeled 400:20 417:10,11 422:1 423:17 424:1 468:3 labeling 426:22 466:9 labels 265:13 labor 465:25 466:4,5,6,7 485:20 486:3 486:12,19,24 lack 253:3 256:24 257:3 347:14 348:4 383:20 laid 392:15 Lance 267:8 land 381:23 landscape 311:19 lane 381:13 language 242:20 242:22 244:14 244:20,21 342:6 426:20 426:21 431:10 431:12 449:2 456:6 473:2 LaPosta 350:5,9 350:11 lapse 383:6 large 267:24 277:14 307:11 315:24 325:21 375:15 382:16 409:25 428:17 428:20 436:25 largest 361:21 |
|---|---|---|--|---|

| | | | | |
|-------------------------|--------------------------|-------------------------|-------------------------|------------------------|
| lasted 324:25 | 306:21 319:16 | 450:6 452:3 | 478:25 | 423:16 438:16 |
| law 240:15 | 325:2 333:8 | 471:8 472:22 | log 420:10 468:6 | loss 374:11 |
| 363:11 | 341:15,20 | 472:23,25 | long 246:11 | lost 347:8 |
| lay 392:12 | 345:25 363:3,3 | 480:9,25 | 291:4 298:7 | 351:10 436:20 |
| lead 283:4,7,9 | 433:12 437:16 | listed 302:11,13 | 378:20 440:11 | lot 260:25 |
| 285:5 315:5,5 | 439:18 442:25 | 302:19 305:23 | 441:14 461:24 | 273:18 291:19 |
| 315:8 348:12 | 445:24 451:25 | 346:13 371:21 | 494:2 | 292:5 312:8 |
| 417:13 424:5 | 459:16,25 | 395:16 401:5,6 | long-term | 343:6 348:8 |
| leader 308:23 | 465:12 481:16 | 401:20 413:21 | 307:21 337:11 | 393:18 401:12 |
| leading 424:16 | 485:7 | 445:18 478:7 | 446:16 483:14 | 427:8 431:13 |
| 490:7,14,21 | letter 337:20 | literally 352:20 | longer 307:13 | 436:16,19 |
| 491:14,19 | 350:5 352:6,7 | 375:19 | 309:10 454:18 | 437:1 444:18 |
| leads 266:6 | 352:20,21 | lithium 281:2,3 | 478:3,5,9 | 456:7 457:10 |
| 414:25 | letters 332:19 | 281:8 | look 261:12 | 471:1 491:18 |
| leak 270:9 | letting 268:16 | litigation 367:4 | 262:17 265:17 | lots 460:5 |
| leaked 260:11 | 278:12 | 368:12,16,18 | 280:6,11,12 | louder 245:16 |
| 281:19 | level 299:22 | 369:2,7,8,9 | 281:1 294:24 | Louis 283:19 |
| leaking 261:25 | 347:5 | 370:1,2,7 | 303:4 315:11 | lovely 494:8 |
| 272:23 273:5 | lid 281:2,3 | 377:3 | 316:5 325:14 | low 379:2 |
| 273:18 | lids 279:16 | litter 427:7,14 | 332:4 335:12 | lower 369:19 |
| leaks 270:14 | life 347:3 | 427:17,19 | 338:15 368:20 | lump 493:2 |
| learn 253:1 | ligation 370:9 | little 245:16 | 369:5 397:6 | lunch 291:6,9 |
| 254:9 263:15 | Likewise 308:1 | 293:8 294:5 | 398:9 401:4 | 321:14 378:20 |
| 267:15 271:12 | limit 317:12 | 298:8 299:10 | 403:19 415:3 | 378:22 379:10 |
| 274:9 277:18 | limitations | 314:24 329:21 | 417:9 420:10 | |
| 316:12 436:25 | 336:17 340:11 | 344:24 378:21 | 421:24 423:24 | M |
| learned 254:11 | limited 316:13 | 381:9 386:22 | 429:25 433:14 | M 484:10,11 |
| 268:10 302:4 | 317:3 382:8 | loaded 261:18 | 440:16 443:13 | machine 241:9 |
| 316:14 319:3 | line 272:12 | local 294:1 | 449:19 459:4 | Madam 245:5 |
| learning 249:11 | 373:19 | 444:5 445:12 | 472:3 497:6,20 | 297:13 |
| 319:4 | linear 316:9 | locate 436:21 | looked 261:2 | magnitude |
| lease 472:13 | 383:16 390:17 | located 260:24 | 342:24 394:22 | 383:14 |
| leave 252:2 | 442:8,10 | 264:1 265:24 | 405:4 419:25 | Magugliana |
| 370:21 494:7 | linears 405:6 | 271:17 276:5 | 427:1 429:6 | 435:21 |
| led 271:23 320:3 | liquid 280:6 | 276:17 313:10 | 430:3 467:16 | main 349:5 |
| 320:4 321:1 | 427:15,17,19 | 437:2 | looking 266:3 | 445:4 |
| 383:21 | list 251:1 294:25 | location 302:14 | 286:25 298:22 | maintain 299:13 |
| left 244:22 | 295:9,15 304:2 | 311:1,5,11 | 305:15 308:9 | 306:5 328:5 |
| 269:23 273:3 | 316:21 317:24 | 313:24 315:20 | 377:23 392:2 | 409:24 411:4 |
| 279:21 282:18 | 318:3 360:21 | 315:21 401:2 | 400:2,15 401:7 | 457:25 467:11 |
| 395:23 | 363:5,9,11 | 417:6 422:13 | 401:10 416:5 | 468:10,10 |
| legal 316:18 | 364:8,20 381:7 | 424:6,8 427:21 | 422:15 431:1 | maintained |
| 317:18 494:24 | 382:9 390:13 | 428:11,24 | 443:5 446:18 | 253:14 291:20 |
| length 429:4 | 396:3,6 417:5 | 473:5 479:6 | 448:16 452:20 | 463:9 464:6 |
| lengthened | 417:8 422:22 | locations 256:9 | 459:5 483:13 | 481:22 496:9 |
| 481:3 | 422:24 429:11 | 290:5,21 | 483:16 | maintaining |
| lengthy 448:19 | 439:23 440:4 | 301:16 302:9 | looks 307:2 | 409:9 410:6 |
| 493:19 | 441:24 443:21 | 315:19,23 | 314:8 355:24 | maintains 409:1 |
| let's 296:25 | 444:12 445:10 | 397:23 405:9 | 400:9 402:8 | 409:3,5,15,22 |
| 297:2 304:17 | 449:17,20,23 | 429:21 452:22 | 407:21 413:2 | 411:25 414:5 |

| | | | | |
|----------------------|------------------------|----------------------|-----------------------|------------------------|
| 464:14 | mandatory | Max 249:10,12 | 382:7 | 426:9 436:8,18 |
| maintenance | 342:7 | 283:4,6 284:9 | MCM5 304:6 | 442:4 462:1 |
| 250:5 254:22 | manner 491:5 | 285:4 290:7 | 347:9 | 488:14 |
| 257:23 260:24 | manual 247:25 | 308:20,21,22 | MCM6 249:21 | meeting 251:11 |
| 264:2 273:4 | 289:18 457:23 | 315:9 320:4 | 249:24 251:1 | 294:6,12,13,21 |
| 283:10 287:8 | 457:24 468:4 | maximum | McMillan 267:8 | 303:24 318:19 |
| 287:19 290:24 | 483:19,20,21 | 344:19 370:13 | MCMs 301:6 | 319:16 330:5 |
| 306:24 307:3 | map 328:5 | MC 244:9 | McNally 242:13 | 354:2 372:19 |
| 307:21 310:10 | 439:22 441:7 | 281:25 284:24 | 243:5,10,21 | 386:20 431:19 |
| 312:2 337:12 | 441:21 442:16 | 285:2,24,25 | 281:23 282:2 | 431:22,25 |
| 347:15 392:1 | 470:22 478:21 | 286:22 288:14 | 289:25 296:10 | 432:11 433:21 |
| 411:6 446:12 | 479:12 489:17 | 289:7 296:11 | 314:18 317:2 | 434:13,18,19 |
| 457:23 470:11 | mapped 391:23 | 314:17 316:20 | 318:10,13,17 | 436:11 438:4 |
| 470:13 472:15 | mapping 382:7 | 317:22 321:6 | 320:18 380:25 | 438:22 439:20 |
| 473:23 483:15 | 382:7 444:2 | 367:21 368:1,3 | 403:16 420:5,8 | 441:16 447:23 |
| 483:20 | 489:20,24 | 378:25 379:6 | 424:19 425:4 | 448:22 450:8 |
| making 252:13 | 490:1,2,4 | 381:3 385:6,17 | 432:25 433:11 | 450:17 452:2,7 |
| 335:1 366:21 | March 353:23 | 385:21 387:16 | 463:1 | 470:12 485:22 |
| 413:17 473:25 | 383:3 430:17 | 387:21 388:1,5 | MD 327:21 | 486:7,25 |
| manage 298:5 | 488:10,10 | 388:13,15 | mean 330:19 | meetings 285:12 |
| management | Marjorie 263:14 | 392:8,19,23 | 345:22 375:18 | 303:18 437:12 |
| 248:15 250:4 | Mark 318:10 | 395:13 397:18 | 456:15 475:20 | 437:14 438:12 |
| 253:18,19 | marked 303:6 | 399:3,4,18 | 487:23 | 441:10,12,18 |
| 254:6 256:24 | 318:16 323:6 | 402:23 403:8 | meaning 252:14 | 471:2 481:2 |
| 256:25 257:4,5 | 385:23 458:22 | 403:10,17 | 274:11 413:9 | Melvin 459:2 |
| 259:22 260:15 | 462:9 | 404:15,17,21 | 413:10 | member 390:1 |
| 264:18 266:14 | market 438:14 | 404:25 405:1 | means 249:23 | 436:15,22 |
| 268:12 269:18 | marriage | 406:20,24 | 251:9 271:22 | 453:4 |
| 270:12 272:18 | 499:17 | 407:14 416:7 | meant 452:23 | memorandum |
| 273:24 274:3 | Martin 432:4 | 416:10,18 | 454:14 455:3,8 | 444:7 |
| 276:24 278:11 | 459:3 | 433:13,25 | 455:12 456:10 | mention 354:8 |
| 279:5 283:13 | Mary 298:12 | 434:5,11,16 | 474:15 | 354:16,16 |
| 286:13 305:2 | Maryland | 437:23,25 | measure 250:7 | mentioned |
| 305:17,25 | 247:10 282:12 | 439:11,16,17 | 300:18,19 | 251:8 270:15 |
| 307:4 317:13 | material 254:17 | 448:8,15 451:7 | measures | 307:17 344:23 |
| 317:18 337:12 | 279:3 460:12 | 451:14,22,24 | 249:16 300:15 | 348:14 446:22 |
| 347:17 350:11 | 486:6 | 463:11,14 | 301:9 304:14 | 451:12 |
| 350:23 387:3,4 | materials | 464:2 465:11 | 318:7 323:21 | mentioning |
| 388:11 418:12 | 253:24 453:7 | 466:1 475:11 | 330:11 346:6 | 489:1 |
| 457:22 466:17 | 485:21 | 475:15,17,21 | 347:23 452:21 | menu 413:1,6 |
| 466:18,20 | matter 240:4 | 476:1,5,6 | 452:24 453:1 | 414:18 |
| 467:12,20,25 | 241:1 328:19 | 485:10,16 | 460:2 474:2 | mere 382:11 |
| 477:1 483:15 | 355:10 356:3 | 490:9 491:1,7 | 492:24 | met 258:5 330:7 |
| 483:19 | 357:1 381:5 | 491:16,18,25 | mechanisms | 330:8 354:11 |
| manager 258:6 | 429:2 442:20 | 493:14 494:1 | 389:15,15 | 430:23 |
| 274:7 464:17 | 498:7 499:12 | MCM 284:10 | 456:12 469:21 | metal 275:8,10 |
| 464:17 465:4 | 499:18 | MCM3 300:21 | 469:22,24 | 275:11,17 |
| 468:7 | matters 356:11 | 301:10 | 471:7 480:7,12 | 280:24 281:6,7 |
| managment | 356:21 359:6 | MCM4 341:21 | meet 252:3,5 | 440:24 492:25 |
| 448:20 | 359:21 | 341:23 346:25 | 263:10 425:19 | metals 275:13 |

| | | | | |
|-------------------------|------------------------|-------------------------|------------------------|------------------------|
| 275:23 | modified 394:7 | 383:5,14 386:9 | 317:22 321:6 | nearby 268:6 |
| methodological | 497:2 | 386:10 388:18 | 367:21 368:1,3 | 276:23 278:9 |
| 304:8 | modify 394:4 | 390:3,19 438:8 | 378:25 379:6 | nearest 273:17 |
| methods 288:19 | 410:8 | 442:8,9 444:3 | 381:3 385:6,17 | neatly 281:20 |
| 313:2 | moment 257:13 | 444:5 446:4 | 385:21 387:16 | necessarily |
| Michael 410:25 | 296:22 403:12 | 459:15 467:4 | 387:21 388:1,5 | 361:8 422:21 |
| Michigan | 420:6 | 468:8 472:9 | 388:13,15 | 422:23 |
| 247:11 282:12 | monetary | 483:3 487:7,8 | 392:8,19,23 | necessary |
| microphone | 435:24 436:7 | 487:21 488:2,5 | 395:13 397:18 | 393:23 461:12 |
| 245:14 | money 345:4 | 488:6 | 399:3,4,18 | need 282:5,5 |
| middle 476:23 | 355:4 372:3 | MS4s 247:3 | 402:23 403:8 | 284:24 296:1 |
| Mike 271:7 | 378:6 383:25 | 261:10 298:22 | 403:10,17 | 301:12 311:25 |
| Mile 402:12 | monitor 398:25 | 317:6 348:11 | 404:15,17,21 | 312:2 314:21 |
| miles 381:13,22 | months 307:13 | 386:20 389:2,7 | 404:25 405:1 | 322:4 325:20 |
| million 374:21 | 315:18 454:16 | 389:9,11,13,19 | 406:20,24 | 327:5,8 378:21 |
| mind 456:12 | 454:17 | 390:5,6,10,14 | 407:14 416:7 | 385:24 411:9 |
| 497:13 | morning 244:7,8 | 481:9 485:23 | 416:10,18 | 412:6 415:23 |
| mine 448:1,4 | 244:9,11,13,15 | mud 260:25 | 433:13,25 | 468:9 480:10 |
| minimal 250:7 | 245:11,12,20 | multiple 248:4 | 434:5,11,16 | 483:4 485:5 |
| 330:11 346:6 | 245:21 291:8 | 251:6 258:12 | 437:23,25 | needed 261:24 |
| minimum | 291:14 297:21 | 260:8 263:20 | 439:11,16,17 | 301:15 315:13 |
| 249:15 300:15 | 314:18 498:8 | 276:7 352:3 | 448:8,15 451:7 | 365:9 383:25 |
| 300:17,19 | motion 495:13 | 481:2 | 451:14,22,24 | 384:2 408:14 |
| 347:23 448:20 | move 304:5 | municipal 250:1 | 463:11,14 | 452:22 456:22 |
| minor 429:23,25 | 306:21 333:8 | 258:14,15 | 464:2 465:11 | 456:25 457:2 |
| minutes 321:17 | 344:22 345:25 | 264:21 272:17 | 466:1 475:11 | needs 320:16 |
| 451:15 | 387:16,23 | 343:23 389:11 | 475:15,17,21 | 323:11 392:1 |
| minutiae 365:16 | 407:15 433:12 | 444:3 474:13 | 476:1,5,6 | 428:20 466:23 |
| miscited 383:21 | 433:25 439:11 | municipalities | 485:10,16 | negative 295:18 |
| mislabeled | 448:8 450:10 | 386:19 444:17 | 490:9 491:1,7 | negatives |
| 466:6 | 451:8 453:5 | municipality | 491:16,18,25 | 295:16 |
| misprinted | 464:2 495:9 | 293:25 397:5 | 493:14 494:1 | negligently |
| 399:6 | moved 387:18 | 444:25 445:12 | name 245:22 | 373:6,8 |
| missing 432:20 | 439:15 448:11 | 445:14,21 | 282:1 409:2,21 | net 408:7 |
| 432:21 | moves 409:18 | 449:25 450:4 | 410:24 426:19 | never 372:11 |
| misspoke 343:4 | moving 326:8 | 473:3 | 445:21 497:18 | 383:10 487:20 |
| mistake 351:12 | 330:9,12 | municipally-o... | named 266:24 | new 240:5 241:1 |
| mistaken 343:5 | 331:13 | 396:19 | 410:23 | 241:11 242:9 |
| 367:12 | MPS 298:4 | MURK 468:4 | names 445:21 | 244:4 247:7,8 |
| misuse 447:14 | MS4 246:18,20 | Murphy 459:1 | narrative | 247:10 248:24 |
| mitigate 302:12 | 246:25 247:13 | _____ | 455:19 | 249:19 254:25 |
| 302:20 312:4 | 248:2 250:11 | N | National 248:3 | 255:15 263:4 |
| 324:10 | 251:12 259:21 | N 242:1 244:1 | natural 248:15 | 274:5 282:2,10 |
| mitigation 312:5 | 262:7 270:14 | 484:19 499:1 | naturally | 282:12,14 |
| mixing 261:16 | 282:24 292:22 | NALLY 244:9 | 422:16 | 292:2 299:19 |
| MNS 382:4 | 293:3,4 298:16 | 281:25 284:24 | nature 298:6 | 300:5 305:17 |
| mobilize 262:24 | 299:1,23 300:1 | 285:2,24,25 | 304:16 323:18 | 309:25 314:19 |
| 275:24 278:9 | 314:25 316:10 | 286:22 288:14 | 357:6,16,18 | 316:12 320:23 |
| mobilizing | 320:24,24 | 289:7 296:11 | 473:4 | 321:2 328:5 |
| 260:14 | 381:11,24 | 314:17 316:20 | Nature's 271:10 | 358:11 360:7 |

| | | | | |
|------------------------|------------------------|-------------------------|-------------------------|------------------------|
| 361:19 365:7 | 499:8 | 372:25 395:24 | 399:15 414:4 | 462:19 |
| 373:22 381:11 | notated 407:11 | 396:1 403:9 | 416:13 424:13 | obtained 348:17 |
| 383:11 385:6 | notation 434:9 | 405:25,25 | 434:2 439:13 | obviously |
| 386:4,14,16 | 436:4 | 413:6,9 415:15 | 448:10 490:5 | 295:24 304:14 |
| 387:1 388:23 | note 303:16 | 415:16,21 | 490:17,19 | 399:5 412:1 |
| 389:22 390:14 | 456:2 | 448:17 454:4,5 | 491:13,14 | occupancy |
| 390:18,19 | noted 319:9 | 460:2 461:17 | objectionable | 470:1 472:6 |
| 395:25 405:22 | 425:24 457:16 | 466:25 469:12 | 494:25 | occur 291:5 |
| 405:22 407:4 | 461:17 497:3 | 471:25 474:24 | objections 395:6 | 354:25 419:14 |
| 435:1 436:22 | notes 294:17,20 | 475:24 485:8 | objectives | 421:20 422:5 |
| 462:17 468:17 | 294:23 365:10 | 485:11 486:2 | 359:10 | occurred 272:12 |
| 493:9 499:3,9 | 432:11,18 | 487:5 489:22 | obligated | 319:17 354:3 |
| Newburgh | 433:18,20,23 | 492:5 | 492:17 | 417:15 429:18 |
| 309:25 | 434:10 435:4 | numbered | obligation | 430:19 |
| Niagra 401:3 | 438:21,21,25 | 434:22 | 410:18 | occurrence |
| nice 491:5 | 447:22 450:20 | numbers 333:7 | obliged 496:24 | 353:12,14 |
| night 421:4 | 454:12,23 | 349:7 372:12 | observation | occurs 445:1 |
| 423:19 424:5 | notice 260:25 | 406:2 411:17 | 264:15 269:8 | October 249:5 |
| 424:24 498:6 | 290:22 291:11 | 415:18,23 | 284:10 295:23 | 337:25 340:25 |
| nine 348:20 | 291:16 301:7 | 485:8 486:17 | observations | off-site 256:22 |
| 450:22 | 305:24 319:10 | numerous | 252:12,16 | offer 368:8 |
| Nodding 334:18 | 325:7 326:4 | 298:16 299:14 | 256:8,14,18,24 | offered 380:7 |
| nods 375:22 | 350:4 357:3,5 | 363:24 364:4,9 | 259:17 261:7 | offhand 325:13 |
| non-compliance | 358:9,14,23 | 383:22 408:12 | 261:14 263:25 | 327:18 |
| 323:20 | 359:1 370:11 | 409:23 427:2 | 268:20 270:1,8 | office 251:22 |
| non-compliant | 370:15 471:6 | 456:20 473:24 | 273:11 279:1 | 290:11 291:3 |
| 348:21 | 480:6,23 | 474:14 | 281:18 284:10 | 315:24 386:15 |
| non-conforma... | notices 357:13 | nutrients 419:14 | 284:12,15 | 425:13 430:21 |
| 326:11 | 358:3,6 359:5 | 422:7,19 | 295:1,6 296:4 | 435:14 436:16 |
| non-responsive | notified 256:6 | NY 240:7 241:7 | 300:17 301:18 | 445:4 471:15 |
| 318:21 374:20 | 291:12 | 242:9,16 | 317:19 320:6 | 479:2 486:10 |
| non-stormwater | notifying 385:2 | NYR20A288 | 347:6 423:11 | office-based |
| 472:21 | November | 240:8 | 425:24 | 301:5,14 |
| non-traditional | 249:14 258:1 | NYS DOT | observe 266:11 | 304:12 |
| 483:3 | 263:9 267:4 | 263:18 271:5 | 288:25 426:4 | officer 367:20 |
| noncompliance | 287:10 | 284:14 291:13 | observed 257:3 | officers 482:14 |
| 345:2 | NPDES 247:24 | 291:14 466:6 | 260:7 264:4 | 482:14 |
| nontraditional | number 244:6 | | 268:2,7 270:5 | offices 390:16 |
| 386:20 389:2,6 | 290:14,17 | O | 275:7 279:11 | 482:13 |
| 389:8,13,19 | 300:14 304:21 | O 244:1 352:6,7 | 279:15 280:6 | official 444:9 |
| 390:4,6,10,12 | 315:15,15 | 352:21 485:2 | 288:5,11 | 487:8,9 488:12 |
| 390:13,19 | 318:15 344:12 | 499:1 | 310:21 312:17 | offsite 269:16 |
| normal 421:1 | 344:15,16 | Oak 271:19 | 313:20 347:6 | oftentimes |
| normally 294:15 | 354:18 355:17 | oath 244:18 | 426:3 | 298:24 446:7 |
| 295:15 357:19 | 355:18 356:5,6 | 322:1 | observer 425:15 | OGS 479:3 |
| North 277:8,9 | 356:7,11,14,15 | object 491:20 | 426:1 | oh 304:23 |
| 283:18 | 356:15 363:11 | objection | observing | 319:20 351:11 |
| Notary 241:10 | 367:8,15 | 284:18 316:17 | 304:15 | 352:16 363:22 |
| 245:9 297:17 | 372:16,18,20 | 355:5 359:24 | obtain 370:13 | 438:19 443:7 |
| 322:12 385:14 | 372:20,21,22 | 361:22 388:8 | 370:14 371:4 | 443:10 459:6 |

| | | | | |
|-------------------------|------------------------|------------------------|-------------------------|-----------------------|
| 480:3 487:12 | 420:18 423:5 | open 248:14 | 384:11,17 | 275:9,18 |
| oil 269:22 293:8 | 424:21 426:23 | 290:25 438:14 | 430:15,16,19 | 280:19 |
| 293:16,22 | 430:18 431:16 | 444:24 445:3 | 430:25 431:1,4 | outfall 274:11 |
| 396:9 427:11 | 432:6 433:16 | opening 251:4,8 | 431:10,17,20 | 274:14,22 |
| oil-water 260:1 | 433:22 434:13 | 252:24 254:8 | 433:19,20 | 275:1,2 310:14 |
| 278:16 293:11 | 436:1 437:16 | 256:3 291:1,7 | 434:21,23,25 | 310:15,18,25 |
| 293:21 294:2 | 442:25 443:17 | 381:1 382:14 | 435:3,8,9,16 | 311:5 329:1,24 |
| oils 259:19 | 446:16 447:16 | operate 250:25 | 435:17,23,23 | 330:6 381:25 |
| 269:2 278:14 | 447:18 449:11 | 445:6 | 436:8,18 | 382:7 391:8,8 |
| okay 245:15 | 450:5,10,13,19 | operated 264:13 | 437:13 438:7 | 391:21,21 |
| 262:18 276:9 | 451:7,25 | operates 248:25 | 439:20,21 | 393:24 395:23 |
| 282:7,8 283:1 | 452:15 453:16 | operating 335:4 | 441:6 442:21 | 395:24,25 |
| 283:14,16,21 | 454:18 458:21 | 335:11 412:8 | 443:5 446:2 | 396:1,2,12,13 |
| 283:21 284:6 | 459:25 460:19 | 481:22 | 452:9,16 | 396:18,25 |
| 285:1 287:16 | 461:15 462:11 | operation | 453:18 454:6 | 397:1,5,14,15 |
| 288:14 289:25 | 463:13 464:22 | 253:12 259:12 | 454:21 456:3,7 | 400:1 401:7,24 |
| 291:23 292:5 | 465:7,12,22 | 286:12 347:15 | 456:11 457:13 | 401:25 402:9 |
| 292:15 294:17 | 466:8 470:21 | 455:9 | 457:14,21 | 402:11,14 |
| 301:23 305:12 | 472:19 477:6 | operations | 458:9 459:8,12 | 404:3,4 405:9 |
| 308:11 316:15 | 478:20 479:23 | 249:24 250:2,2 | 461:16,24 | 405:22,22,24 |
| 317:21 319:5 | 480:18,21 | 253:15,24 | 462:1 463:19 | 406:5,7,16 |
| 320:18 323:1,6 | 484:10 489:14 | 254:18 259:6 | 465:12 467:2 | 407:5 408:1,8 |
| 325:2 326:8 | 490:9 491:3 | 261:15,17 | 468:21 470:4 | 408:24 411:17 |
| 327:10,21 | 494:4 496:3 | 337:11 445:6 | 472:19,25 | 413:4,6,22 |
| 330:15 331:18 | 497:4,12,20 | 453:7,10,20 | 482:4 485:22 | 414:15,22 |
| 332:5 335:14 | 498:4,5 | 455:3,14,21 | 486:20 487:1 | 415:3,16,22,24 |
| 337:8 338:19 | on-site 251:21 | 457:23 458:6 | 495:5 | 416:3 417:1 |
| 339:14,25 | 256:20 299:14 | 474:13,19 | order's 430:25 | 418:6,19,20,21 |
| 340:20 341:8 | on-the- 248:4 | 483:14,19,25 | ordered 343:10 | 418:24 419:2,2 |
| 341:20 342:15 | on-the-job | 484:2,15 | 460:1 | 419:7 420:12 |
| 342:21,22 | 249:11 283:3 | operator 468:22 | orders 277:20 | 420:14,15,17 |
| 343:17,24 | 299:6,17 | opinion 399:21 | 355:14 356:16 | 420:21 421:2,6 |
| 344:11,22 | once 251:18,19 | 401:9 424:4 | 458:3 461:22 | 421:7,15,17 |
| 346:8 348:14 | 251:24 353:2 | 429:9 459:17 | 487:24 | 423:7,12,17 |
| 352:22 355:9 | 366:3,9 384:7 | opportunity | ordinary 343:8 | 424:1,16,23,25 |
| 357:12 363:22 | 384:11,16 | 295:3 425:19 | 463:4,9,25 | 425:2 477:9,11 |
| 364:4,13,23 | 411:7 427:18 | 425:23 | organizational | 479:4,5,10,11 |
| 369:17 370:10 | 427:18 435:15 | opposed 460:17 | 383:18 | 479:15,17,19 |
| 370:19 371:18 | 449:20 | opposing 382:14 | original 398:8,9 | 488:15 489:17 |
| 374:24 378:13 | one-sided | option 314:11 | 398:16 443:12 | 489:19 |
| 378:19 379:8 | 404:16,20 | order 319:9 | 490:19 496:6 | outfalls 328:6 |
| 380:25 385:4 | one-time 333:22 | 325:18 330:10 | 496:17 | 381:14,23 |
| 386:22 391:2 | 334:1,2 335:18 | 330:21 331:22 | Originally 461:2 | 391:14,17,23 |
| 391:10 395:9 | 352:10,24 | 336:7 337:21 | originate 398:5 | 391:25 394:20 |
| 396:4 398:17 | 353:5,8,13 | 340:23 343:7 | 440:7 445:12 | 394:22 395:4 |
| 399:3,8 402:1 | ones 283:12 | 353:23 354:4,7 | originates | 395:16 396:15 |
| 404:25 406:3 | 394:22,23 | 356:19 357:19 | 396:18 | 397:22,24 |
| 407:9,14 | 397:10 413:12 | 363:2 364:15 | outcome 499:18 | 398:2,4 404:9 |
| 415:25 416:4 | 416:23,25 | 364:21 375:3 | outdoor 276:4 | 405:7 410:17 |
| 418:9 420:4,16 | 469:23 | 375:16,21 | outdoors 265:11 | 410:24 411:1 |

| | | | | |
|------------------------|------------------------|-------------------------|-------------------------|-----------------------|
| 411:22 415:17 | P | paid 345:4 | 390:11 | 355:2 356:16 |
| 416:22 418:8 | P 242:1,1 244:1 | paint 264:3,5,16 | participated | 357:1,7 358:15 |
| 424:8 459:20 | p.m 240:14 | 264:16,20,22 | 300:2 | 358:17,18,20 |
| 478:22,24 | 379:10 498:9 | 264:25 265:4 | particular | 359:7,18 360:7 |
| 479:1,2 489:22 | pace 465:18 | 266:5,6,8,15 | 299:25 308:14 | 360:9,10,12 |
| outlet 402:6 | page 257:12 | 415:24 | 320:4 393:3 | 361:18,21 |
| 417:14 419:7,8 | 258:18 260:21 | painting 264:14 | 408:25 409:12 | 366:19,22,22 |
| 428:13,15,20 | 261:13 263:2 | pallet 262:13 | 410:24 414:19 | 366:25 368:6 |
| 428:23 479:10 | 263:23 266:22 | paper 288:24 | 488:9 491:11 | 368:11,16,21 |
| outlets 287:18 | 268:19 270:19 | paragraph | particularly | 369:6 371:4,10 |
| 392:3 | 273:20 277:4 | 325:4,23 326:9 | 257:12 263:24 | 371:25 372:7 |
| outline 430:19 | 278:2 285:24 | 328:3 330:13 | 278:3 361:24 | 373:11,18,19 |
| outlined 251:13 | 286:19 304:18 | 331:14 332:12 | parties 499:16 | 373:25 374:12 |
| 290:19 | 308:9 309:18 | 333:9 334:25 | parts 298:25 | 374:16,22 |
| outlines 253:10 | 313:7 360:22 | 335:19 336:19 | 300:3 | 376:15,20,21 |
| outreach 382:10 | 363:5,18,19,20 | 337:9 338:9,17 | party 490:23 | 377:6,9 381:5 |
| outside 262:12 | 364:7,8,8 | 338:18 339:9 | pass 293:15 | 384:8,11,21 |
| 265:13 269:23 | 377:19,24,25 | 340:13 341:8 | Patelus 432:4 | 435:24 436:7,9 |
| 273:3 278:6 | 378:1,9 393:3 | 363:15,21 | patently 381:6 | penalty 372:17 |
| 279:21,25 | 394:10,17,18 | 404:7 420:23 | path 398:13 | people 277:14 |
| 280:5 281:6 | 395:1 398:23 | 422:9 | 400:17 | 299:21 316:5 |
| 362:5 377:3 | 403:24,24,25 | paragraphs | paved 276:6,17 | 354:11 393:15 |
| 384:4 396:23 | 404:6,12 405:2 | 331:1 | pavement 260:7 | 409:25 410:3,7 |
| 440:18 442:3 | 405:3,11 406:3 | paraphrase | 262:1 280:5 | 411:3 425:20 |
| 487:11,12 | 406:4,8,13,14 | 429:22 | 281:20 427:21 | 446:14 447:10 |
| overall 277:22 | 407:21 408:3 | park 248:9,13 | 427:23,24 | 482:12 |
| 291:2 304:11 | 409:12 416:20 | 270:13 309:24 | 428:2 460:18 | percentage |
| 334:9 410:14 | 417:23,24 | 462:18 | pay 323:20 | 290:12 |
| 430:1 441:13 | 418:1,9,9 | parked 270:4 | 463:21 486:13 | perform 331:5 |
| 485:11 | 432:20,21,22 | parking 273:13 | payment 487:4 | 412:11 455:22 |
| overflow 269:10 | 433:14,16,17 | 273:18 276:5,6 | PDF 437:9 | 466:21 |
| 428:21 | 433:18 436:1 | 276:8 281:14 | Peedy 427:16 | performed |
| overflowed | 438:5,7,9,9 | 427:8 460:5 | penalties 322:20 | 254:24 453:21 |
| 268:23 | 443:4,6,8 | 486:16 | 349:14 350:12 | 453:23 466:19 |
| overhead | 445:24 447:25 | Parks 248:10 | 353:11 354:13 | 469:15 |
| 266:12 465:13 | 448:1,3,16 | part 246:6 255:8 | 357:15 358:1,7 | performing |
| 465:17 | 449:9 450:16 | 261:15 274:16 | 359:23 360:14 | 337:14 425:20 |
| Overlapping | 450:19,20 | 286:5 302:25 | 360:23 361:8 | perimeter |
| 352:17 | 454:12 472:3 | 304:9 315:24 | 361:10 362:1 | 267:19 274:15 |
| overload 274:17 | 475:18,21,24 | 324:18 341:19 | 377:2 435:18 | 312:25 313:3 |
| Overruled | 479:24 480:1 | 391:6 398:16 | penalty 322:18 | period 488:10 |
| 316:25 362:13 | pages 260:4,21 | 414:18 425:5 | 323:20,23 | 488:11,12,14 |
| oversee 298:5 | 267:22 272:3 | 428:1 443:11 | 324:11,13,16 | Perkins 410:25 |
| oversight 487:7 | 308:8 380:18 | 443:17,21 | 324:19 344:19 | permanently |
| 487:8 488:2 | 416:9,12,14 | 473:18 476:14 | 346:3 348:24 | 413:16 |
| 492:2,3,8 | 432:9 434:7 | 478:10,20 | 349:10,13,17 | permit 240:8 |
| owned 396:20 | 437:21 438:18 | 481:6 493:1 | 349:17 350:21 | 250:8,10,11,11 |
| 479:2 | 438:19,23,24 | partially 432:5 | 350:23 351:2 | 254:19 285:9 |
| ownership | 439:1 448:4 | participate | 351:17 354:2,8 | 285:12,14,17 |
| 479:4 | 450:22,23,24 | 271:10 300:6 | 354:14,20 | 285:18 286:5,9 |

| | | | | |
|------------------------|------------------------|---------------------|-------------------------|--------------------------|
| 286:10,24 | personally | 263:25 264:8 | 287:23 288:2,3 | 334:20 431:19 |
| 293:25 329:17 | 285:15 410:1 | 265:21,23 | 294:8,13,25 | 445:8 469:25 |
| 329:22,24 | 464:11 | 266:3,4 267:24 | 308:13 309:2 | 472:17 476:24 |
| 330:2,2,5 | personnel | 268:10 269:3 | 309:20 343:22 | 476:25 480:13 |
| 348:17 366:6,6 | 299:21 301:8 | 272:9 274:22 | 397:13,14,22 | 481:1,5 494:8 |
| 381:10,16,18 | perspective | 274:25 276:15 | 415:13,19 | placed 261:21 |
| 383:22 384:1 | 311:10 | 278:10 280:1 | 416:1 417:22 | Plaintiff 245:2 |
| 384:19 386:10 | pertaining | 280:13 308:9 | 424:22 425:1 | Plaintiff's 308:8 |
| 386:21 389:9 | 303:14 467:11 | 308:14,17 | 429:6 447:9 | 330:14 332:16 |
| 389:10 404:23 | pertains 428:11 | 309:5,7,8,17 | photos 259:13 | 333:13 |
| 426:10 442:4,7 | 482:7 | 309:22,23 | 265:19 268:5 | plan 253:5,9,10 |
| 443:9,11 446:4 | pertinent | 310:11,12,13 | 275:12,14 | 253:13,13,18 |
| 446:7 453:13 | 408:18,20,22 | 311:2,4,8,8,9 | 287:24 308:13 | 253:20 257:8 |
| 454:1 455:7 | petroleum 260:8 | 312:14,15 | 309:19 397:9 | 349:15,15 |
| 459:15,17,22 | 260:11,19 | 313:7,8,9,12 | 398:2,3,5,6,9 | 363:7 438:14 |
| 459:23 461:13 | 268:24 269:20 | 313:14,15,18 | 398:11 399:7 | 440:3 452:17 |
| 467:4,5,14 | 270:10 273:14 | 313:23 398:20 | 399:13,21 | 466:20,25 |
| 468:8 469:1,13 | 273:18 275:11 | 399:24 400:1,8 | 403:1,5 424:10 | 468:1 469:8 |
| 470:19 471:10 | 275:23 276:7 | 400:25 401:1 | phrase 388:6 | 485:5 489:5 |
| 471:11 472:6,6 | 276:10 281:13 | 402:1,2,6,10 | physical 347:6 | planning 414:22 |
| 472:7,9 473:14 | 281:19 288:9 | 402:11,14,18 | 391:25 | plans 253:3 |
| 473:19 475:7 | 288:11 293:14 | 402:22 415:18 | physically 252:2 | 286:6 440:9,13 |
| 478:1,5 480:3 | 427:15,22,25 | 420:10,11,12 | pick 290:14 | 441:25 442:6 |
| 481:19 483:2 | 492:10,25 | 420:16,19,20 | picked 375:19 | 442:10 449:20 |
| 484:9 485:23 | PG 246:1,2,12 | 421:24,25 | picture 250:1 | 453:9 458:15 |
| 487:16,22,23 | 248:6 249:10 | 422:14 423:8 | 259:7 262:11 | 475:5 481:21 |
| 488:5,6,14,19 | 250:19,22,24 | 423:10 | 295:22 423:24 | 484:8 |
| 488:21 492:4 | 251:11 296:3 | photographic | pictured 397:21 | plant 272:1 |
| 492:17 | 297:23 298:2,7 | 442:12 | pictures 284:2 | please 245:6,22 |
| permits 315:11 | 298:9,14 299:9 | photographs | 415:9,10,11 | 286:3 297:11 |
| 315:12 381:18 | 299:10,14,18 | 256:15,18 | 427:2 | 304:6,20 311:3 |
| 389:16 390:3 | 308:24 | 258:18,20,21 | piece 269:2 | 317:1 349:20 |
| 469:25 470:1 | phase 376:21 | 258:24,25 | 273:15 | 386:8 395:14 |
| 472:15,15 | phone 319:19 | 259:1,3,10,17 | pile 268:8 275:8 | 404:12 407:17 |
| 487:7,9,17 | phonetic 258:8 | 260:3,5 261:12 | 275:17,19 | 421:13,24 |
| 488:3 492:10 | 267:8,10,11,13 | 261:14 262:16 | 280:24 493:1 | 433:14 434:17 |
| permitted | 271:7 274:8 | 262:19 263:24 | PIN 485:8 | plenty 495:16 |
| 348:19 493:9 | 405:5 410:25 | 264:12 265:8,9 | 486:18 | plow 259:7,14 |
| permittee | 410:25 435:21 | 267:21,23 | PINS 486:16 | 444:20,22,22 |
| 286:10 295:1 | photo 259:7 | 268:19,20 | PIOs 482:15 | plus 324:3 |
| 320:9 | 273:16 310:23 | 269:25 270:2,3 | pipe 310:18 | PM 341:10 |
| perplexed 265:3 | 312:20,22 | 272:2,4,24 | 311:6 402:3,3 | point 249:11 |
| person 319:20 | 400:14,15,16 | 273:1,10,12 | 402:4 408:6 | 302:15 306:20 |
| 325:6 350:11 | 401:8 405:6 | 274:20,21 | 417:17 419:3,6 | 319:2 320:6,15 |
| 350:16 409:1,4 | 418:3 422:12 | 275:6,7,16 | 440:22,23,24 | 354:13 360:19 |
| 409:14,16,17 | 423:16 424:16 | 276:2,3,13,14 | 440:24 441:1 | 419:11 441:16 |
| 410:11,14 | photograph | 278:3,4,20,21 | pipes 264:6 | 449:23,25 |
| 412:17 471:6 | 260:20,22,23 | 279:10,12 | 271:18 408:7 | 470:15,24 |
| 480:5 491:6 | 261:4,24 262:9 | 280:3,21,23 | 440:22 | pointing 398:19 |
| personal 486:9 | 262:10,11,20 | 281:11,12 | place 292:17 | 400:3,18 |

| | | | | |
|-------------------------|--------------------------|-------------------------|------------------------|------------------------|
| 418:10 | 268:11,17 | 305:16 | preceding | presentations |
| points 274:11 | 309:9,11,15,16 | Post-Its 474:5,6 | 277:20 | 470:15 |
| 418:11 | 311:17,19 | posted 349:15 | precipitation | presented |
| policies 286:13 | 313:9,10,12,14 | 461:1,3,6 | 421:20,21 | 470:24 |
| 324:5 330:9 | 313:20,25 | 474:6 | 423:19,21 | presumably |
| 359:14,20 | 314:2 418:12 | posting 461:11 | 424:24 425:3 | 309:25 |
| 368:15,20,20 | 418:16,18,20 | 470:20 | precluding | pretreatment |
| 494:17 | 418:21 419:5,6 | potential 256:21 | 348:6 | 294:1 |
| policy 323:5,15 | 419:7,8,10 | 261:11 262:6 | preferably | prevalent 264:5 |
| 323:21,23 | 479:6,10 | 262:24 268:7 | 421:3 | prevent 266:19 |
| 324:1 366:19 | ponds 307:14 | 275:23 278:13 | preference | 270:13 272:20 |
| 366:23,25 | poor 348:6 | 301:16 328:6 | 494:14 | 272:22 277:2 |
| 367:3,14,25 | pop 412:15 | 346:20 348:9 | prehearing | 286:15 292:16 |
| 368:9,10,14 | populating | 348:23 362:7 | 433:8 | 292:23 293:5 |
| 369:2,6,11,17 | 347:18 | potentially | preliminary | 309:14 311:24 |
| 369:18 370:20 | population | 262:7 286:11 | 252:16 284:9 | 314:10 341:10 |
| 371:22 377:2,7 | 473:15,21 | 347:8 348:11 | 284:12,15 | preventing |
| 384:10 472:16 | populations | 484:14 | 320:6 439:22 | 260:18 |
| pollutant 250:1 | 473:22 | Power 441:16 | 443:15 470:22 | prevention |
| 253:12,21 | portion 275:9 | 470:15,24 | premises 270:6 | 249:21 252:21 |
| 254:16 256:20 | 276:5,16,17 | power-washing | prep 285:6 | 256:1,6,11 |
| 259:18 262:4 | 279:13 280:25 | 278:6 | preparation | 338:11 339:11 |
| 262:14 264:20 | 281:14 305:10 | practice 253:5 | 249:6 285:5 | 340:15 343:19 |
| 270:9 273:7 | 307:12 311:18 | 253:19 260:16 | 366:8 | 347:24 363:7 |
| 280:17 281:8 | 315:14 348:25 | 264:19 266:15 | prepare 315:10 | 364:10 452:17 |
| pollutants | 391:11 443:3 | 269:18 270:12 | 439:22 469:17 | 452:21 453:9 |
| 249:25 253:14 | portions 391:13 | 273:6 278:15 | 471:14 475:4 | 460:2,23 469:8 |
| 257:7,10 261:9 | posed 373:16 | 279:6,22 | 480:16 486:24 | 470:8 474:1,12 |
| 275:20,24 | poses 317:10 | 280:15 281:5 | 492:12 | 474:16 475:5 |
| 278:14 286:11 | position 361:5 | 281:17 311:22 | prepared 394:1 | 481:21 483:24 |
| 286:16 292:16 | 365:15 409:19 | 312:18 357:3 | 436:16 440:1 | 484:8,11,20 |
| 292:23 293:6 | 430:25 431:14 | 359:8 427:9 | 457:24 463:20 | 485:4 489:15 |
| 348:5 376:17 | positioning | practices 256:12 | 485:19 486:5 | 492:23,23 |
| 376:17 460:16 | 393:7 450:2 | 256:25,25 | 486:14 | prevents 271:24 |
| 484:13 | positive 295:14 | 257:4,5 259:23 | prepares 492:14 | previous 327:4 |
| pollution 249:21 | possible 288:18 | 268:13 272:19 | preparing 285:3 | 394:14 404:2 |
| 252:21 256:1,5 | 290:13 314:3 | 276:25 278:12 | 431:2 437:4 | 406:7 421:4 |
| 256:11 338:11 | 317:15 400:24 | 286:13 288:20 | prepped 249:12 | 452:7 472:25 |
| 339:11 340:15 | 494:5 | 289:24 305:17 | present 242:18 | previously |
| 343:18 347:24 | possibly 310:18 | 305:25 307:4 | 283:22 319:18 | 322:11 367:3 |
| 363:6 364:10 | 370:5 | 312:9 317:13 | 319:24 359:22 | 391:23 421:17 |
| 396:10 413:4,6 | post 306:23 | 335:10 337:12 | 390:21,23 | 424:23 456:6 |
| 452:17,21 | 347:14,16 | 337:13 347:17 | 401:21 426:23 | 457:9 468:7 |
| 453:9 460:2,23 | 390:16 461:8 | 347:25 457:22 | 429:16 431:24 | 469:5 471:20 |
| 469:7 470:8 | post-construct... | 458:1 481:20 | 482:15 | 478:6 479:7 |
| 481:21 483:24 | 305:1 307:4,22 | 483:16,19 | presentation | primarily |
| 484:8,11,20 | 318:18 347:9 | pre-hearing | 303:20 437:15 | 248:14 249:11 |
| 485:3 489:4,15 | post-inspection | 433:3 | 438:13 440:1 | 249:21 250:2 |
| 492:23 | 255:8 305:25 | pre-packaged | 458:18,19 | 392:1 435:5 |
| pond 267:20 | post-inspections | 493:5 | 470:24 | 470:10 |

| | | | | |
|------------------------|------------------------|------------------------|-------------------------|-----------------------|
| primary 293:5 | 307:21 331:7 | 335:21 336:21 | 468:24 482:12 | 469:3 470:9 |
| print 470:16 | 332:14 335:21 | 337:10 338:12 | properly 253:23 | 478:23 484:2,3 |
| printed 404:19 | 382:3 445:24 | 338:14 340:16 | 269:5,24 302:1 | 484:24 492:19 |
| 407:7 437:11 | 449:3 459:21 | 346:17,19 | 314:11 337:14 | 492:21 |
| 474:4 | 467:10,17,17 | 363:25 366:10 | 347:18 412:20 | provides 320:9 |
| printer 404:19 | 467:20 473:9 | 382:9 426:17 | 428:4 | providing |
| prior 248:6 | 473:13 477:8 | 438:8 445:19 | property 396:20 | 489:18 |
| 250:24 251:10 | 480:24 481:4 | 448:20,21 | 445:13 450:1 | provision |
| 251:23 269:7 | 482:8 489:4 | 449:1,5 452:4 | proposal 393:21 | 433:19 439:20 |
| 282:10,20 | proceed 244:16 | 452:11 466:14 | 462:18 | 439:21 441:7 |
| 290:20 291:12 | 297:8 361:13 | 466:17,18,20 | propose 368:22 | 452:9,17 |
| 314:24 315:1,2 | proceeding | 466:22,22 | proposed | 453:19 454:6 |
| 315:13 323:19 | 353:22 355:18 | 467:1,8,12,20 | 322:17,20 | 457:13 460:1 |
| 328:8 343:1 | 490:24 | 467:23 468:1,7 | 324:13,19 | 461:16 468:21 |
| 348:20 371:8 | proceedings | 470:9,10 471:2 | 357:7,15 368:6 | 472:9,12,19,20 |
| 371:14 386:17 | 356:9 358:10 | 471:9,16,17,22 | 373:4 377:2 | provisions |
| 389:2 397:5 | 360:4 362:3,4 | 472:1,20,24 | 390:2 472:14 | 343:10 433:20 |
| 417:16 457:4 | 495:23 498:9 | 473:10 474:12 | proposes 349:9 | 434:21,24,25 |
| 468:15 476:24 | 499:11,14 | 476:21,25 | proposing | 435:8,10,16,23 |
| 477:14 487:18 | process 250:15 | 477:1,3,5 | 368:12 | 436:18 442:22 |
| 491:9 492:20 | 251:13,17,20 | 480:24 481:3 | proprietary | 443:5 446:2 |
| prisons 390:16 | 264:24 299:22 | 481:17 482:24 | 306:15,17 | 454:9,11,21 |
| pristine 496:10 | 307:8 316:8 | 483:13,25 | 461:4 | 456:11 457:14 |
| 497:1 | 318:9 343:8 | 484:12,21,23 | protect 326:10 | 458:3 459:12 |
| private 450:1 | 350:25 353:1 | 485:4 488:25 | 327:23 | 459:14,14 |
| privately- | 365:7 367:6 | 489:15 493:5 | protection 240:2 | 467:16 470:4 |
| 396:19 | 375:14,15 | programs 248:1 | 242:4,7 277:2 | 472:8,14 |
| privy 490:23 | 393:20 425:16 | 289:1 347:14 | 300:18 346:13 | 476:12 485:22 |
| probably 249:4 | produce 432:14 | 366:6 382:3 | 346:17 364:1 | 486:7,25 |
| 290:9,17 | produced | progress 345:18 | 445:18 448:20 | proximity |
| 298:19 315:18 | 289:15 405:10 | 372:10 377:19 | 452:4 471:8 | 262:23 275:22 |
| 317:16 367:17 | 433:1 | 436:17 437:5,7 | 472:23 480:9 | public 241:10 |
| 399:9 410:9 | product 260:11 | 447:11 470:17 | 480:23 481:18 | 245:9 248:14 |
| 415:12 459:5 | 269:21,23 | 475:1 479:21 | protective 248:2 | 297:17 322:12 |
| 478:14 | 270:10 427:16 | 480:13 481:2 | 316:4 | 331:15 335:23 |
| problem 309:12 | 427:18,19,22 | 482:19 483:21 | protocol 445:20 | 347:3 357:3,5 |
| 422:3 | 427:25 | 484:3,25 | provide 295:4 | 357:13 358:3,6 |
| problems | products 275:12 | project 308:23 | 301:1 316:2 | 358:9,11,14 |
| 320:15 348:10 | 293:14 427:14 | 324:7,8 458:16 | 371:5 446:3 | 359:1,5 370:11 |
| 348:10 | professional | 462:5,16,18 | 450:3 469:20 | 370:15 382:10 |
| procedural | 334:10 345:19 | 463:19 465:18 | 473:12 474:9 | 385:14 445:25 |
| 301:21 304:8 | 345:21 387:6,7 | 468:24,25 | 474:22 489:19 | 446:3,5,6,7,9 |
| 338:25 | 387:8 | 469:22 478:16 | 489:20,21 | 446:11 473:13 |
| procedure | program 251:13 | projects 247:16 | 493:3 | 473:21,24 |
| 300:22 467:19 | 252:22 288:22 | 332:15 | provided 289:19 | 474:6 481:13 |
| 481:10 | 292:22 293:5 | promise 384:20 | 289:22 299:11 | 481:15 482:8,9 |
| procedures | 294:1 295:14 | proper 265:2 | 301:2,3 303:15 | 482:13,14 |
| 286:14 289:16 | 303:3,14 | 302:19 347:15 | 303:16 305:9 | 499:8 |
| 299:2 301:25 | 317:18 326:10 | 392:15 413:3 | 307:25 359:12 | pulling 376:2 |
| 302:1,6 305:1 | 326:15 327:23 | 420:6 427:20 | 363:25 447:9 | purchased |

| | | | | |
|-------------------------|-------------------------|------------------------|-------------------------|-----------------------|
| 461:5 | 373:16,17 | rational 372:5 | 354:12 418:18 | 474:2 477:9,11 |
| purported | 376:3,12 411:2 | rationale 372:1 | 427:5,6 428:7 | 479:16,19 |
| 289:22 463:7 | 411:23 412:4,9 | re-calculate | 431:19,22,24 | 488:15 |
| purports 462:23 | 412:11 414:13 | 370:9 | 437:12 441:9 | reconvened |
| purpose 252:10 | 418:6 419:6 | re-file 374:3 | 441:20 443:1 | 390:9 |
| 253:8 254:14 | 424:1,20 | re-sign 486:17 | 449:14 454:10 | record 241:9 |
| 428:15 438:12 | 435:13,15 | reach 367:5 | 458:14 | 244:3 245:23 |
| 463:17 466:21 | 451:10 463:12 | read 285:9,10 | recalling 378:16 | 292:8,9 337:2 |
| purposes 255:16 | 490:15,21,22 | 285:11 304:20 | receding 311:19 | 352:13 379:18 |
| 367:7,9,10 | 491:2 | 315:12 320:14 | receipt 430:16 | 391:4 392:17 |
| 368:7,8,17 | questions | 357:11 363:15 | receive 290:21 | 395:10 399:11 |
| 369:12 373:13 | 281:21 282:4,6 | 436:6 475:21 | 303:2,19 435:7 | 402:24 407:12 |
| 408:18 439:23 | 289:5 290:4 | 495:12 | 468:24 469:3 | 416:5 417:21 |
| 485:12 497:22 | 295:23 296:7,8 | reading 286:17 | received 256:5 | 420:7 432:15 |
| pursue 359:22 | 303:23 314:15 | 289:13 363:19 | 274:13 326:3 | 433:2 440:13 |
| pursued 356:12 | 314:21 321:5,6 | 408:4 | 334:6 336:22 | 448:12 449:20 |
| 356:21 | 323:12 354:12 | ready 245:17 | 387:19 395:11 | 450:14 451:19 |
| put 301:7 | 364:25 376:6,6 | 379:12 | 416:15 430:20 | 458:15 463:8 |
| 317:13 370:10 | 377:1 414:8 | reaffirmation | 434:15 448:13 | 463:22 465:8 |
| 379:20 415:9 | 431:13 491:14 | 435:6 | 451:20 454:8 | 470:25 491:5 |
| 415:21 446:22 | 491:19 493:15 | realize 358:25 | 461:22,24 | 497:11 498:2,3 |
| 470:17 474:7 | quick 303:4 | 404:17 | 465:1,9 482:4 | 499:13 |
| 474:25 485:5 | 321:15 332:4 | really 304:11 | 482:25 483:9 | recordkeeping |
| 486:6 494:24 | 407:16 | 305:11 317:9 | receives 259:11 | 468:5 |
| 497:17,25 | quite 260:25 | 327:8 376:2 | receiving 271:24 | records 250:18 |
| putting 269:10 | 271:5 277:14 | 461:12 470:25 | 372:9 414:21 | 250:23 251:23 |
| 447:15 | 288:4,11 | realm 298:20 | 418:20,24 | 251:25 289:8,9 |
| | | reason 321:8 | 419:4,5 428:24 | 289:19 300:25 |
| Q | R | 396:21 417:14 | 430:2 479:11 | 301:14,19 |
| QAQC 412:17 | R 242:1 244:1 | reasonable | recess 321:16,18 | 302:25 303:6 |
| qualifications | 499:1 | 349:17 372:21 | 379:9,10 | 303:13 304:13 |
| 393:23 | raccoons 382:10 | 399:22 429:10 | recognize | 304:17 305:15 |
| qualified 387:23 | rain 275:19 | reasons 361:23 | 337:17 377:22 | 305:24 306:21 |
| 388:10 | 417:15,17 | 458:13,14 | 378:3,10 | 306:23,25 |
| quality 387:8 | 421:3,4 424:12 | 490:25 | recognized | 307:3 309:2 |
| 423:3 424:17 | 428:17 | rebuttal 378:16 | 412:16 | 310:7,10 |
| 466:14,22 | rained 260:6 | 497:23,25 | recollection | 409:15,22 |
| 476:21 477:4 | 269:9 275:19 | recall 254:21 | 342:1 472:4 | 410:8 415:20 |
| 488:25 | rainfall 333:12 | 255:12,17 | recommendat... | 417:7 440:3,9 |
| quarterly | 333:19 424:4 | 284:16 289:11 | 446:24 | 442:10,23 |
| 372:10 486:23 | 477:24 | 289:12,13,15 | recommendat... | 449:5 457:12 |
| question 284:25 | rainfall-related | 289:19 296:13 | 316:7 | 463:18 464:15 |
| 286:2 288:18 | 478:4 | 305:14 315:15 | recommended | 467:11 468:3 |
| 312:14 313:22 | raining 288:4 | 321:8 327:18 | 312:3 350:21 | 468:10,12 |
| 314:22 317:1 | raise 296:7 | 333:24 334:5 | recon 492:24 | 478:12,14,17 |
| 320:20 327:9 | 376:6 | 334:11,13 | reconnaissance | 489:10 495:2 |
| 327:22 341:13 | ranger 248:9 | 335:5,15 | 329:2 330:4,7 | RECROSS-E... |
| 353:17 359:16 | rap 314:7,8,9,9 | 336:14,24 | 330:12 331:6 | 289:6 365:1 |
| 361:13,15 | 314:11 | 337:3,4,5 | 382:1 391:8,22 | 377:12 |
| 368:5,23 | rate 486:13 | 339:23 354:1 | 393:24 404:4 | rectangles |

| | | | | |
|-------------------------|------------------------|-------------------------|------------------------|------------------------|
| recycled 264:23 | 482:9 490:23 | 393:18 394:7 | 450:24 | 379:13 385:10 |
| red 398:14,15 | 492:23 494:17 | 405:17,24 | remains 381:18 | 491:4 496:13 |
| 405:7 406:17 | regards 253:5 | 425:13 436:18 | 427:21 497:3 | 496:15,21,25 |
| 418:5,7 | 253:15 277:23 | 482:12 | remediate | reporter 241:9 |
| Redirect 288:16 | 449:5 | regions 404:3 | 276:25 | reports 377:20 |
| 320:21 362:22 | region 242:7 | 410:2 411:15 | remedy 461:17 | 382:21 429:2 |
| 362:23 376:23 | 247:9 249:13 | 461:19 486:5 | remember | 436:17 478:17 |
| reduce 286:15 | 249:20 252:19 | regular 357:2 | 277:15 354:9 | 479:21 480:13 |
| reduced 371:25 | 252:19 254:21 | 365:21 377:19 | remind 244:17 | 481:3 482:19 |
| reduction | 255:7,16,21,25 | 392:5 | 331:3 | 483:22 484:25 |
| 324:12 | 256:1 257:18 | regularly | remotely 362:11 | representation |
| redundancy | 263:3,4,9 | 381:24 | removal 444:21 | 433:23 |
| 472:2 | 266:23 267:4 | regulated | remove 293:16 | representative |
| refer 266:7 | 270:16,25 | 294:15 386:19 | 460:5,12 | 267:7 274:24 |
| 294:24 322:23 | 273:22 274:2 | regulatory | removed 427:18 | 279:18 280:9 |
| 325:16 328:10 | 277:6,10 283:9 | 389:14 | 427:20 | 379:1 |
| 341:12 445:13 | 283:10,11,13 | reinspect 416:3 | Removing | representatives |
| 447:16 466:2,3 | 283:15,17,18 | reissued 356:16 | 460:11 | 252:7,25 |
| 473:2 | 283:18,19 | relate 309:19 | renewal 390:3 | 263:19 265:5 |
| reference 306:9 | 287:9 288:5 | 442:7 | repairs 408:9 | 265:14 266:1 |
| 306:9 355:21 | 292:3 300:6 | related 247:4 | repeat 257:1 | 277:23 |
| 355:25 357:21 | 305:10,22 | 248:15 255:10 | 286:2 314:4 | representing |
| 357:25 | 306:1 307:5,22 | 298:13,16 | 322:7 333:17 | 390:4,12 |
| referral 443:22 | 307:25 315:1 | 334:19 336:6 | 421:12 | request 250:18 |
| 444:4 481:6,8 | 318:20 319:1 | 346:12 347:2 | repeated 408:10 | 250:23 255:24 |
| referred 366:23 | 333:5 334:19 | 365:5 394:17 | 408:11 | 289:9,20 301:1 |
| 472:25 496:17 | 344:9 355:25 | 499:15 | rephrase 314:22 | 302:25 303:7 |
| referring 280:12 | 356:8,12,22 | relating 248:24 | replacing | 304:13,17 |
| 307:8 326:19 | 359:22 361:21 | 254:3 255:13 | 307:12 490:4 | 305:13 350:15 |
| 328:13 475:10 | 362:8 382:22 | 256:1,10 258:3 | report 252:1 | 393:21 394:16 |
| refers 306:13 | 382:24,25 | relation 250:12 | 284:1,4 295:19 | 457:12 463:1 |
| 366:25 | 383:10 390:24 | 408:13 478:12 | 320:14 345:19 | requested |
| refresh 342:1 | 391:15,16,18 | relationship | 347:3 366:8 | 251:23 302:23 |
| 472:4 | 393:13,25,25 | 256:23 257:2 | 381:25 382:23 | 303:13 370:6 |
| regard 254:13 | 398:7 403:3,6 | 311:7,13 | 382:24 383:1 | 374:22 |
| 298:21 305:19 | 404:1,10 | 444:17,25 | 398:8,16 403:3 | requesting |
| 305:22 325:4 | 405:18,23 | 445:3 | 403:7 405:11 | 306:22,23 |
| 328:3 409:8 | 406:1 409:5,11 | released 292:12 | 430:2 437:5,7 | requests 250:22 |
| 414:7 | 409:12,14,22 | 292:18 293:20 | 447:11 455:4 | 305:7 |
| regarding | 410:9 415:7 | 296:16 321:10 | 468:6 470:17 | require 286:9 |
| 252:20 253:2 | 418:14 420:14 | releasing 414:16 | 475:1 478:7 | 293:25 323:22 |
| 254:23 274:10 | 425:14 447:4 | relevant 362:12 | 484:4 486:10 | 371:23 453:13 |
| 300:17,21 | 457:24 461:22 | reliance 384:19 | 486:11,23 | 459:23 460:11 |
| 304:6 318:18 | 461:25 462:20 | relied 366:18 | 487:2 488:7,8 | 461:13 463:22 |
| 331:21 335:23 | 464:6,7 478:25 | 368:10 | 489:2 | 467:14 469:1 |
| 336:19 339:8 | 479:5 482:3,3 | rely 368:15 | reported 301:17 | 470:19 471:10 |
| 340:13 341:8 | 492:14 | remain 244:18 | 396:10 499:11 | 471:11,13 |
| 341:21 343:7 | region-specific | remained 335:3 | reporter 241:10 | 475:7 480:14 |
| 347:9 371:6 | 318:21 | 335:10 | 245:5 250:20 | 484:5 |
| 391:24 451:10 | regional 347:4 | remaining | 297:13 379:11 | required 285:17 |

| | | | | |
|-------------------------|------------------------|-------------------------|-------------------------|-------------------------|
| 286:5 362:2 | 261:16 266:25 | 447:17 448:13 | right 289:10,21 | road 240:6 |
| 374:17 383:23 | 267:3,12,25 | 450:11 451:18 | 295:8,8,9 | 242:15 281:16 |
| 384:18 421:2 | 277:8,10,16 | 451:20 459:9 | 296:6 302:8 | 375:6 399:25 |
| 453:19 459:15 | 283:18 453:4,5 | 462:10 465:8,9 | 307:11 308:5 | 400:16 402:4 |
| 459:18,19 | resident 258:7 | RESPONDE... | 309:5 311:6 | 402:12 417:10 |
| 467:4 470:7 | 259:4 267:9,10 | 242:11 | 312:12,22 | roads 307:15 |
| 473:9 478:5,9 | 271:4 277:16 | respondents | 314:13 317:4,8 | 309:24 444:22 |
| 478:15 480:16 | residual 269:14 | 324:9 360:15 | 332:11 334:21 | 444:23 |
| 480:22 483:2 | 281:4 | response 289:9 | 339:8 343:9 | roadside 398:12 |
| 484:7,9,20 | residue 264:3 | 307:24 319:9 | 345:25 351:6 | robust 288:22 |
| 485:23 486:24 | 275:14 | 332:19 336:4 | 352:6 354:14 | 288:25 |
| 489:9,18 493:7 | resolve 272:19 | 337:20 340:23 | 359:3,4 361:11 | Robyn 241:9 |
| requirement | resource 248:15 | 342:5,10 | 364:2,5,6 | 499:8,23 |
| 248:2 308:5 | resources 371:6 | 350:15 354:24 | 365:21 366:3 | rocks 422:2,4,17 |
| 329:18,22 | 387:2 | 387:22 431:2 | 366:12 369:8 | 422:20 |
| 330:1,3 332:3 | respect 246:18 | 439:25 457:1 | 375:11 376:4,5 | role 249:7,10,18 |
| 332:22 338:4 | 246:20 247:19 | 477:10 495:17 | 376:22 389:3 | 283:2 296:3 |
| 338:25 339:17 | 249:7 254:5 | responses | 395:5,18 | 350:20 384:6 |
| 339:21 341:3 | 255:7,23 256:9 | 452:14 | 413:11 414:9 | 425:14 435:1 |
| 342:19 343:25 | 258:10 259:16 | responsibilities | 414:25 415:25 | Roline 459:2 |
| 363:7,25 366:7 | 262:2 263:17 | 410:13 | 416:2 429:2 | room 459:1 |
| 446:4 466:12 | 267:16 271:14 | responsibility | 438:17 440:5 | roughly 351:13 |
| 478:4,8 | 272:14 277:19 | 365:18 409:20 | 440:18,21 | 351:13 |
| requirements | 284:21 317:4 | responsive | 441:25 442:3 | round 390:11 |
| 254:19 346:14 | 362:6 368:24 | 305:7,23,24 | 442:16 444:4 | route 402:11 |
| 363:13 365:8 | 399:13,19 | rest 379:16,17 | 445:11,23 | 414:23 |
| 384:4 386:11 | 407:17 417:23 | 380:21,24 | 449:18 468:17 | routes 444:23 |
| 386:12,17,21 | 488:5 | 474:6 | 471:25 480:4 | routine 492:6 |
| 389:9,10 | respond 295:2 | restate 324:22 | 480:16 485:11 | routinely 287:2 |
| 426:10,13 | 435:20 490:18 | resubmit 456:20 | 490:16 493:21 | 470:12 |
| 436:8 442:5,7 | 491:17 | result 261:23 | 496:14,16 | row 303:10,12 |
| 443:16 454:1 | responded | 376:18 401:16 | 498:4,5 | 305:13 306:21 |
| 467:6 469:9,13 | 435:22 | 448:24 460:15 | right-of- 440:6 | 412:17 |
| 471:19 478:2 | respondent | resulting 264:17 | right-of-way | RPR 241:10 |
| 488:14 491:12 | 360:4 373:5 | results 395:19 | 396:19,23 | 499:23 |
| 492:4,4 | 374:15 | 408:23 409:18 | rights 317:9 | rules 359:11 |
| requires 249:24 | Respondent's | retain 278:15 | rip 314:7,8,9,9 | run 271:18 |
| 250:19 286:10 | 318:15 360:24 | returned 354:15 | 314:11 | 367:6 397:16 |
| 294:3 323:17 | 378:23 380:13 | review 251:23 | rises 422:16 | 494:11 |
| 488:6 | 380:17 385:24 | 255:24 299:12 | risk 345:2 | run-off 262:25 |
| requiring 441:7 | 387:11,19 | 305:5 314:25 | 369:22 428:3 | 348:9 446:17 |
| reserve 361:11 | 391:1,3 395:10 | 328:8 497:7 | river 258:16 | running 260:14 |
| residences 348:6 | 395:11 397:7 | reviewed 289:8 | 261:11 262:8 | 272:21 |
| 348:7 | 397:12,19,25 | 305:8 315:12 | 397:15,17 | runoff 263:20 |
| residencies | 402:25 403:19 | 429:4 439:6 | 399:25 401:3 | 269:15 274:17 |
| 283:11 348:12 | 403:22 416:6 | reviewing | 402:12 414:15 | 275:20 277:25 |
| 444:15,16 | 416:12,14,21 | 251:25 309:2 | 420:15 422:16 | 292:25 335:24 |
| 446:12 453:2 | 419:25 432:6 | reviews 413:15 | 422:18,18 | runs 274:15 |
| residency 250:4 | 434:14 437:17 | revisions 390:2 | 423:3,13 | ruptured 266:19 |
| 257:19,21 | 437:23 439:14 | riding 415:6 | rivers 293:22,23 | Rush 310:15,24 |

| | | | | |
|---|--|--|--|---|
| 311:6,13 rusted 275:10 275:13 RX 436:1 RX-70 486:8 RX-72 486:4 | sat 372:11 satisfied 435:15 435:22 452:10 satisfy 384:3 434:24 459:13 482:16 489:3 satisfying 459:12 486:19 save 355:4 Savery 258:8 saw 288:7 saying 250:21 319:13 379:1 421:8 says 336:4 367:14,17,23 369:17,18 379:6 414:14 436:6 443:18 443:18 468:8 472:12 473:14 scale 311:11 scenarios 314:13 scene 274:4 schedule 327:22 450:25 454:20 462:6,16 scheduled 381:24 470:12 school 248:18 science 248:22 298:11 386:25 387:2 scientist 246:3,4 297:25 298:2 scope 316:24 359:25 362:9 423:6 score 480:11,11 Scott 271:6 430:23 432:4 scouring 311:15 313:21 scrap 275:8,10 275:11,17 280:24 281:6,7 492:25 screen 346:20 377:18 395:2 | 418:2 screenings 483:1 screenshot 405:3 season 287:3,4,5 444:19,20 seasonal 248:9 seat 335:22 second 251:16 376:10 400:14 400:15 404:11 438:10 443:7 450:19,20 secondary 279:9 secondly 361:25 section 322:19 357:25 363:11 394:25 414:14 414:23 436:14 443:11 472:9 477:22 480:22 sediment 260:25 261:8 268:2,14 268:16 272:6,9 272:16,20,21 272:22 276:21 277:2 311:20 312:17,19 335:2,9 336:23 346:16 382:3 387:7 388:2,6 388:12 419:20 419:22 466:15 466:24 476:22 481:20 482:1 483:1,10 493:6 sedimentation 402:13,20,21 402:22 sediments 314:4 419:19 see 248:2 285:18 287:17 288:4,9 294:8 295:19 305:4,6 307:1 311:11,25 312:21 355:19 366:11 378:2,8 399:12 400:1 | 402:22 405:8 420:11 422:13 423:9,15 429:8 437:18 443:13 443:18,22 454:13 478:19 480:3 495:19 seeing 443:3 seek 359:7 seeking 305:13 359:18,23 364:14 370:12 370:16,17,18 480:3 seen 295:12 320:7 350:17 389:6 427:2 select 341:9 343:17 413:5 selects 413:3 self 339:11 self- 254:14,24 255:14,19 453:16,23,24 484:12 self-assessment 255:4 453:18 455:4 self-assessments 254:4,12 453:21 454:2 self-inspections 299:24 semi-annual 484:22 492:22 send 327:16 495:4,6 Seneca 283:17 senior 299:16 427:6 sense 301:23 312:19 363:23 481:10 493:20 sent 315:25 328:9 331:20 359:2 377:20 377:21 SEP 324:15 separate 364:15 364:21 496:21 | separates 293:23 separation 293:13,13 separator 260:1 278:16 293:9 293:11,19,21 294:3 September 249:4 330:17 330:24 331:8 332:19 333:1 336:10 340:2 450:18 sequestered 460:17 sequesters 428:2 served 353:23 354:4 services 479:3 486:9 session 429:14 493:2 set 258:15 351:18 412:21 413:7,11,13 420:6 453:9 470:3 486:15 486:18 496:6 496:17,19,20 496:22,22,25 497:3,4,5,13 497:17 499:19 sets 497:8 settlement 323:5 323:23 359:20 367:5,7,9,10 367:14,16,24 368:6,8,13,25 369:1,12,13,16 369:20 370:3,5 370:7,14 371:20 373:4 373:13,17 375:9,24 377:3 377:6 seven 450:22 sewage 292:10 sewer 260:19 271:23 278:17 |
|---|--|--|--|---|

| | | | | |
|-------------------------|-------------------------|-------------------------|------------------------|-------------------------|
| 292:6,7,15,17 | 470:15 479:20 | simply 361:14 | 276:10 282:17 | 474:11 486:17 |
| 293:7,24 294:3 | showed 291:4 | single 284:20,22 | 282:23 284:20 | 487:4 |
| 439:23 440:18 | 395:16 438:13 | 315:21 | 286:7 287:3,12 | solutions 446:16 |
| 442:12,16 | 479:18 | sir 312:14 | 287:14 298:19 | Somebody |
| 444:1 470:23 | showing 303:9 | sit 294:11 306:5 | 299:4 316:4 | 383:12 |
| 490:1,4 | 313:19 328:5 | site 252:5,7,13 | 335:24 336:22 | someone's |
| sewers 271:20 | 362:25 422:10 | 252:15 253:11 | 348:9,9 461:18 | 413:20 |
| shadowing | shown 261:23 | 253:13,15,16 | 461:21,23 | soon 455:9 |
| 249:12 | 268:4,10 269:3 | 253:25 254:17 | 468:11 478:3 | 495:5 |
| share 295:1 | 272:12 273:16 | 256:8 257:7,10 | 482:3 489:11 | sorry 286:19 |
| 497:10 | 275:12,13 | 258:4,5,7,12 | 492:6 | 304:23 318:14 |
| SHARP 440:8 | 278:9 398:4 | 263:10,12,16 | situation 313:6 | 330:13 343:4 |
| 441:3 449:16 | 400:8 406:6 | 263:21 265:2 | 353:10 | 353:7 363:8,18 |
| 458:11 489:25 | 408:7 416:22 | 266:10 267:6 | six 247:5 298:8 | 368:3 373:15 |
| 490:3 491:9,12 | 441:3 | 267:19 268:11 | 299:10 307:13 | 376:11,22 |
| shed 440:18 | shows 309:8,9 | 271:1,5,9,11 | 315:18 | 392:23 404:18 |
| 442:12,16 | 309:23 310:2 | 271:13,14,17 | six-page 404:22 | 459:6 476:17 |
| 443:15,19 | 310:13 311:4 | 277:7,13,15,21 | sizes 440:22 | sort 277:1 |
| 444:2 470:23 | 313:9 383:6 | 282:25 288:6 | skip 481:16 | 360:21,21 |
| 489:24 490:1 | 395:17 406:16 | 292:1 296:5 | skipping 251:15 | 444:8 491:13 |
| sheen 260:8 | 418:2 420:19 | 300:11 301:5 | Slade 271:6 | sorter 268:6 |
| 281:13 288:12 | 420:20 442:12 | 302:8 317:20 | slid 259:14 | sorter/snow |
| sheet 407:23 | side 264:2 309:8 | 333:22 335:3 | slightly 304:7 | 268:6 |
| 408:1 432:8 | 312:22 313:19 | 346:25 347:7 | slip 335:3,10 | sought 357:8 |
| sheets 486:15,18 | 402:5 416:25 | 360:20 365:13 | slope 309:9,14 | 358:7,15 |
| ship 497:16,17 | 416:25 | 365:17 382:2,4 | 312:22 313:20 | 361:21 |
| shop 260:24 | sided 432:24 | 382:5 461:2,6 | sloped 419:21 | sound 364:5 |
| 264:2 273:4 | sign 242:20,22 | 461:9,25 | slow 250:20 | 427:10 |
| Shore 397:16 | 244:14,20,21 | 464:17,17 | 282:5 322:6 | sounds 297:6 |
| shoreline 274:16 | 469:6 471:6 | 467:23 468:2,5 | slowly 279:20 | 364:6 413:25 |
| short 290:8 | sign-in 432:8 | 468:6,9 477:24 | 287:25 | source 259:18 |
| 335:18 360:12 | signatore 487:9 | 482:10,25 | slows 419:20 | 262:4,14 |
| short-term | signed 350:8,18 | 489:7 493:9 | small 307:9 | 264:20 273:7 |
| 333:23 | significance | site- 456:12 | 372:3 408:4 | 280:17 281:8 |
| shorten 389:23 | 346:2,14 347:2 | site-specific | smaller 306:3 | 396:16,17 |
| shorter 378:22 | 347:11,25 | 252:21 253:3,4 | snow 259:7,14 | 438:15 449:17 |
| shorthand 241:9 | 391:10 395:15 | 253:8,10,13,18 | 444:19,20,20 | sources 253:12 |
| shortly 496:1 | 417:12 | 253:19,22 | snowed 447:8 | 253:21 254:16 |
| shot 418:2 | significant | 254:12 257:4,8 | snows 444:21 | 256:20 270:9 |
| show 284:1 | 320:15 346:22 | 285:16 286:4,6 | snowstorm | 286:11 484:13 |
| 294:15,17 | 347:20 383:7 | 286:23 288:19 | 494:6 | south 260:24 |
| 303:5 311:3 | 402:13 418:15 | 452:23,25 | soak 427:17 | 264:2 281:14 |
| 378:1 385:22 | signs 483:8 | 453:13 474:15 | soaked 427:19 | southern 276:5 |
| 395:4 405:6 | silt 353:10 | 474:16 475:3 | software 464:13 | 276:16 |
| 417:22 420:19 | similar 276:11 | 484:7 485:3,5 | 464:16,18,20 | southwest |
| 432:5 437:17 | 298:22 299:2 | sites 250:12,14 | soil 269:13 | 265:11 |
| 440:4,15,17,19 | 312:21 360:11 | 250:16 252:3,4 | 311:20 312:11 | southwestern |
| 440:20,21,22 | 360:23 400:9 | 252:20 253:2 | 312:12 425:11 | 275:1,9 |
| 442:10,13 | 444:1 453:3 | 254:1,3 255:25 | soiled 309:15 | SPDES 240:8 |
| 458:21 462:9 | Similarly 254:1 | 256:10 258:22 | solution 456:13 | speak 252:19 |

| | | | | |
|--|---|---|--|---|
| 254:2 258:3 267:5 271:1 274:5 277:12 307:19 speaking 253:1 256:17 258:22 258:23 263:16 267:15 271:13 274:10 277:15 277:19 special 263:4,8 263:13 264:13 283:15 486:18 specialist 386:7 388:2 specific 253:11 253:13 305:9 306:3,6 307:6 314:13 315:17 317:10 360:17 372:4 395:6 456:1,13 475:7 specifically 298:16 299:23 309:21 393:20 394:19 424:9 455:1 472:8 478:24 486:19 493:4 specifications 472:13 specify 477:2 speculation 490:22 spelled 431:1 spelling 466:9 spells 472:8 spend 471:1 494:9 spent 320:8 372:9,15 463:19 spill 279:3 474:1 spilled 262:21 spilling 266:19 spills 260:17 270:14 spoke 258:7 263:14 267:7,9 274:7 284:22 | 361:24 479:7 sponsored 299:11 spreadsheet 412:8,14,15,20 413:18 spring 303:17 303:24 417:11 417:13 421:19 421:22 423:22 424:2,23 425:1 spring/fall 470:11 squares 398:18 ss 499:4 stabilization 309:14 313:1 stabilize 312:9 312:11,12 313:3 stabilized 309:11 312:24 stabilizes 419:16 staff 251:12 252:15 261:16 263:11,16 267:15 271:1 274:6 291:20 301:11,18,24 302:9,16,17,17 307:18 317:23 320:3 337:13 346:19 347:4 347:16 348:13 369:19 372:22 372:23 373:1 382:19 393:18 393:19 394:2,7 404:5 405:17 405:24 409:2,4 409:17,25 410:20 426:1 436:18,22 444:15 447:4 453:4 457:24 462:21 470:14 484:22 489:11 492:4 493:4,10 staff's 302:6 stage 397:15 | stain 427:8,11 427:22,22 staining 264:5 268:24 273:14 stains 276:7 460:5,10,11 stand 245:3,4 297:11,12 321:23 379:8 383:8 385:9 475:14 standard 472:14 standing 274:25 start 295:13 308:9 327:5,11 327:25 328:1 328:22,24 329:14,16,18 331:9,11 332:8 333:3,4 334:14 336:14 337:6 338:6 339:5 340:8 341:5 344:5,8 363:19 375:12 380:1 391:3 433:19 475:23 476:2 started 282:7 291:15 299:10 299:15 430:9 starting 329:25 346:17 364:7 430:16 439:20 476:13 starts 350:5 state 240:5 241:2,11 244:4 245:22 247:7,8 247:11 248:13 248:24 249:19 254:25 255:15 263:4 274:6 282:2,10,14 283:19 300:5 305:17 314:19 315:1 316:12 320:23 326:5 336:3 356:25 358:11 360:7 361:19 365:8 | 373:22 381:9 381:11 383:11 383:11,19 385:7 386:4,15 386:16 388:23 389:22 390:14 390:18,19 395:25 402:11 407:4 411:12 411:13 435:1 440:3,8 442:23 474:9 490:2 493:9 499:3,9 stated 329:9 338:9,20 358:18 471:21 477:7 480:19 statement 381:1 469:4 statements 454:8 states 240:1 292:12 352:12 statewide 318:25 457:25 492:7 stating 471:7 station 250:5 status 450:25 statute 323:15 336:17 340:11 statutory 322:19 323:17,21,24 344:18 348:15 stay 378:18 step 251:20 312:13 325:2 327:4 363:3 378:14 steps 302:12,19 stipulate 352:22 stock 493:1 stockpile 265:24 267:25 268:3 268:15 272:10 447:5 stockpiles 272:5 272:7,22 446:19,24 447:15 460:4,8 | stop 322:6 490:16 493:17 storage 254:17 265:10 266:7 283:17,19 492:10,25 stored 262:12,15 265:15 266:9 269:21 272:6 273:8 275:9,17 278:24 279:7 279:24 280:5 280:19 281:6 411:5 414:6 Storing 266:17 storm 253:21 258:11,12,14 258:15 259:11 259:20 260:2 260:23 261:1,2 261:9 262:23 262:24 263:17 263:21 264:1 264:17,22 265:23,25 267:16,17 270:4,11,13 271:14,16,20 272:11,17 273:16,17,19 274:13,23 275:19 276:15 276:19 277:1 277:20,24,25 278:9,22,24 279:3,4,8 281:10 288:6 288:13 292:6 292:15,24,24 293:1,3,6,12 293:22 294:3 313:25 363:12 387:4 428:20 439:22 440:18 442:12 444:1 470:23 490:4 492:23 stormwater 246:8,14 247:14 248:2 |
|--|---|---|--|---|

| | | | | |
|------------------------|------------------------|-------------------------|------------------------|------------------------|
| 253:5 254:5,13 | structural | 378:3 488:12 | 459:2 | sustained 355:7 |
| 255:16 256:5 | 293:13 408:8 | submittals | supplement | 491:23 |
| 256:21 260:13 | structure | 325:15 | 433:1 | swamp 331:5 |
| 260:14,18 | 306:14 383:18 | submitted | supplemental | 334:4 |
| 262:6 263:20 | 428:14,16,23 | 250:24 305:4 | 324:4,6,8 | swamps 332:13 |
| 264:6 267:17 | structures | 310:8,10 | supply 266:6 | 333:10 |
| 269:9,15 | 326:11 | 318:19 325:11 | support 246:22 | swear 245:6 |
| 271:18,24 | Study 331:6 | 326:15,22,24 | 248:25 249:9 | 297:13 385:10 |
| 274:13 275:20 | stuff 476:10 | 328:16 335:23 | supporting | Sweet 283:18 |
| 276:18 278:18 | Stump 267:20 | 336:4 342:25 | 315:6,7 | sworn 245:8 |
| 279:20,23 | 268:11,17 | 343:21 437:6,8 | supposed 330:3 | 297:16 322:11 |
| 281:9 287:25 | sturdy 447:4 | 452:10 456:21 | 365:20 366:2 | 385:13 |
| 288:5,7,12 | style 453:25 | 456:25 457:9 | 367:15 411:23 | SWTS 306:9,12 |
| 292:25 298:13 | Sub 363:18 | 457:11,12,20 | sure 285:19 | syllabus 303:13 |
| 298:23 305:2 | Sub-Residency | 458:2,3,7,8,15 | 292:7 296:25 | 303:21 |
| 305:25 306:14 | 270:21,24 | 471:18 475:1 | 299:20 314:23 | Syracuse 425:13 |
| 306:15,19,24 | subcommittee | 477:11 479:18 | 317:3 320:13 | system 260:2 |
| 307:4,14,22 | 390:1,4,7,9 | 482:19 483:6 | 331:4 335:1,13 | 277:24 292:11 |
| 309:23 310:23 | subcontractor | 488:4 495:19 | 338:16 352:11 | 292:17,24,24 |
| 335:24 346:25 | 271:9 342:8,9 | submitting | 357:10 368:23 | 293:3,7,10,12 |
| 347:10,17 | subject 251:1 | 330:20 381:24 | 376:2,13 | 293:20,22 |
| 363:6,14 | 271:23 | 437:4 485:12 | 379:19 406:21 | 307:14 310:24 |
| 376:18 387:3,8 | submission | subparts 352:15 | 410:11 412:7 | 376:18 381:12 |
| 387:9 388:1,3 | 331:24 332:1 | 352:16 | 412:18 413:17 | 383:5 391:6 |
| 388:11 392:3 | 336:9 338:24 | subsequent | 422:11 433:15 | 393:7 395:25 |
| 406:16 418:11 | 339:15,16 | 441:9 | 454:14,25 | 406:15 411:21 |
| 423:6 430:21 | 437:10 457:4 | subsequently | 463:6 474:1 | 412:6 413:18 |
| 436:15 443:15 | 457:21 458:9 | 470:3 479:20 | 476:2,3 478:16 | 418:2 436:24 |
| 457:22 466:17 | 468:13 | subset 306:4 | 491:17 496:24 | 436:25 438:15 |
| 466:18,19 | submissions | 307:9 | 497:10 | 441:3 442:9,11 |
| 467:12,19,25 | 332:21 335:23 | subtract 486:21 | surface 261:21 | 442:14 443:19 |
| 469:7 477:1,25 | 336:6 481:2 | sufficient 305:6 | 262:5,21 | 444:5 445:7,9 |
| 478:22 479:6 | submit 392:8 | sugar 379:3 | 268:25 269:11 | 445:18 449:16 |
| 481:21 483:15 | 456:23 457:2 | suggest 356:8 | 269:15 273:15 | 449:23,24 |
| 483:18 484:7 | 464:11 468:19 | suggested 375:8 | 276:18,23 | 458:11 470:25 |
| 489:4,24 | 469:17 479:15 | 460:25 | 280:25 402:4 | 480:10 486:16 |
| stormwater-r... | 485:6,14 488:7 | summarize | surfaces 260:8 | 489:25 490:3 |
| 298:18 | 489:12,13 | 463:20 | surprise 291:17 | 491:9,12 |
| straight 320:14 | 494:21 | summary 431:2 | 319:5 | System's 450:2 |
| strategically | submits 492:15 | 458:24 459:11 | surrounding | systems 264:22 |
| 270:12 | submittal 326:1 | 459:13,13 | 402:7 | 271:21 272:17 |
| stream 311:5 | 326:14,19 | 465:15 485:19 | survey 407:7 | 292:15 293:1 |
| streamwater | 328:9,13 329:4 | 486:4,24 487:2 | SUSAN 240:15 | 332:14 386:9 |
| 477:25 | 329:9 330:17 | summation | suspected | 440:12 |
| street 250:3 | 330:19,19 | 462:13 | 302:13 396:3,6 | |
| 271:19,19 | 331:20 332:18 | summer 390:2 | 417:5,8 | <hr/> |
| 309:24 310:3 | 337:1,2,25 | 394:14 | Susquehanna | T |
| 406:4 | 338:21 340:2 | Summit 283:20 | 397:15,17 | T 241:5 433:19 |
| strictly 271:24 | 340:22,24 | supervisor | 414:15 420:15 | 499:1,1 |
| strongly 495:14 | 341:19 342:5,7 | 308:22 410:14 | 422:15 423:13 | table 435:11 |
| | | | | tablet 393:5 |

| | | | | |
|---------------------|--------------------------|-------------------------|------------------------|-----------------------|
| Tack-5 273:7 | talking 294:7 | 297:18 316:20 | 320:10,11 | tickets 486:16 |
| 279:24 280:11 | 300:4 302:18 | 318:20 322:13 | 343:14 399:10 | tied 258:14 |
| 280:19 | 319:19,21 | 339:15 346:5 | 408:9 417:15 | Tim 458:25 |
| take 255:8 | 338:17 363:19 | 353:21 385:15 | 418:22 426:25 | time 248:23 |
| 258:19,23 | 439:19 450:6 | 428:6 484:16 | 429:24 430:1,3 | 251:24 252:17 |
| 261:12 262:17 | 465:19 | testify 303:25 | 439:19 452:11 | 257:17 263:3 |
| 290:12 295:24 | tank 269:22 | 392:22 397:8 | 456:15,20 | 265:13 266:23 |
| 296:23 302:12 | 275:12 292:2 | 399:7,9,19 | 457:20 492:5 | 270:20 273:22 |
| 304:17 308:13 | target 251:2 | testifying 397:7 | think 244:22 | 277:6 286:3 |
| 308:15 312:6,7 | targets 290:13 | 438:1 | 245:15 284:24 | 290:8,18 |
| 321:13 325:14 | tarp 447:6,8,8 | testimony | 301:19 317:16 | 295:24 299:14 |
| 327:1,24 | 447:10,10 | 244:20 289:14 | 323:14 349:25 | 301:20,22 |
| 329:11 330:25 | tarps 447:15 | 300:16 334:20 | 352:9 354:16 | 302:16 308:23 |
| 332:4,5,24 | task 308:23 | 351:15 360:1 | 361:2 367:13 | 308:24 319:2 |
| 333:2 338:2 | tasked 437:1 | 362:10 377:5 | 371:3 372:23 | 322:5 324:24 |
| 339:2,5 342:12 | tasks 410:15 | 387:22 390:22 | 372:25 376:25 | 325:6 342:8 |
| 343:24 355:21 | team 430:22 | 426:24 428:8 | 378:22 379:2,4 | 353:2,18,18 |
| 356:2 370:1 | 436:15 | 428:10 | 392:10,14 | 354:6 361:12 |
| 373:13 374:6,9 | telephone 255:9 | testing 422:25 | 413:19 414:7,9 | 372:22,23 |
| 374:14 395:7 | tell 258:10 293:9 | text 398:15,18 | 416:8 421:10 | 373:1 379:4 |
| 399:10 403:19 | 302:4 320:16 | 408:3 | 423:1 432:23 | 383:6,24 390:8 |
| 416:1 435:4 | 341:15 354:20 | th 459:13 | 442:6 444:13 | 390:20 392:4,9 |
| 448:17 454:16 | 354:23 389:5 | Thank 281:22 | 457:19 475:13 | 407:15 408:4 |
| 454:17,18 | 391:11 398:10 | 283:21 286:21 | 492:1 493:20 | 409:10 415:14 |
| 493:17 496:15 | 399:12 429:18 | 296:6,9,11,12 | 496:2,12 | 416:3 420:21 |
| 497:13 | 430:4 432:2 | 296:16 297:6 | thinking 375:11 | 421:12 422:7 |
| taken 284:2 | 433:16 438:20 | 300:4 303:22 | third 300:1 | 425:10 426:7 |
| 299:7 302:21 | 443:24 446:20 | 304:5 307:17 | 356:18 396:11 | 430:14 434:1 |
| 343:22 362:7 | 471:17 476:10 | 321:4,7 326:8 | 396:12 406:3,4 | 436:23 439:12 |
| 393:8 398:6 | 486:1 | 333:2 342:21 | third-party | 440:11 448:9 |
| 415:13,19 | telling 295:7 | 349:18 353:19 | 265:2 266:10 | 451:8 452:10 |
| 417:22 430:4 | 365:9 471:23 | 362:16 364:20 | thought 355:1 | 457:3,17 |
| 434:12 438:21 | TEM 289:17 | 374:5 378:10 | 456:24 | 461:22 462:1 |
| 453:11 460:7 | temporary | 378:11,13 | thousand 372:3 | 463:2 464:3 |
| 487:15,19,20 | 333:11,18 | 379:9 381:3 | thousands | 467:3 471:1 |
| takes 245:4 | ten 321:16 | 385:3 388:13 | 409:25 | 477:7 482:4 |
| 297:12 321:23 | 343:23 372:3 | 388:25 403:16 | three 271:16 | 486:14,17 |
| 409:19 419:13 | tenant 472:13 | 424:3 429:13 | 287:10 290:14 | 488:11,12,13 |
| talk 245:16 | tend 415:23 | 434:5 439:16 | 290:17 352:18 | 492:8,16 |
| 300:16 301:20 | term 330:5 | 451:22 454:22 | 356:18 375:18 | 494:20 495:10 |
| 308:12 319:16 | terminology | 467:7 472:11 | 391:13,16 | 495:16 496:11 |
| 449:13 485:7 | 456:8 | 475:15 478:10 | 410:9 417:25 | 498:1 |
| 491:6 496:4 | terms 295:6 | 493:14 498:5 | 427:14 438:11 | timely 345:5 |
| 497:21 | 299:3 361:7 | thing 285:10,11 | 438:23,24 | times 335:4,11 |
| talked 292:5 | 456:11,14 | 377:14 458:11 | 439:2 441:12 | 352:3 456:20 |
| 293:8 294:5 | test 396:15 | 480:19 | 458:7 490:25 | 481:23 |
| 301:11,13 | 423:3 | things 290:4 | 494:1 | timing 493:18 |
| 314:24 316:4,5 | testified 245:10 | 295:7,12,14 | three-page | title 386:6 |
| 320:7 426:25 | 282:9 284:19 | 298:6,25 | 403:22 | titled 493:5 |
| 449:7 452:1,3 | 285:16 286:4,6 | 302:22 307:15 | Thruway 390:18 | tme 408:9 |

| | | | | |
|---|---|--|--|--|
| today 244:3 284:12 300:16 360:2 367:18 377:5 390:22 488:3 | trained 247:24 301:25 347:16 413:23 493:4 | 372:8 381:11 383:16 385:7 386:5,15 389:14,23 390:17 407:5 455:20 456:16 458:6 474:19 484:2 487:15 | 419:24 | ultimate 411:6 442:19 447:12 |
| told 291:8 330:6 372:18 384:6 455:14 456:22 490:10 | training 247:19 247:23 248:3,4 255:23,24 256:6,7 283:3 288:22,25 299:7,11,17 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | TRANSPOR... 241:2 | turning 309:17 311:2 313:7 364:7,8 | ultimately 261:10 278:1 288:13 411:4 445:17 448:24 460:7,15,19 |
| Tom 433:20 | 299:7,11,17 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps 382:9 419:22 | tweets 429:25 | unable 396:16 |
| tomorrow 493:23 494:5 494:10 | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traveling 474:6 | two 248:10 265:17 270:2 271:17 272:5 278:3 280:2 290:16 349:5 351:8 359:3 375:6,13 381:17 382:19 385:2 402:12 406:25 410:9 410:22 418:22 441:17 448:4 449:15 454:21 | unaware 265:6 265:15 304:4 319:2,8 |
| Tonawanda 399:25 | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps 382:9 419:22 | two-sided 404:14 | unawareness 302:18 |
| top 275:19 279:16 313:11 472:3 | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps 382:9 419:22 | type 247:22 264:24 306:7 306:10 309:9 317:12 357:19 376:17 383:14 413:13 417:10 441:21 453:24 492:19 | unclear 392:16 402:7 414:4 451:11 463:3 |
| topic 444:1 | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps 382:9 419:22 | typed 436:17 437:21 438:22 438:25 | uncontained 272:8 279:2 |
| topics 288:23 304:15 | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps 382:9 419:22 | types 298:22 306:8,16,17,19 307:10,15 373:7 | uncontaminat... 293:15 |
| topography 310:21 | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps 382:9 419:22 | typical 316:3 | uncovered 272:8 273:5 280:20 281:7 |
| total 290:17 333:7 344:11 356:11 423:24 434:4,8 465:14 465:25 489:22 | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps 382:9 419:22 | typically 251:22 252:6 259:25 262:13 264:22 269:20 290:16 295:13,20 320:2 401:23 414:20 | underground 396:13 397:1 |
| totals 349:7 | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps 382:9 419:22 | uh-huh 310:5 312:16 325:8 341:18 479:8 | underline 436:7 271:18 273:15 293:15 311:6 404:7 |
| totes 265:1 266:5,16,19 301:16 | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps 382:9 419:22 | | underneath 271:18 273:15 293:15 311:6 404:7 |
| town 348:6 446:13 | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps 382:9 419:22 | | understand 250:21 292:7 300:13 322:8,9 342:9 352:14 354:1 418:25 431:10 456:9 469:8 |
| towns 389:12 | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps 382:9 419:22 | | understanding 302:6 317:14 411:23 444:8 |
| track 346:18 348:3 354:18 391:7 407:5 441:24 442:2 444:12 449:22 467:23 468:9 468:22 469:2 486:19 | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps 382:9 419:22 | | understood 301:25 351:15 357:10 359:21 456:21 495:3 |
| trackdown 445:14 | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps 382:9 419:22 | | undetermined 401:14 |
| tracked 440:6 | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps 382:9 419:22 | | unended 320:12 |
| tracking 439:23 486:15 489:7,9 | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps 382:9 419:22 | | unfair 381:6 |
| train 318:7 489:11 493:9 | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps 382:9 419:22 | | unfamiliar 426:12,16,19 |
| | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps 382:9 419:22 | | |
| | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps 382:9 419:22 | | |
| | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps 382:9 419:22 | | |
| | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps 382:9 419:22 | | |
| | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps 382:9 419:22 | | |
| | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps 382:9 419:22 | | |
| | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps 382:9 419:22 | | |
| | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps 382:9 419:22 | | |
| | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps 382:9 419:22 | | |
| | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps 382:9 419:22 | | |
| | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps 382:9 419:22 | | |
| | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps 382:9 419:22 | | |
| | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps 382:9 419:22 | | |
| | 302:22,23 303:3,13,21 304:2 308:1 318:9 336:23 340:16 341:17 341:21 346:19 347:5,14 348:13 382:5,6 394:3 446:3 453:14 460:24 461:1 468:22 468:25 469:2,3 469:11 470:9 470:10,11 474:2,3 475:8 484:22,23 489:8 492:19 492:21,25 493:1,2,3,6,7 493:11,12 | traps | | |

| | | | | |
|------------------------|-------------------------|-------------------------|--------------------------|------------------------|
| 431:11,13 | usually 401:12 | viewed 276:19 | 487:21 488:19 | 466:3 476:11 |
| unfortunately | 495:17 496:19 | 375:8 | 488:20 492:14 | 476:14 491:19 |
| 433:4 435:4 | utilizing 301:19 | viewer's 311:10 | violative 373:6,6 | 493:16 494:7 |
| uniform 468:4 | | viewpoint 311:9 | violator 345:4 | 494:24 495:18 |
| unique 395:25 | V | village 423:15 | 357:7 | 496:2 497:19 |
| 406:2 | variables 424:17 | villages 389:12 | Virginia 282:19 | wanted 292:7 |
| unit 305:18 | variety 298:3,17 | violation 319:10 | 282:22,24 | 294:24 316:4,6 |
| 393:7,8 409:7 | various 295:12 | 325:1,10 326:6 | 321:2 | 378:12 444:2,7 |
| 410:15 | 333:9 345:22 | 326:9,13 327:2 | visible 260:7 | 446:2 455:6,14 |
| United 240:1 | vary 409:16 | 327:6,12,25 | 265:14 | 455:18 464:21 |
| 292:12 | vegetated | 328:21,22 | visit 250:12 | 468:23 |
| universe 393:14 | 312:23,24 | 329:3,12,15,16 | 252:13 257:24 | wants 496:11 |
| universities | 398:11,13 | 329:19 331:10 | 270:23 271:2 | wash 259:8,11 |
| 390:16 | vegetating 419:9 | 331:13 332:2,6 | 271:11 277:15 | 259:14,18,24 |
| University | 419:12 | 332:9,11 333:3 | 290:24 291:8 | 259:24 264:20 |
| 248:20 387:1 | vegetation 250:4 | 333:22,23,25 | 391:22 | 264:22,25 |
| unknown | 313:2 400:3,8 | 334:1,2,14 | visited 251:4 | 265:4 266:5,6 |
| 265:19,21 | 400:9,11,19,23 | 335:16 336:12 | 253:7 254:2 | 266:9,15,19 |
| 277:22 402:13 | 401:8,12,17,18 | 336:15 337:6 | 255:6,21,25 | 278:8,13,15 |
| unmapped | 401:19,22,24 | 338:7 339:3,6 | 256:9 257:19 | washed 259:20 |
| 479:1 | 419:13,15,18 | 340:9 341:6 | 258:1 263:4,8 | washing 259:4 |
| unstabilized | 419:19 | 342:3 344:3,6 | 267:3 270:24 | 259:12 264:16 |
| 311:18 | vehicle 259:3,8 | 344:12 346:23 | 274:2 286:8 | wasn't 248:13 |
| unsure 455:2 | 259:12,14,18 | 347:2 351:17 | 289:2 391:14 | 287:9 306:7 |
| updated 456:12 | 259:24 260:12 | 352:2,5 353:8 | 391:17 429:21 | 368:2 372:18 |
| 469:20 471:7 | 261:18 262:12 | 353:12 357:6 | visitors 473:15 | 383:3 422:21 |
| 472:7 474:11 | 273:13,17 | 357:17,18,23 | 473:21 | 446:25 458:18 |
| 480:6 | 276:4 278:6,8 | 363:10 366:21 | void 412:16 | 461:11,12 |
| upland 400:24 | 278:13 281:14 | 373:8,9 374:21 | voir 243:22 | 476:3 |
| upper 357:15 | vehicles 270:13 | 466:16 478:19 | 407:16,19 | waste 266:9 |
| upstream | velocity 419:20 | violations | | 269:21,22,23 |
| 310:15 401:24 | verbal 284:13 | 295:10,11 | W | 331:16 |
| Upwards 246:16 | verbally 294:19 | 324:20,24 | wait 385:1 421:2 | wastewater |
| USC 357:25 | verification | 325:3,12,23 | waited 382:19 | 264:24 266:11 |
| USD 316:9,10 | 457:9 | 331:1 333:9 | 382:22 383:2 | 266:13 271:25 |
| use 261:19 | verify 320:10 | 334:16,19,25 | walk 252:6 | 293:16,18 |
| 280:10 316:2 | 377:14 411:20 | 335:6 343:12 | 284:6 319:25 | watched 348:8,9 |
| 324:1 329:2 | 414:1,1 469:2 | 344:19 345:9 | walking 268:21 | water 246:6 |
| 345:15,16 | versed 317:17 | 346:2,12,15 | want 244:16 | 259:11,18,24 |
| 350:25 367:15 | versus 244:5 | 347:11,21 | 257:11 258:17 | 259:24 262:25 |
| 393:5 401:19 | 298:21 | 348:2,22 352:8 | 263:23 290:3 | 264:20,22,25 |
| 427:7,16 | viable 412:19 | 352:10,24,25 | 295:15 303:10 | 266:5,6,9,15 |
| 438:14 440:4,5 | vicinity 274:16 | 358:4 359:7 | 312:13 321:13 | 266:20 271:24 |
| 441:1 444:23 | 398:3 402:8 | 360:11 363:6 | 328:1 331:16 | 278:8,13,15 |
| 446:12 464:13 | 405:7 418:3 | 363:12,24 | 339:12 353:7 | 280:18 292:11 |
| 470:1 472:6,12 | 419:10 | 364:4,9,14,15 | 357:9 377:14 | 293:15,19,20 |
| 473:22 487:4 | video 461:1,4,10 | 364:18,21,22 | 377:15 380:21 | 293:22 294:3 |
| 489:25 | 470:20 | 365:5 371:9 | 380:22 386:22 | 298:3 300:20 |
| user 473:15 | videos 470:15 | 376:19 382:13 | 389:16 392:12 | 305:16,18 |
| uses 391:7 | view 406:4,14 | 383:21 430:24 | 426:24 459:4 | 310:3,22 |

| | | | | |
|------------------------|------------------------|------------------------|-------------------------|-------------------------|
| 311:19,21 | 492:16 496:3 | William 298:12 | 464:10,16,24 | 493:6,8 |
| 322:19 323:5 | we've 252:12 | Williams 267:13 | 465:3,6,21,24 | workload |
| 347:8 348:10 | 276:9 427:2 | Winans 242:14 | 475:16 490:8 | 410:20 |
| 355:22 357:21 | 444:9 467:5 | 243:16,22 | 490:15 491:15 | works 293:10 |
| 357:22 359:6 | 478:22 481:4 | 244:13 297:1 | 496:23 497:2 | 381:19 |
| 359:19 363:12 | 491:18 492:13 | 349:20,23 | 498:1 499:19 | world 461:8 |
| 369:3 370:10 | weather 410:19 | 352:15,18,23 | witness' 362:6 | worst 352:2 |
| 387:2 388:19 | 417:10 420:25 | 355:8 360:3 | witness's 359:25 | worthy 335:2 |
| 388:21 396:17 | 421:9,15 | 361:3,14,16 | 362:10 475:12 | wouldn't 362:10 |
| 414:16,21 | 423:18 | 362:16 365:2 | witnesses | 374:5 427:5 |
| 417:16,19 | web 360:20 | 366:12 376:9 | 296:20 493:24 | wraps 433:21 |
| 418:21,24 | 461:2,6,9 | 376:13 377:13 | WME 382:4 | wreak 309:15 |
| 419:4,15 | Web-based | 377:25 378:4 | Wolf 240:6 | write 445:22 |
| 420:20 422:6 | 299:11 | 378:12 380:20 | 242:15 | 447:11 |
| 423:4,19 424:5 | Webinar 437:14 | 407:16,20 | wood 473:18 | writing 289:23 |
| 424:10,15 | 438:13 440:2 | 414:3 432:23 | wooden 262:13 | 445:19 |
| 425:12 428:19 | Webinars | 433:7,10 | word 400:4 | written 288:20 |
| 428:24 443:19 | 470:24 | 448:10 463:3 | wording 431:11 | 288:24 289:15 |
| 460:14 | website 455:5 | window 335:18 | words 405:23 | 317:6 325:5 |
| waters 292:12 | 461:3,11 474:7 | wintertime | 449:2 | 327:13,14 |
| 479:11 | 474:8 | 259:5 287:7,15 | Worhan 267:11 | 397:8 456:13 |
| watershed 382:7 | WEDNESDAY | wish 361:12 | work 245:25 | 467:10,18,22 |
| 424:15 | 240:13 | 379:20 | 297:22,23 | 471:5,11,13 |
| way 271:10 | week 366:3,9 | wished 393:22 | 298:5 302:5 | 472:20 473:12 |
| 299:3 317:5,8 | weekend 494:6 | withdraw | 308:4 316:6 | 473:14 480:5 |
| 377:8 388:6 | 494:9 | 424:20 491:1 | 357:16 365:6 | 480:10 482:7 |
| 402:19 406:11 | weeks 359:3 | withdrawn | 383:14 386:17 | wrong 318:14 |
| 413:7,7 438:17 | weight 414:10 | 399:17 451:16 | 389:17 393:22 | 351:24 |
| 440:5,7,18,21 | went 290:6 | witness 243:2,8 | 427:10 437:1 | wrote 318:13 |
| 442:3,16 444:4 | 291:8,9 301:16 | 243:13,19 | 440:12 443:9 | 436:10 |
| 445:11 449:18 | 348:4 352:1 | 244:24 245:4,6 | 443:10 444:24 | wuold 412:15 |
| 471:12 480:11 | 353:9 430:1 | 245:12 281:22 | 453:5 462:7,16 | |
| 495:25 496:3 | 433:4 434:18 | 286:19 296:18 | 468:25 469:25 | X |
| 497:3 499:17 | 485:22 | 296:22 297:5 | 472:6 495:8 | X 434:22 |
| ways 441:25 | weren't 291:23 | 297:12,14 | worked 246:11 | |
| 473:25 | 318:6 490:12 | 317:15 321:11 | 248:9,13 | Y |
| we'll 282:7 | west 258:13 | 321:12,21,23 | 351:18 355:10 | yard 262:21 |
| 295:2,21,24 | 283:17 321:1 | 321:25 322:3,9 | 355:13 386:10 | yards 283:11 |
| 352:22 379:8 | western 267:19 | 323:10 360:16 | 389:1 444:16 | yeah 251:19 |
| 395:9 438:10 | 279:13 280:25 | 361:15 362:15 | 471:16 | 252:5 297:4 |
| 495:15,17 | wet 260:7 309:9 | 362:17,25 | working 245:15 | 298:24 299:9 |
| 496:15 497:6 | 313:9 423:16 | 366:15 375:22 | 245:15 246:17 | 307:11 316:3 |
| 498:1 | wetland 400:4,6 | 379:15 385:5,9 | 248:6 249:9 | 392:14 438:20 |
| we're 300:4 | 400:7,10,12,20 | 385:11,18 | 263:13 292:1 | 476:1 497:15 |
| 346:21 354:19 | 400:22 | 386:2 393:2,16 | 298:9 354:17 | year 330:5 352:1 |
| 369:8 410:11 | WHEREOF | 394:6,11,13,18 | 365:13 389:2,6 | 356:2,9,20 |
| 413:5 415:6 | 499:19 | 394:23 395:3 | 410:3 425:8 | 361:18 409:18 |
| 440:12 456:8 | white 264:3,5 | 403:21 406:21 | 430:10 444:24 | 458:20 470:12 |
| 456:22 478:15 | whittled 343:15 | 407:17 414:7 | 453:4 467:2 | 470:13 474:3 |
| 484:23 489:9 | Wildlife 248:11 | 451:12 464:7 | 468:24 487:25 | 476:23 488:8 |

| | | | | |
|-------------------------|------------------------|-------------------------|------------------------|------------------------|
| 488:10,11 | 244:6 | 10th 488:10 | 16,216 344:16 | 418:1 420:23 |
| 489:21,23 | 07 374:13 | 11 272:25 | 16,218 344:19 | 432:6,9,11,20 |
| 492:13 493:3 | | 279:11 303:11 | 351:22 | 432:21,22 |
| years 248:10 | 1 | 303:12 379:22 | 16,806 381:14 | 434:4,14 448:1 |
| 298:8 299:10 | 1 330:1 338:21 | 410:2,3 424:10 | 381:23 411:22 | 452:15 476:18 |
| 302:7 348:20 | 341:7 356:16 | 425:1 | 160,000 368:6 | 485:9 |
| 352:1 353:6,16 | 378:21 379:21 | 12 273:16 280:1 | 165 349:12 | 20 260:21 261:4 |
| 355:11 375:6 | 380:18 397:13 | 309:20 310:11 | 371:25 | 363:5 380:3 |
| 375:13,13,18 | 397:14 403:2 | 310:13 311:8 | 165,000 349:8,9 | 438:4 |
| 375:21 382:19 | 407:15 416:9 | 424:10 425:1 | 166 351:11,14 | 2000 330:1 |
| 385:2 386:12 | 416:14,20 | 496:18 | 166,000 351:9 | 2003 348:18 |
| 409:24 412:3 | 420:9,11 | 12:30 378:19 | 16TH 242:8 | 381:15 |
| 478:13,14,15 | 422:14 432:7,7 | 379:10 | 17 281:12 | 2006 248:19 |
| 478:18 489:19 | 433:6,7 434:3 | 12205 242:16 | 343:11 352:13 | 2008 329:23 |
| yellow 406:6,7,9 | 434:14 443:4,6 | 12207 241:7 | 379:22 380:2,3 | 2010 248:22 |
| 406:10,17 | 476:18 | 12232 240:7 | 462:17 | 2011 327:20 |
| 418:4,5,10,11 | 1,000 372:11 | 13 266:3 270:1,3 | 18 260:20,23 | 328:2,23 |
| yesterday | 1:30 379:5,6,9 | 273:11 276:2 | 281:12 379:24 | 331:11 332:10 |
| 244:23 322:2 | 379:10 | 280:2,13 | 450:18 | 336:16 337:7 |
| Yocom 242:22 | 10 268:19 364:7 | 309:20 311:3,8 | 19 313:7,15,18 | 338:8 339:7 |
| 244:17 | 364:8 397:19 | 311:9,13 | 333:8 | 340:10 341:7 |
| York 240:5 | 402:25 424:10 | 366:25 379:22 | 1995 323:4 | 2012 246:13 |
| 241:1,11 242:9 | 425:1 447:23 | 380:2,3 431:23 | 368:24 | 249:5,14 258:2 |
| 244:4 247:7,8 | 475:23 476:13 | 1319 357:25 | 1st 326:24,25 | 263:9 267:4 |
| 248:24 249:19 | 10-A-2 330:13 | 137 318:12,15 | 327:3,20 328:2 | 333:20 334:21 |
| 254:25 255:15 | 330:13 | 14 270:1,3 | 328:23 329:19 | 334:21,22 |
| 263:4 274:5 | 10-D 328:3,25 | 273:11 276:14 | 329:20 331:11 | 381:16 |
| 282:2,10,14 | 10-E 325:4 | 276:15 280:22 | 331:25 332:7 | 2013 255:9 |
| 300:5 305:17 | 10-F 326:9 | 15 276:14 352:8 | 332:10 336:16 | 270:25 274:3 |
| 309:25 314:19 | 10-I 335:20 | 358:24 386:12 | 337:7 338:8 | 277:11 300:12 |
| 316:12 320:23 | 10-J 336:20 | 15,000 381:22 | 339:7 340:2,10 | 330:2,8 348:21 |
| 358:11 360:7 | 10-K 337:9 | 150 349:13 | 342:4,16 344:2 | 377:21 382:24 |
| 361:19 365:8 | 338:4 | 358:21,22 | 344:9 359:2 | 382:25 383:2 |
| 373:22 381:11 | 10-L 332:12 | 367:8 372:1 | 488:7 | 2014 330:18,24 |
| 383:11 386:4 | 338:10,18 | 150,000 349:10 | | 331:8 332:20 |
| 386:14,16 | 10-M 339:9 | 349:17 350:17 | 2 | 333:1 338:1 |
| 387:1 388:23 | 10-N 340:13 | 358:15 361:20 | 2 242:7 258:18 | 340:25 342:16 |
| 389:22 390:14 | 10-O 341:9 | 373:4,11 | 259:1,3,7,10 | 344:2 353:24 |
| 390:18,19 | 343:17 | 374:12,23 | 259:13 263:24 | 363:1 383:3 |
| 395:25 407:4 | 10:04 321:19 | 375:9 | 264:12 267:21 | 430:13,17 |
| 435:1 462:17 | 10:10 296:18 | 15th 352:7,21 | 267:24 268:5 | 431:23 440:2 |
| 493:9 499:3,9 | 10:30 240:14 | 16 250:14,16 | 274:20,22 | 2015 327:3 |
| you-all 370:1,3 | 10007 242:9 | 252:18 253:2,6 | 278:3 307:13 | 328:17 329:12 |
| youth 326:11 | 106779 396:2 | 254:1 255:25 | 331:2 356:8,12 | 329:19,20 |
| | 106780 396:5 | 256:8 280:22 | 356:17,18,22 | 331:25 332:7 |
| | 10781 396:12 | 284:19,23 | 359:22 362:8 | 336:10 338:21 |
| Z | 10A3 333:9 | 289:1 380:17 | 383:10 391:1,3 | 339:16 340:2 |
| | 10E 325:23 | 412:2 | 395:10,11 | 342:4,17 438:4 |
| 0 | 334:25 | 16,000 344:20 | 405:2,3 416:9 | 447:23 450:18 |
| 02 355:24 | 10G 331:14 | 351:18 381:13 | 416:14 417:24 | 2016 326:2,3,7 |
| 02-2016-3167 | | | | |

| | | | | |
|------------------------|-------------------------|------------------------|------------------------|------------------------|
| 326:25 356:2,9 | 268:5 272:2 | 304:18 380:4 | 380:15 | 55 450:11 |
| 356:22 358:24 | 274:20,25 | 37,500 354:8 | 48 306:21,23 | 451:18,20 |
| 359:22 361:18 | 300:18 397:15 | 376 243:15 | 341:12 343:20 | 55-gallon |
| 390:2 | 400:25 401:1 | 377 243:16 | 410:19 421:3 | 265:18 278:23 |
| 2016-26 358:9 | 403:19,22 | 38 380:15 | 447:17 448:11 | 56 380:12,16 |
| 2017 394:15 | 416:6,9,13,14 | 385 243:21 | 448:13 | 57 336:1 380:16 |
| 2018 240:13 | 416:15,21 | 39 270:19 | 49 330:14 | 58 326:17 |
| 499:20 | 421:24,25 | 273:21 277:6 | 332:17 334:8 | 338:13,14 |
| 21 313:22 364:5 | 432:10,11 | 308:8 437:17 | 380:15 | 339:24,25 |
| 364:14 | 433:6,7,14,16 | 437:24 439:14 | 4B 331:7 | 340:1,2 380:16 |
| 22nd 499:20 | 433:17 436:1 | 443:6 | <hr/> | 59 325:17,19 |
| 23 313:14 | 448:1 449:10 | 39A 379:23 | 5 | 327:7,8 377:16 |
| 462:10 465:8,9 | 476:18 485:8 | 380:5 403:15 | <hr/> | 377:24,25 |
| 466:2 | 496:18 | <hr/> | 5 | 380:12 413:1 |
| 24 333:11,19 | 3,318.67 465:24 | 4 | 5 247:9 252:19 | 377:24,25 |
| 380:14 434:21 | 3,403 356:9 | 4 240:13 258:18 | 255:7,16,21,25 | 380:12 413:1 |
| 440:2 | 30 262:16,20 | 259:2,3,10 | 260:3 265:8,10 | 5th 326:7 363:1 |
| 245 243:4 | 336:10 339:16 | 263:24 264:8 | 268:7 270:16 | 430:17 |
| 25 247:2,3 | 380:4 415:12 | 264:12 268:5 | 270:25 272:9 | <hr/> |
| 261:13 | 420:9 | 275:6,13 278:3 | 273:22 274:2 | 6 |
| 259 374:21 | 30-feet 310:2 | 278:10 380:18 | 275:13 277:6 | 6 241:6 265:20 |
| 259,488,000 | 30-on 343:10 | 397:13,14 | 277:10 278:20 | 268:7 272:3,13 |
| 344:21 351:19 | 303 477:9 | 416:9,15 418:9 | 283:10,11,13 | 275:13 326:3 |
| 25th 255:9 | 309G3 322:20 | 422:9 432:7,7 | 283:15,17,18 | 347:24 363:5 |
| 270:25 300:11 | 323:17 | 436:1 445:24 | 283:18,19 | 363:18,19,20 |
| 329:25 | 30th 328:17 | 448:17 475:19 | 292:3 300:6,19 | 379:22 391:1 |
| 26 274:3 | 329:12 330:2,8 | 475:23 476:2 | 304:18 305:22 | 397:7,12,25 |
| 266 399:24 | 31 262:16,20 | 4-I-B 477:22 | 306:1 307:5,23 | 403:19 420:1 |
| 402:12 | 340:25 380:14 | 4% 465:13,17 | 308:9 309:5 | 468:4 475:20 |
| 26th 277:10 | 314 243:10 | 4:37 240:14 | 312:14 315:1 | 476:1,4,5 |
| 27 261:13,24 | 31st 338:1 344:7 | 498:9 | 383:1 391:15 | 60 323:10 350:1 |
| 344:8 380:4 | 320 243:11 | 40 298:17 | 393:13,25 | 355:17 358:19 |
| 27th 300:11 | 322 243:15 | 380:11 | 398:7 403:3,6 | 361:19 367:1 |
| 28 262:9,11 | 33 357:25 | 400 246:16 | 447:4 454:4,5 | 622 270:19 |
| 263:9 | 379:23 | 407 243:22 | 469:10 478:25 | 624 272:3 |
| 281 243:5 | 34 380:14 | 41 380:15 | 496:18 | 625 272:3 |
| 288 243:4 | 3403 356:6 | 414 243:23 | 5-E 478:10 | 635 273:20 |
| 289 243:5 | 349 243:16 | 416 243:21 | 5-gallon 265:20 | 64 286:20 |
| 28th 258:1 | 35 257:12 263:2 | 42 380:5,11 | 273:2 279:14 | 380:16 |
| 29 267:4 326:2 | 266:22 437:19 | 43 380:15 | 280:4 | 65 285:24 |
| 380:14 | 350 246:16 | 44 308:8,9,10 | 50 240:6 242:15 | 286:20 323:7 |
| 290 242:8 243:6 | 36 380:14 | 380:11 | 337:15 340:19 | 359:13 366:23 |
| 297 243:9 | 412:25 | 445 241:6 | 340:20 380:15 | 65,000 351:10 |
| 2nd 330:18,24 | 36,448.79 | 45 380:11,15 | 500,000 372:15 | 655 277:5 |
| 331:8 332:20 | 465:16 | 450,000 370:11 | 51 313:7 364:9 | 658 278:3 |
| 333:1 | 362 243:15 | 46 304:19,24,25 | 364:20 | 66 380:16 |
| 2R 471:4 | 365 243:16 | 309:18 | 52 331:17 | 67 380:16 |
| <hr/> | 351:25 | 47 305:13 363:1 | 53 308:8 328:11 | 68 458:23 459:5 |
| 3 | 366 243:17 | 363:4 380:12 | 329:6 339:13 | 459:9 |
| 3 259:10,13 | 37 303:6,10 | | 380:16 | 689 257:12,16 |
| | | | 54 333:14 | 69 434:4 |
| | | | 380:16 | 690 260:21 |

| | | | | |
|------------------------|-------------------------|--|--|--|
| 692 258:18 | 89 332:15 | | | |
| 693 260:4 | 351:13 | | | |
| 694 260:4 | 89,000 345:14 | | | |
| 696 260:22 | 349:4 | | | |
| 698 261:13 | 8A 473:18 | | | |
| | 8A3B 479:14 | | | |
| <hr/> | 8A3FII 479:23 | | | |
| 7 | 8AB3II 443:12 | | | |
| <hr/> | | | | |
| 7 265:20 267:22 | 9 | | | |
| 268:7,10 | <hr/> | | | |
| 272:13 275:14 | 9 260:4 265:8,23 | | | |
| 402:14 496:18 | 268:19 269:3 | | | |
| 70 380:16 | 272:24 276:2 | | | |
| 710 263:2 | 279:10 309:17 | | | |
| 712 263:24 | 309:20,22,23 | | | |
| 718 266:22 | 333:5 334:20 | | | |
| 72 380:12,17 | 344:9 363:15 | | | |
| 421:3 | 363:16,18,18 | | | |
| 721 267:22 | 364:8 377:19 | | | |
| 722 267:22 | 377:24,25 | | | |
| 723 268:19 | 378:9 382:22 | | | |
| 73 385:24 | 390:24 404:1 | | | |
| 387:11,19,22 | 404:10 409:11 | | | |
| 77 351:11,13 | 409:12,14,22 | | | |
| 380:12 | 418:14 420:14 | | | |
| 77,000 349:2,4 | 424:22 425:14 | | | |
| 78 333:11,19 | 430:13 461:19 | | | |
| 79 485:13 | 461:25 462:20 | | | |
| | 479:5 | | | |
| <hr/> | 9:48 321:18 | | | |
| 8 | 98,000 384:2,18 | | | |
| <hr/> | 9th 429:13 | | | |
| 8 247:8 249:13 | 488:10 | | | |
| 249:20 252:19 | | | | |
| 254:21 256:1 | | | | |
| 257:18 263:3,4 | | | | |
| 263:9 265:10 | | | | |
| 265:22 266:23 | | | | |
| 267:4 272:13 | | | | |
| 275:7,14 | | | | |
| 278:20 283:9 | | | | |
| 287:9 288:5 | | | | |
| 305:10 307:25 | | | | |
| 318:20 319:1 | | | | |
| 379:22 382:24 | | | | |
| 402:1,2,10,11 | | | | |
| 423:8 424:22 | | | | |
| 457:24 461:19 | | | | |
| 461:22 472:3,9 | | | | |
| 479:25 482:3 | | | | |
| 8:30 498:7 | | | | |
| 81 462:17 | | | | |
| 86 462:17 | | | | |

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

-----;
IN THE MATTER OF:

New York State Department of Transportation
50 Wolf Road
Albany, NY 12232
SPDES Permit No. NYR20A288

Docket No. CWA-02-2016-3403
-----;

HELD: THURSDAY, APRIL 5, 2018
8:30 a.m. - 2:38 p.m.

BEFORE: ADMINISTRATIVE LAW JUDGE SUSAN L. BIRO

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

2 Appearing for COMPLAINANT(S) ENVIRONMENTAL PROTECTION
3 AGENCY:

4 CHRISTOPHER SAPORITA, ESQ.
5 JASON P. GARELICK, ESQ.
6 ENVIRONMENTAL PROTECTION AGENCY, REGION 2
7 290 BROADWAY, 16TH FLOOR
8 NEW YORK, NY 10007
9 p: (518) 587-7300 e: Garelick.Jason@EPA.gov

10
11 Appearing for RESPONDENT(S) DEPARTMENT OF
12 TRANSPORTATION:

13 ALICIA L. MCNALLY, ESQ.
14 DAVID WINANS, ESQ.
15 50 WOLF ROAD
16 ALBANY, NY 12205
17 p: (518) 457-2411 e: Alicia.Mcnally@dot.ny.gov

18
19 ALSO PRESENT: TRACYELLEN KUBEK, DOT Representative
20 CHRISTY ARVIZU, EPA Representative
21 DENISE KAHLER-BRAATEN, Sign Language
22 Interpreter
23 JESSICA YOCOM, Sign Language
24 Interpreter
25 JENNIFER ALMASE, Clerk

1 This is the Hearing in the Matter of NEW
2 YORK STATE DEPARTMENT OF TRANSPORTATION, held at:

3
4 ALBANY COURT REPORTING
5 445 BROADWAY, COURT ROOM 6
6 ALBANY, NY 12207

7
8 record reported via machine shorthand by Diana M.
9 Russell, Court Reporter and Notary Public within and
10 for the State of New York.

1 INDEX OF EXAMINATION
2 WITNESS: TRACYELLEN KUBEK-continued
3 EXAMINATION PAGE
4 By Mr. Saporita 506, 543, 550
5 By Ms. McNally 535
6 By ALJ Biro 543

7
8 WITNESS: DAN HITT
9 EXAMINATION PAGE
10 By Mr. Winans 551
11 By Ms. McNally 590, 603
12 By Mr. Garelick 593, 605
13 By ALJ Biro 607

14
15 WITNESS: CARL KOCHERSBERGER
16 EXAMINATION PAGE
17 By Mr. Winans 613
18 By Mr. Saporita 648

19
20 WITNESS: JONATHAN BASS
21 EXAMINATION PAGE
22 By Mr. Winans 653
23 By Mr. Saporita 679
24
25

Page 504

1 INDEX OF EXAMINATION-cont'd

2 WITNESS: CHRISTY ARVIZU

3 EXAMINATION PAGE

4 By Mr. Garelick 684

5 By Mr. Winans 694

6

7 WITNESS: JUSTINE MODIGLIANI

8 EXAMINATION PAGE

9 By Mr. Saporita 696

10 By Mr. Winans 699

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Page 506

1 ALJ BIRO: I think we are ready to

2 begin where we left off yesterday, with Ms.

3 Kubek's cross-examination.

4 MR. SAPORITA: Yes, Your Honor.

5 ALJ BIRO: Are there any preliminary

6 matters you wish to take care of before we

7 continue on?

8 MR. GARELICK: Just waiting for the

9 technology to link up. So assuming there

10 might be a moment we need to take a quick

11 break if he is accessing an exhibit

12 digitally, but hopefully, it will log on

13 momentarily.

14 ALJ BIRO: Okay. Are we good?

15 MR. GARELICK: Yes.

16 ALJ BIRO: Ms. Kubek, you remainder oath

17 from yesterday; you understand.

18 THE WITNESS: Yes.

19 ALJ BIRO: Please, sit.

20 THE WITNESS: Okay.

21 BY MR. SAPORITA:

22 Q. Good morning, Ms. Kubek.

23 A. Good morning.

24 Q. Yesterday, you were qualified as an expert in

25 storm water something. What is that again you are

Page 505

1 INDEX OF EXHIBITS

2 (Given to the Reporter to append to the transcript.)

3 PAGE

4 RESPONDENT DESCRIPTION ADMITTED

5 EXHIBIT 65 6/21/16 Penalty E-mail 678

6

7 JOINT

8 EXHIBIT 1 1/12/18 Joint Stipulations 683

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Page 507

1 exactly an expert in?

2 A. Storm Water Management and Erosion and Sediment

3 Control.

4 Q. Does that make you an expert in the

5 interpretation of legal language?

6 A. No.

7 Q. And did you read the 2010 MS4 general permit?

8 A. Yes.

9 Q. Okay. All 116 pages of it?

10 A. Yes.

11 Q. Okay. So you are an expert in storm water

12 management and control, but you didn't understand

13 what a site-specific plan or a self-assessment might

14 be; is that right?

15 A. No.

16 Q. You didn't testify that you had confusion about

17 those concepts?

18 A. I did not have confusion about those words,

19 site-specific. The confusion was that the permit did

20 not require site-specific pollution prevention plans,

21 but we were asked to provide site-specific plans. We

22 were confused about the content of those plans.

23 Q. Okay. And you were involved in the Region 9

24 audit; is that right?

25 A. Yes.

1 Q. But you were not involved in the Region 8 or
 2 Region 5 audit?
 3 A. That's correct.
 4 Q. So you do not have personal knowledge of the
 5 observations made during those audits?
 6 A. That's correct.
 7 Q. You spoke a little about the closing conference
 8 for the Region 9 audit and some of the things that
 9 might have been said by EPA or the contractors, and
 10 you were on the audit, so you know that it was, you
 11 know, three days long, there were multiple sites,
 12 numerous staff, lots of things observed; right?
 13 A. Yes.
 14 Q. In the closing conference, the last day of such
 15 a complicated audit, would you expect that the
 16 regulator -- it would be responsible for the
 17 regulator to offer final determinations about
 18 compliance or non-compliance on the spot?
 19 A. No, not final, but some assistance or
 20 acknowledgment of issues that could be addressed
 21 right away, readily, easily, that type of feedback
 22 would be expected.
 23 Q. Okay. And it's your testimony that none of
 24 that was offered at the closing conference?
 25 A. Not to my recollection.

1 Q. Okay. I want to turn your attention to
 2 Respondent's Exhibits 2 and 3, these spreadsheets, or
 3 screen shots of portions of contracted spreadsheets,
 4 that you submitted regarding some outfall
 5 reconnaissance inspections.
 6 Did you personally observe the inspections of
 7 these outfalls?
 8 A. No.
 9 Q. And did you -- I note in Exhibit RX 3, the
 10 names of the inspectors are there; Brent Perkins and
 11 Michael Huff. Did you speak with Mr. Perkins or Mr.
 12 Huff about their inspections to determine whether
 13 they conducted them properly?
 14 A. No.
 15 Q. Or verified their findings?
 16 A. No. It's really difficult, as I said
 17 yesterday, to verify findings unless one goes out
 18 into the field and then reinspects that outfall.
 19 Q. I want to turn your attention to Complainant's
 20 Exhibit 30, which should be in front of you. They
 21 are in order, page 4 of 5.
 22 A. Could you name that exhibit? I don't see any
 23 labeling.
 24 Q. Exhibit 30, page 4 of 5. In particular, I'm
 25 looking at what is enumerated as Question number 2

1 under Minimum Control Measure 3?
 2 A. I'm sorry, which page?
 3 ALJ BIRO: Which page?
 4 Q. It's Page 405, paginated 405 of 687, in CX 30.
 5 A. My document ends at page 384.
 6 Q. I'm showing the Witness Complainant's Exhibit
 7 30, page 405.
 8 Is that the 2012 MS4 annual report from the
 9 DOT?
 10 A. Yes.
 11 Q. And does that -- so I draw your attention to
 12 what is paginated -- or what is numbered 2. It says,
 13 How many of these outfalls have been screened for dry
 14 weather discharges during this reporting period or
 15 outfall reconnaissance inventory?
 16 A. Yes.
 17 Q. And the number there is 999. Did the DOT
 18 conduct 999 outfall reconnaissance inventory
 19 inspections that year?
 20 A. Most likely, it was quite a bit larger than
 21 that. The form -- this is a fillable PDF form and
 22 only has three spaces.
 23 Q. And did you provide any other commentary or
 24 narrative to the DEC?
 25 A. I didn't personally.

1 Q. Explaining with specificity --
 2 A. I didn't personally complete the form, but I
 3 have completed them since then in subsequent years,
 4 and we always fill out 999, because there are only
 5 three spaces, and that is our indication that there
 6 are actually more outfalls inspected.
 7 Q. Is it not possible to provide further
 8 explanation in some way to the DEC, to provide an
 9 actually correct number?
 10 A. DEC has never asked for us to provide any
 11 additional.
 12 Q. But these numbers are incorrect, then?
 13 A. Only because there are only three spaces to
 14 fill the number in.
 15 Q. Same question for Complainant's Exhibit 39, and
 16 just to make sure that you have it, this is page 420
 17 of Complainant's Exhibit 39. Similar page, similar
 18 form on that page. It looks like it's the same
 19 answer, 999?
 20 A. Yes.
 21 Q. Is that correct?
 22 A. Yes.
 23 Q. Is that an accurate number of inspections that
 24 were conducted?
 25 A. It's the same situation as the previous year,

Page 512

1 having only three space holders. We fill it in with
2 a 999. The form is setup primarily for municipal
3 MS4s, which have a much smaller area. The New York
4 State DOT has, basically, every MS4 urbanized area
5 under the jurisdiction, so we have a much larger
6 number than all of the other MS4s, and the form
7 merely only has three places to put a digit.
8 Q. But that number is incorrect?
9 A. I cannot swear to how many were inspected that
10 year. I was not employed by the DOT at that time, so
11 I did not fill this form out.
12 Q. Is that likely a correct number of outfalls
13 inspected?
14 A. It's unlikely that it was 999. It's quite
15 likely that it was much larger than that.
16 Q. Thank you. And, actually, I want to turn back
17 to Respondent's Exhibits 2 and 3 for a moment.
18 Do either of these exhibits prove that DOT
19 staff were properly performing outfall reconnaissance
20 inventories in the field?
21 A. These forms provide the results of those
22 inspections. I was not present during those
23 inspections, so I can't attest to how they --
24 Q. I'm just asking about the forms. Do these
25 forms demonstrate that?

Page 513

1 A. The form cannot demonstrate that.
2 Q. And do these forms demonstrate that the outfall
3 reconnaissance inventory for Region 8 was complete at
4 the time these were complete?
5 A. These are from Regions 5 and 9.
6 Q. So they do not demonstrate that the outfall
7 reconnaissance inventories for Region 8 were
8 complete?
9 A. No, they do not.
10 Q. Thank you. I want to turn to Complainant's
11 Exhibit 30 page 188.
12 Do you have that handy?
13 A. It begins with 269?
14 Q. No, this is next. That is the page I'm
15 interested in looking at.
16 Looking at the fourth bullet from the -- well,
17 first of all, what is this document?
18 A. This is the New York State DOT Storm Water
19 Management Program Management Plan from May 2012.
20 Q. And I have highlighted some text there, one of
21 the bullets in that list. Can you please read that
22 highlighted section for me?
23 A. All temporary controls shall be inspected by
24 the contractor every seven calendar days and after
25 each rainfall of half inch, 12.5 mm, or more within a

Page 514

1 24-hour period to determine if the measure is
2 functioning as intended. All inspections shall be
3 completed within one calendar day.
4 Q. Okay. And then, can you now please turn to the
5 Complainant's Exhibit 30, page 99 -- or I'm sorry, 98
6 and 99.
7 A. Exhibit 30, you said?
8 Q. Uh-huh. It's the --
9 A. I don't have that.
10 Q. -- the storm water permit, the MS4 general
11 permit. I think I just handed that to you.
12 A. That is 269, right?
13 Q. Starting with the sub A on page -- well, it's
14 paginated within the document itself as 58 under the
15 heading Construction Site Storm Water Run-off
16 Control.
17 ALJ BIRO: That is CX 30, page 98?
18 MR. SAPORITA: Yes, Your Honor.
19 Q. Can you please read just that first line of A?
20 A. I have CX 30, page 326.
21 Q. Are you looking at page 58 of the permit?
22 A. Yes.
23 Q. Okay. That is where I want you to be. Thank
24 you.
25 A. How far down would you like me to read?

Page 515

1 Q. The first line for A, up to the colon.
2 A. Develop for newly authorized MS4, implement and
3 enforce a program that --
4 Q. And now skip over to page 459, under the --
5 it's enumerated 6, VI. Can you read that paragraph
6 for me?
7 A. Educates construction site operators, design
8 engineers, municipal staff and other individuals to
9 whom these regulations apply, about the construction
10 requirements and covered entity jurisdiction,
11 including the procedures for submission of SWPPP,
12 construction site inspections and other procedures
13 associated with control of construction storm water.
14 Q. Great; thank you. You testified yesterday
15 regarding the compliance with the IDDE program, that
16 EPA wanted you to develop MOUs with, I think you
17 said, four hundred and something adjacent MS4s.
18 I want to bring your attention to CX 58, pages
19 15 through 19, please.
20 A. Before we move on to that, may I add something
21 regarding our last.
22 Q. Sure.
23 A. Educating construction site operators is our
24 staff, which we do. We were told, under the order of
25 provisions, to educate contractors during discussions

1 with EPA, which we do not do, and are not required.
 2 Q. That is your interpretation of the term,
 3 operator; is that correct?
 4 A. The operators are our own staff and they are
 5 educated every year. We have training for our staff
 6 using DEC.
 7 Q. Isn't an operator anyone who operates the
 8 construction site?
 9 A. The contractors are not trained by the DOT.
 10 Q. Do the contractors operate the construction
 11 site when they are the operators?
 12 A. Uh-huh.
 13 ALJ BIRO: Let the record reflect that
 14 the Witness is nodding her head in agreement.
 15 Q. 58, 15 through 19, and if you scroll to 16,
 16 please. You said that regarding the IDDE program,
 17 you, in response to the EPA's order, lengthened and
 18 elaborated procedures; is that right?
 19 A. Yes.
 20 Q. Are these the procedures that you lengthened
 21 and elaborated?
 22 A. Yes.
 23 Q. And what do these describe? Do these describe
 24 MOUs with all -- with hundreds of adjacent MS4s?
 25 A. No. We were not directed to prepare MOUs. We

1 were directed to establish contact relationship that
 2 would be, perhaps, similar to an MOU. We were not
 3 told we must prepare MOUs.
 4 Q. But is that what this is?
 5 A. No.
 6 Q. Was this what satisfied EPA with regard to
 7 compliance of your program?
 8 A. I will have to check which submission this is,
 9 please. I don't recall whether this was accepted as
 10 complete. We had several submissions of our illicit
 11 discharge detection and elimination program.
 12 Q. If you go to the top of the document, please.
 13 And can you read the date on the e-mail from
 14 Mr. Bass to Ms. Arvizu?
 15 A. Tuesday, December 1, 2015.
 16 Q. I want to talk about public -- the requirement
 17 that DOT inform the public about the hazards
 18 associated with illicit discharges.
 19 You testified yesterday that there is no public
 20 maintenance facility, and we know that DOT has taken
 21 a limited view of what public is.
 22 Can we look at Complainant's Exhibit 52, page
 23 51, please? What does --
 24 A. I'm sorry, I am having difficulty finding that
 25 exhibit.

1 Q. Let me see if I can help you. So we are on
 2 page 51. And what does that describe?
 3 A. This is a listing of our rest areas on the
 4 State highways, where we placed posters directing the
 5 traveling public regarding the hazards of illicit
 6 discharges.
 7 Q. Okay. And do you know when this was submitted
 8 to the EPA?
 9 A. Not off of the top of my head.
 10 Q. Would it surprise you if it was April 1, 2015;
 11 does that sound about right?
 12 A. It's possible.
 13 Q. Can we go to the top of the document, please?
 14 A. Yes. It was April 1, 2015.
 15 Q. Thank you. I want to talk a little bit now
 16 about the procedures for receipt and response
 17 processing of the public complaints about
 18 construction storm water run-off.
 19 You testified yesterday that the EPA -- or the
 20 auditors spoke with the wrong people about what the
 21 complaint system was at the audit; is that right?
 22 A. Yes.
 23 Q. And do you know that Dave Graves was present at
 24 those audits?
 25 A. Yes.

1 Q. Do you know what his role was for the DOT at
 2 that time?
 3 A. Environmental specialist in the main office,
 4 Office of Environment.
 5 Q. Was he not the storm water coordinator for DOT
 6 in those audits?
 7 A. No.
 8 Q. So Dave Graves would not be someone who would
 9 know about the public complaint system?
 10 A. He works in a main office, office or division.
 11 The Public Complaints are handled through the
 12 regional offices, public information officer, or PIO;
 13 and in main office, those public complaints are
 14 handled by the Office of External Affairs.
 15 Q. And what was the status of the -- or what did
 16 you have by way of a public complaint system at the
 17 time of the audits -- or what did DOT have, I should
 18 say?
 19 A. If the general public were to call one of the
 20 regional offices or the main office's main number,
 21 they would be directed to either the Office of
 22 External Affairs or Government Affairs, and in the
 23 regional offices, to the public information officer.
 24 Q. And was that procedure written down anywhere at
 25 the time of the audits?

1 A. I wasn't aware. I did not work for the
 2 Department at that time.
 3 Q. Okay. And was that procedure later written
 4 down and submitted to EPA?
 5 A. Yes. We had an additional method. We have a
 6 storm water e-mail on our public website.
 7 Q. I want to draw your attention to Complainant's
 8 Exhibit 48, page 147, please, and I'm looking at
 9 paragraph that begins with the bold word, Response.
 10 Can you please read the last sentence of that
 11 paragraph?
 12 A. The Office of Environment is working with the
 13 Department's Office of External Relations to develop
 14 procedures for responding to public inquiry that are
 15 in accordance with official Department of Public
 16 Health.
 17 Q. And the date of this is July 1, 2014; is that
 18 right, the submission?
 19 A. Yes.
 20 Q. That is roughly four months after the initial
 21 compliance order was issued; is that right?
 22 A. I believe so.
 23 Q. Okay. And so, you were still working on
 24 developing procedures, presumably, that there was
 25 something elaborate and detailed involved with that.

1 Let's turn to Complainant's Exhibit 57, please,
 2 page 2.
 3 And just to get the date upfront, can you
 4 describe what this document is?
 5 A. September 30, 2015.
 6 Q. Okay. And there is a letter to EPA from DOT,
 7 right, in response to the ordered provisions or the
 8 compliance order?
 9 A. Yes.
 10 Q. And page 2 of the letter, then, can you read
 11 the paragraph titled, NYS DOT's Response, please?
 12 A. Both the Office of Government Affairs, formerly
 13 the Office of External Relations, in main office and
 14 regional public information officers forward
 15 construction site storm water run-off complaints or
 16 inquiries from the public to the regional
 17 construction engineer, RCE, who addresses the
 18 complaint with the appropriate project engineer in
 19 charge, EIC. The EIC records all correspondence in
 20 SiteManager, a construction management software
 21 product, that covers the complete construction
 22 management process and includes sections for
 23 documenting and tracking daily activities on
 24 construction projects. Additionally, the NYS DOT
 25 construction administration manual contains the

1 following instructions.
 2 Q. And was this the complaint procedure that the
 3 DOT submitted to being in compliance with the order?
 4 A. Yes. This is the procedure that was in
 5 existence at the time of the audits, as well. We
 6 merely needed to verify that procedure with regional
 7 staff.
 8 Q. So that procedure was submitted September of
 9 2015. That is, what, 18 months after the compliance
 10 order was issued; it took you 18 months to find this
 11 procedure and articulate this procedure?
 12 A. It didn't take us 18 months to find it. We
 13 were working on addressing other ordered provisions.
 14 In the process of the ordered provisions, that would
 15 potentially have an effect on water quality.
 16 Q. But you say this procedure existed at the time
 17 of the order?
 18 A. Yes.
 19 Q. And yet we -- EPA didn't see it until September
 20 30, 2015; is that correct?
 21 A. We have a very limited staff to address these
 22 issues and we were focusing our efforts on the
 23 ordered provisions at the time.
 24 Q. Is it correct that the EPA did not see this
 25 procedure until September 30, 2015?

1 A. I don't know what they saw and did not see from
 2 other sources.
 3 Q. Are you aware it was submitted at any other
 4 time to the EPA?
 5 A. I'm not aware, no.
 6 Q. Thank you. And you testified yesterday that
 7 site-specific plans for best management pollution
 8 protection and good housekeeping practices are not
 9 selected to implement BMPs at each of the facilities
 10 and operations?
 11 A. No, I don't recall saying that.
 12 Q. That was my understanding of the -- I believe
 13 you said that they are not required because you have
 14 general guidance from which the site can choose
 15 controls?
 16 A. Not that they can choose. We have the handbook
 17 for transportation operations that contains the
 18 guidance that is used at our facility.
 19 Q. So were there any site-specific plans or any
 20 other documents that showed how each of the
 21 facilities would select and implement BMPs
 22 appropriate to their facility at the time of the
 23 audit?
 24 A. Not that I'm aware of.
 25 Q. Are the facilities all similar?

1 A. Yes.

2 Q. Are facilities in -- is the topography in

3 Buffalo the same as the topography in Eastern Long

4 Island, say?

5 A. The topography is most likely different, but

6 the operations are the same.

7 Q. Is the climate in Buffalo the same as the

8 climate in the Hampton's?

9 A. I'm not a weather expert.

10 Q. Do you know if it's generally colder and

11 snowier in Buffalo than it is in the Hampton's?

12 A. Sometimes, it's colder in the Hampton's. I'm

13 not a weather expert.

14 Q. Is there proximity to the water and soil types

15 at the various facilities?

16 A. Perhaps.

17 Q. You are not aware of that, though, as a fact?

18 A. There is sandy soils and clay soils in various

19 locations throughout the state.

20 Q. But you are responsible for storm water

21 management for the Department, and you are unaware

22 whether there are differences in soil types or

23 proximity to water for your various facilities?

24 A. There are differences in locations throughout

25 the state. There are differences on every site.

1 Q. Okay. So, now, you're saying you're aware of

2 the differences?

3 A. There are differences. I'm not aware of the

4 exact differences at each location.

5 Q. Okay. Now, I want to talk about your testimony

6 regarding covering and containing of piles at the

7 facilities.

8 I would like to direct your attention to

9 Complainant's Exhibit 52, pages -- starting on page

10 26.

11 I believe you testified that you experimented

12 with tarping some piles and that proved to be

13 infeasible; is that correct?

14 A. Yes.

15 Q. What do we see here on page 27?

16 A. It's language addressing stockpile management.

17 Q. Okay. And was this developed as a result of

18 the EPA compliance order?

19 A. These words were developed as that.

20 Q. Put together in this form?

21 A. Yes.

22 Q. Okay; great. And so, let's just jump to the

23 bulleted list there. Can you read the -- actually,

24 from the beginning of the paragraph, above the

25 bulleted list that begins with scrap metal, and

1 through the end of the final sentence of that

2 paragraph?

3 A. The paragraph that begins with scrap metal and

4 obsolete parts?

5 Q. Yes.

6 A. Scrap metal and obsolete parts are a commodity

7 and subject to State surplus rules. Current practice

8 for the New York State Office of General Services to

9 auction off scrap metal piles on the New York State

10 eBay store. Because of this practice, regional

11 maintenance facilities are not currently able to

12 establish contracts with local scrap haulers. NYS

13 DOT Offices of Transportation Maintenance, quotes,

14 Maintenance, and Fleet Administration, in quotes,

15 Fleet, are currently exploring State-wide options for

16 contracts with scrap haulers, which would include the

17 rental of covered storage containers. In the

18 interim, maintenance and fleet have developed

19 alternative strategies that are more workable.

20 Q. Can you please read those strategies?

21 A. Increased control over what goes into the scrap

22 pile, items that are oily/greasy or have chemical

23 residue should be segregated out and stored

24 separately in covered containers and/or inside,

25 placing oil-only absorbant matters on the ground

1 underneath where the scrap pile will be accumulated,

2 using filter logs, geo-hay, coconut fiber, et cetera,

3 to filter rust particles and other larger

4 particulates out of run-off from the pile, using oil

5 absorbed log/socks to filter oils out of the run-off

6 from the piles, and lastly, using catch basin inserts

7 as applicable.

8 Q. So are these BMP options that you developed for

9 dealing with containment of run-off from the storage

10 piles?

11 A. These were developed by our fleet and

12 maintenance departments, over which I have no

13 authority. This was the language given to us by

14 those departments.

15 Q. Does it describe numerous options there for

16 dealing with storm water run-off from those piles?

17 A. It does describe options.

18 Q. This list, under Storm Water Pollution

19 Prevention, can you read that list, please, starting

20 with the first sentence?

21 A. Storm water can be prevented from coming into

22 contact with potential pollutants by eliminated [sic]

23 the following practices.

24 Q. I think it's implemented. I think you misread

25 the word, implemented.

1 A. I thought I said implemented.
 2 Q. Please, continue.
 3 A. Okay. Use concrete barriers, berms or other
 4 containment methods to prevent run-off, sweep paved
 5 areas to remove sediment and other materials that
 6 have been tracked or dispersed across the facility,
 7 cover stockpiles and other materials stored outdoors
 8 when feasible and practical. For scrap parts and
 9 machinery that have not been cleaned of pollutants,
 10 keep covered with tarps. Locate material stockpiles
 11 away from storm drain inlets, catch basin is not an
 12 area that are prone to flooding and ponding.
 13 Maintain sufficient emergency materials, such as
 14 drain covers, absorbent boom, rags or gravel bags
 15 convenient to storm drain inlets and storm water
 16 discharge points in the event preventative measures
 17 are not fully effective. To prevent flooding, place
 18 BMPs so that water will drain while retaining the
 19 pollutant on-site. Inspect outfalls, ditches,
 20 swales, under-drains and culverts annually, and
 21 as-needed after heavy rain events to determine if
 22 pollutants are being discharged to the storm water
 23 system.
 24 Q. Okay. And this document goes on a little bit
 25 more about some options for controlling storm water

1 pollution at management facilities; isn't that right?
 2 A. Yes.
 3 Q. I don't want to make you read the whole thing.
 4 Was this submitted in response to EPA's
 5 Administrative Compliance Order?
 6 A. Yes.
 7 Q. All right. You testified that these things
 8 existed, but weren't available in one easy form; is
 9 that right?
 10 A. I'm not sure those were my words.
 11 Q. Okay. Did these procedures exist prior to
 12 EPA's Administrative Compliance Order?
 13 A. These exact words, I'm not sure.
 14 Q. Okay. And did it exist in a similar format as
 15 this; a one nice compilation, easily accessible, and
 16 easy to follow?
 17 A. For the most part, yes.
 18 Q. Where was that?
 19 A. In our environmental handbook for
 20 transportation operations.
 21 Q. And where might we find that in the
 22 environmental handbook, for transportation
 23 operations?
 24 A. It's not my handbook. I don't have the
 25 citations memorized.

1 Q. So you can't point to a place in the handbook
 2 that details this level of compilation?
 3 A. That's correct.
 4 Q. Now, let's continue down to page 35, please --
 5 actually, let's go back up to the beginning of that
 6 presentation, maybe 31 or -- okay.
 7 Do you recognize this PowerPoint?
 8 A. Yes.
 9 Q. Okay. And what is it?
 10 A. It's a presentation -- excuse me, to our
 11 maintenance facilities staff regarding handling scrap
 12 metal.
 13 Q. And when was it developed or presented to
 14 staff?
 15 A. Spring of 2015, and that is the date that I see
 16 on here, but I'm not aware, personally, of all of the
 17 occasions to which it was presented to staff.
 18 Q. Okay. And --
 19 A. It was developed by Carl Kochersberger. I hope
 20 you understand that I can't address all of what was
 21 in here.
 22 Q. And was there anything that the DOT has that
 23 might have preceded this date?
 24 A. I can't answer that, as that's not my area.
 25 Q. Can we continue to scroll down please to 35 --

1 and I'm sorry, the page before that, actually.
 2 That slide that says, USEPA Audits, can you
 3 read that, please?
 4 A. In each audited region, auditors, NYS DEC
 5 represents and NYS DOT represents made field visits
 6 to construction projects and maintenance and fleet
 7 facilities.
 8 Q. Okay. So was this document submitted in
 9 response to EPA --
 10 ALJ BIRO: Mr. Saporita, can we take a
 11 break for a minute?
 12 Are any of these people in the audience
 13 witnesses that need to be excused?
 14 MR. SAPORITA: Yes, I apologize, Your
 15 Honor.
 16 ALJ BIRO: Please, proceed.
 17 Q. So was this submitted to the EPA in response to
 18 the Administrative Compliance Order request to
 19 provide training on pollution prevention/good
 20 housekeeping to staff; is that what you said?
 21 A. Yes.
 22 Q. And CX 50, please, starting with page 7.
 23 Does this describe a program for good
 24 housekeeping/pollution prevention training records?
 25 ALJ BIRO: Mr. Saporita, what page are

1 we looking at?
 2 MR. SAPORITA: We are looking at page 7
 3 in Complainant's Exhibit 50, Your Honor.
 4 ALJ BIRO: Thank you.
 5 A. Yes, it does.
 6 Q. And was this submitted to the EPA in response
 7 to the compliance order?
 8 A. Yes.
 9 Q. The attachments below, the Attachment E,
 10 Pollution Prevention Training screen capture and
 11 Attachment F, Storm Water Pollution Prevention
 12 PowerPoint presentation, were those also developed
 13 and submitted to EPA in response to the compliance
 14 order? If you need to scroll down, those are below,
 15 I believe, at page 28.
 16 A. Yes. Attachment E was not prepared
 17 specifically to address this order, that is a screen
 18 capture of our web page that was in existence prior
 19 to the order.
 20 Q. Okay. Next page, the bottom there, you
 21 mentioned putting a training video up. Is -- that
 22 highlighted link, is that the training video that you
 23 posted?
 24 A. Yes, that was added after.
 25 Q. That was added in response to the compliance

1 order?
 2 A. The other training programs were already in
 3 existence.
 4 Q. Thank you for clarifying that.
 5 And for the next attachment, F, I believe
 6 PowerPoint presentation, the next page, what is this?
 7 A. It's a PowerPoint presentation to maintenance
 8 facilities staff.
 9 Q. And it says, Video Supplement. What does that
 10 mean?
 11 A. That means, after the staff watches the video,
 12 they are then given this presentation -- either
 13 before or after, I'm not sure. I don't attend those
 14 training sessions, so I don't know which one precedes
 15 the other in each training.
 16 Q. And was this video supplement prepared in
 17 response to EPA's Administrative Compliance Order?
 18 A. I don't know the date of its preparation. I
 19 did not prepare it.
 20 Q. Do you know if it existed before the EPA issued
 21 its order?
 22 A. As I said previously, I'm not aware of every
 23 activity in every region, and I don't know when this
 24 was prepared. It's most likely that it was prepared
 25 in advance of the audit, but, again, I can't answer

1 that.
 2 Q. Why would you say it was most likely prepared
 3 in advance of the audit?
 4 A. Because they are given training every spring
 5 and fall.
 6 Q. But you have no personal knowledge?
 7 A. I have no personal knowledge.
 8 Q. Let's leave it there, then.
 9 MR. SAPORITA: If I can have a moment,
 10 Your Honor?
 11 ALJ BIRO: Of course.
 12 MR. SAPORITA: Just a couple more
 13 questions.
 14 Q. I think we are looking, now, at Complainant's
 15 Exhibit 40.
 16 Do you have that handy, Ms. Kubek?
 17 A. I'm looking.
 18 Q. It's a small document. It's the Administrative
 19 Compliance Order.
 20 ALJ BIRO: You know what would really
 21 help, is binders.
 22 MR. SAPORITA: You're right, Your Honor.
 23 I apologize.
 24 Q. Do you recognize this document?
 25 A. Yes.

1 Q. And what is it?
 2 A. It's the March 5, 2014 Administrative
 3 Compliance Order.
 4 Q. Okay. And who is that signed by?
 5 A. Dore LaPosta.
 6 Q. Have you ever spoken to Dore LaPosta?
 7 A. No.
 8 MR. SAPORITA: That's all, Your Honor.
 9 *****
 10 REDIRECT EXAMINATION
 11 BY MS. McNALLY:
 12 Q. What was DOT's goal in responding to this
 13 compliance order?
 14 A. To fully comply with all of the provisions in
 15 the order.
 16 Q. So why did DOT do all of the items that Mr.
 17 Saporita discussed with you today?
 18 A. Prior to?
 19 Q. No. Why did they produce all of these things,
 20 create all of the documents?
 21 A. Why did we produce all of these? To be in
 22 compliance with, both, the order and the MS4 permit
 23 to the best of our abilities, with the ultimate goal
 24 to protect our water resources.
 25 Q. Does the MS4 require inspections of outfalls?

1 A. Does the MS4 require it?
 2 Q. Does the permit.
 3 A. The MS4 permit requires inspection of outfalls.
 4 Q. Does it require inspection of the inspections?
 5 A. Inspections of the inspections are not
 6 required.
 7 Q. Let's look at CX 30, page 28.
 8 Can you describe what this document is?
 9 A. It's the New York State DOT Storm Water
 10 Management Program Plan, May 2012.
 11 Q. Okay. Page 188, please.
 12 Okay. And can you just describe, or give an
 13 explanation, for what is in there that Mr. Saporita
 14 had you read?
 15 A. Mr. Saporita asked me to read the requirements
 16 for the contractor to inspect their temporary
 17 controls every seven days and after each rainfall of
 18 one-half inch.
 19 Q. And do you recall your testimony yesterday
 20 regarding this topic?
 21 A. Yes.
 22 Q. Okay. Is it different than what is written
 23 here?
 24 A. It's different, different language, because the
 25 permit does not require the site operator, meaning

1 the DOT, to conduct rainfall inspections. Our
 2 guidance asked the contractor to inspect after
 3 rainfall events.
 4 Q. Okay. Let's go to page 99.
 5 A. Page 99 of the plan?
 6 Q. Of CX 30.
 7 A. They have different --
 8 MR. WINANS: Page 59.
 9 MS. McNALLY: She doesn't have page 99
 10 up here.
 11 MR. SAPORITA: Are you looking for the
 12 A6?
 13 ALJ BIRO: Ms. Kubek, here take my page.
 14 MS. McNALLY: Thank you, Your Honor.
 15 Q. Okay. I'm referring to the section that Mr.
 16 Saporita had you read regarding contractor training?
 17 A. That was part -- it's Roman Numerals, and it is
 18 part VIII(A)IV(a)(iii)(vi) -- no, it's not. It's
 19 part VII(A)(IV)(a)(vi). There is a heading at the
 20 top of the page, which is confusing.
 21 Q. Okay. So what did you submit in response to
 22 this provision for EPA?
 23 A. We submitted -- I believe we submitted
 24 documentation that our staff, as construction site
 25 operators, are trained. I would have to look at the

1 actual submittal to verify what we submitted.
 2 Q. To your recollection, was that satisfactory?
 3 A. Yes.
 4 Q. Okay. CX 52, do you have that up there?
 5 A. I believe I have that one. I think I was
 6 looking at it previously. Yes.
 7 Q. I think it's page 51.
 8 So did you think that the permit required
 9 education on the traveling public?
 10 A. No.
 11 Q. Did NYS DOT do the poster anyway?
 12 A. We did the poster as a result of the ordered
 13 provisions and discussion with EPA, whereby we were
 14 recommended to prepare public education material
 15 posters.
 16 Q. What did you do to create the poster?
 17 A. I took photos and, I believe, a cartoon, and
 18 added the text to prepare an 8-1/2 by 11 poster with
 19 hazards of illicit discharge instructions on it.
 20 Q. What is the photo of?
 21 A. There are photos of an oil sheen that we found
 22 on the internet, I believe there is a photo of an
 23 illicit discharge that we also found on the internet.
 24 Q. And what does it say, more or less?
 25 A. Not to dump oil down a storm drain, clean up

1 pet waste. I don't recall everything on the poster,
 2 but it was general activities that people would
 3 engage in in their homes.
 4 Q. And did that satisfy EPA?
 5 A. Yes.
 6 Q. Mr. Saporita asked you a little bit about the
 7 public complaint process that DOT had prior and after
 8 the audit. Are you familiar with what type of
 9 complaints DOT gets from the general public?
 10 A. Yes.
 11 Q. And so, can you tell me a little bit about what
 12 people normally call for?
 13 A. We -- on the storm water website at the e-mail
 14 address, which I have access to, generally, the
 15 comments I get -- or the e-mails I get are from other
 16 municipalities, Department of Public Works, asking
 17 for who has jurisdiction over a culvert in someone's
 18 front yard, because they are indicating their yard is
 19 flooding, and I pass them along to the proper
 20 individuals who address that.
 21 I have received a total of perhaps two comments
 22 from the general public during my time at DOT, and
 23 one of them was asking for a copy of our storm water
 24 outfall geo-database, and there was one asking about
 25 our salt application operations on highways.

Page 540

1 Q. So have you ever seen a report of an illicit
2 discharge?
3 A. No.
4 Q. Can we go to CX 48, page 147?
5 A. Okay.
6 Q. Okay. Can you go to C-2-K?
7 A. Okay.
8 Q. Okay. And can you just describe for me DOT's
9 response?
10 A. Please refer to Attachment F form CONR-5, in
11 quotes, Contract For Subcontractor SPDES Permit
12 Certification.
13 Q. Okay; that's enough. Was that document created
14 for compliance with the audit?
15 A. No.
16 Q. Was that document accepted by EPA?
17 A. Yes. It was in existence prior to the audit.
18 Q. Let's do CX 57, page 2.
19 Okay. So what document is this response
20 referring to?
21 A. It refers to our construction administration
22 manual and the discussion of our correspondence
23 received by the engineer in charge, or any other
24 individuals that have access to the site manager
25 function.

Page 541

1 Q. Was this created in response to the audit?
2 A. No, it was in existence prior to that.
3 Q. And who dictated the dates for compliance
4 submissions?
5 A. The EPA.
6 Q. And who dictated the priority of the ordered
7 provisions?
8 A. The EPA.
9 Q. Did DOT comply with the schedule provided by
10 the EPA?
11 A. To the best of our abilities. We did have, I
12 believe, two small extensions for submittals to give
13 us time to prepare them, because there were a lot of
14 submittals due sometimes all at very similar dates,
15 or kind of simultaneous submittals, and it took some
16 time to get all of the information together.
17 Q. So when DOT needed an extension, what did you
18 do?
19 A. We either e-mailed or included it in our
20 progress report, a request for the extension.
21 Q. Were you ever denied an extension?
22 A. No.
23 Q. Mr. Saporita asked you about the site-specific
24 plans.
25 Was there a plan in place prior to the audit,

Page 542

1 not a site-specific plan, but was there any plan in
2 place?
3 A. Yes.
4 Q. Okay. And in response to the audit, did DOT
5 create site-specific plans?
6 A. Yes.
7 Q. Did those site-specific plans address different
8 soil and different climate issues?
9 A. No.
10 Q. CX 52, please, page 27, the third paragraph
11 down -- wait, that's not the right paragraph. Hold
12 on. Second paragraph down.
13 ALJ BIRO: What page are we on now?
14 MS. McNALLY: Page 27.
15 Q. Can you read that for me?
16 A. Beginning with Sediment?
17 Q. Yes.
18 A. Sediment and potential pollutants and run-off
19 from stockpiles will be contained with barriers or
20 berms at all facilities. Locating stockpiled
21 material under roofs or tarps would be preferred, and
22 this practice will be employed whenever feasible and
23 practical. However, the majority of NYS DOT
24 maintenance facilities do not have roofed storage
25 areas, and space constraints are an obstacle at most,

Page 543

1 covering stockpiles with tarps is a short term
2 exclusion. In fall 2014, maintenance staff
3 constructed a tarp-covered scrap material storage
4 area. The tarp became punctured and torn from rain
5 and snow shortly thereafter. Photos are included
6 below.
7 Q. Thank you. So did EPA require covers after
8 that time?
9 A. No.
10 MS. McNALLY: That's all I have.
11 *****
12 RE-CROSS-EXAMINATION
13 BY MR. SAPORITA:
14 Q. Relating to the last Exhibit, you said EPA
15 didn't require covers. Fair to say that those
16 procedures dealt with managing storm water,
17 generally, and providing other options for that?
18 A. Yes.
19 MR. SAPORITA: Thank you. No further
20 questions, Your Honor.
21 ALJ BIRO: Ms. Kubek, I have a few
22 questions to ask.
23 EXAMINATION
24 BY ALJ BIRO:
25 Q. At the beginning of your testimony, you talked

1 a little bit about the size of the Department of
 2 Transportation staff.
 3 How many employees are there regarding
 4 transportation?
 5 A. I'm not sure exactly how many employees there
 6 are. Several thousand.
 7 Q. 3,000? 5,000?
 8 A. I am not sure. Someone else would be.
 9 MR. WINANS: We will have other
 10 witnesses that will cover that.
 11 ALJ BIRO: I'm just asking. If she
 12 doesn't know, she can say she doesn't know.
 13 Q. And can you tell me what the overall budget for
 14 the Department of Transportation is?
 15 A. I'm not aware of that, either.
 16 Q. Okay. And how about for your division, what is
 17 your division?
 18 A. I work for the Office of Environment, which is
 19 our main office.
 20 Q. Okay. And what is the budget of your
 21 department?
 22 A. I don't know. It's above my pay grade.
 23 Q. Is it millions of dollars? Billions of
 24 dollars?
 25 A. I really don't know.

1 Q. Do you know what the overall budget is for the
 2 Department of Transportation for this MS4 program?
 3 A. No. We don't have a budget for that program,
 4 specifically. The budgets, I believe, are by region
 5 or by components of those regions. I'm sorry, I'm
 6 not --
 7 Q. That is no problem.
 8 A. I'm not a part of that.
 9 Q. You only know what you know. If you don't
 10 know, just say that.
 11 You talked a little bit about the Susquehanna
 12 River. Where does the Susquehanna flow into?
 13 A. It flows into the Chesapeake Bay.
 14 Q. Is that a water of the United States?
 15 A. Yes.
 16 Q. What is the water quality for the US?
 17 A. It's not entirely my area of expertise, but
 18 from previous experience, that river has a high
 19 nutrient level.
 20 Q. Not drinkable?
 21 A. It's not drinkable, not without filtration and
 22 treatment.
 23 Q. And can it be used for other purposes, fishing?
 24 A. It's a fishery resource.
 25 Q. What is an infiltration basin?

1 A. It's a depressed, ponded area that has a
 2 permeable soil so that water can then drain through
 3 the soil. The soil provides water quality treatment
 4 or filtration of that water, and it becomes part of
 5 groundwater.
 6 Q. Is it a naturally-created pond or artificial?
 7 A. It's artificial, it's constructed.
 8 Q. Is there any barrier between the pond and the
 9 ground?
 10 A. No.
 11 Q. Okay. And so, basically, the water just
 12 filters into the ground, becomes part of the
 13 groundwater?
 14 A. Right.
 15 Q. Okay. Now, as a result of your conversations
 16 in this meeting, where you understood the agency to
 17 suggest that no penalty would be imposed if you
 18 complied with the Administrative Compliance Order,
 19 did you take any action or withhold taking any action
 20 as a result of that alleged commitment on EPA's part?
 21 A. We complied with every ordered provision and
 22 that was our intent, was to fully comply with
 23 everything in the order, and we, in the course of
 24 complying, did some activities a little bit beyond
 25 what was specifically stated in there.

1 Q. And had you anticipated a penalty might be
 2 imposed afterwards, would you have not taken those
 3 additional measures?
 4 A. No, we would have done everything --
 5 Q. The same?
 6 A. -- the same.
 7 Q. Do you have RCRA inspections, the Resource
 8 Conservation and Recovery Act, of your site?
 9 A. I'm not sure. I don't spend a lot of time at
 10 the sites to know what all of their day-to-day
 11 activities are. I'm not sure.
 12 Q. You talked a little bit about having training
 13 programs and such. There was some indication early
 14 on that these training programs were fairly informal,
 15 there was no set agenda and materials presented, but
 16 then, in this later testimony, you indicated that
 17 there are. So I'm a little confused.
 18 A. I think the -- during the audits, some of the
 19 staff that were questioned may have perceived that
 20 there were no agendas for their training, but the
 21 training staff there, which would be their resident
 22 engineers or the maintenance environmental
 23 coordinators, whoever is conducting that training,
 24 they do have an agenda. The folks attending the
 25 training tend to be our highway maintenance workers

1 and they try to have a more relaxed atmosphere, so
 2 they don't feel pressured into a -- thinking of it as
 3 a school-like setting, but trying to keep it so that
 4 they are approaching it more like a carrot situation
 5 than a stick, because you get more response from
 6 people if you say it would be really good for the
 7 environment if you did these things, and we encourage
 8 all of our staff to do everything the right way. So
 9 they may perceive it as being more informal, but they
 10 have a set agenda, and there are items that must be
 11 covered under those trainings every year.
 12 Q. When DOT prepared its response to the document
 13 request before the audit, who, for example, in your
 14 region, was involved in preparing that response?
 15 A. I don't know who was, who the individuals were
 16 that prepared them. I wasn't working for the DOT at
 17 the time, so there is a list of names, the folks that
 18 attended, and that is, you know, the extent of my
 19 knowledge of that.
 20 Q. Okay. You said, during your testimony, that a
 21 lot of these pollution prevention measures, including
 22 for storm water and such run-off, you had at DOT in
 23 place prior to the audits, but I looked at the
 24 photos, which indicate that there seemed to be
 25 evidence that people weren't, at least, complying

1 with whatever procedures you had in place.
 2 Would you agree with that?
 3 A. It would be hard to say they were not complying
 4 with the procedures. I wasn't at each of those
 5 locations to know. I would have to ask specifics, I
 6 suppose.
 7 Q. There were some pictures that showed stockpiles
 8 of scrap metal in which there didn't seem to be any
 9 protective measures from illicit run-off. Would you
 10 not agree with that?
 11 A. They were located at -- as far as I can tell,
 12 in the photos, located away from any of our receiving
 13 waters, which is our ultimate -- that is what we are
 14 protecting, and they are located a distance away, or
 15 typically on a grassed surface to capture or filter
 16 all of the pollutants that may be generated, or in
 17 some cases -- scrap metal, I believe, is all located
 18 on the paved surface so that nothing is discharged to
 19 ground water.
 20 Q. How about all of those open and accessible
 21 buckets of muck, oily muck, that were photographed on
 22 the site?
 23 A. As the photographs are truly a snapshot in
 24 time, I don't know whether those buckets had been
 25 there for ten minutes, a day or a month, or the time

1 of that, so...
 2 Q. That would be quite a coincidence, they just
 3 happen to be there the date of the inspection, having
 4 been just put there?
 5 A. It could be.
 6 ALJ BIRO: I have no further questions.
 7 Ms. McNally, did my questions raise any
 8 issues for you that you would like to
 9 address?
 10 MS. McNALLY: No.
 11 ALJ BIRO: Mr. Saporita?
 12 MR. SAPORITA: Just one, Your Honor.
 13 *****
 14 FURTHER RE-CROSS-EXAMINATION
 15 BY MR. SAPORITA:
 16 Q. Judge Biro asked you about numerous photos
 17 showing uncontained, uncontrolled stockpiles. Did
 18 you personally observe and view all of those
 19 locations at the time those photos were taken?
 20 A. No, I did not.
 21 MR. SAPORITA: Thank you.
 22 ALJ BIRO: Okay. Thank you very much.
 23 Are we intending to recall Ms. Kubek?
 24 MR. WINANS: No, but could we have a
 25 5-minute recess, please?

1 ALJ BIRO: Of course.
 2 We will stand in recess until 10:00.
 3 (Whereupon, the Witness is excused.)
 4 (At which time, 9:48 a.m., a brief recess
 5 is taken until 10:01 a.m.)
 6 ALJ BIRO: Ms. McNally, would you like
 7 to call your next witness?
 8 MS. McNALLY: Dan Hitt, please.
 9 ALJ BIRO: Madam Reporter, would you
 10 please swear in the witness?
 11 *****
 12 DANIEL HITT,
 13 called as a witness, being duly sworn,
 14 testifies as follows:
 15 MR. WINANS: May I inquire?
 16 ALJ BIRO: Yes.
 17 DIRECT EXAMINATION
 18 BY MR. WINANS:
 19 Q. Mr. Hitt, would you please state your full name
 20 for the record?
 21 A. Daniel Hitt.
 22 Q. What is your position?
 23 A. Director of the Office of Environment for the
 24 New York State DOT.
 25 Q. How long have you worked for the New York State

1 DOT?
 2 A. Over 33-1/2 years.
 3 Q. What is your -- give us a summary of your basic
 4 training and experience, and your work for the
 5 Department?
 6 A. My training, as far as college education?
 7 Q. Yes.
 8 A. I have degrees in environmental studies, plant
 9 and soil sciences and also landscape architecture. I
 10 have worked for the Office of the Environment in
 11 landscape architecture, as well as environmental
 12 specialist. My current duties are to oversee the
 13 office, which consists of the Landscape Architecture
 14 Bureau, Environmental Science Bureau and any IS in
 15 Special Projects Bureau. We provide policy and
 16 guidance, or State-wide guidance, for the 11 regions,
 17 on all environmental topics, as well as Landscape
 18 Architecture topics that apply to the Department. We
 19 provide guidance on, and troubleshoot, various issues
 20 that are brought to our attention. We advise the
 21 Commissioner's office, as well as the chief engineer
 22 and other group directors on environmental matters.
 23 Q. We are going circle back to the
 24 responsibilities of your department, but before we
 25 get into that, would you please give a brief

1 description to the Judge about what the New York
 2 State Department of Transportation consists of?
 3 A. The DOT consists of a main office,
 4 headquartered here in Albany, as well as 11 regional
 5 offices around the State, and then maintenance
 6 facilities in various -- you know, 60-plus counties
 7 within the State.
 8 Q. Now, in terms of the existence of the
 9 Department of Transportation, is that an executive
 10 agency of the State?
 11 A. Yes, it's one of them.
 12 Q. And so, by way of contrast, DEC, is that also
 13 an executive agency?
 14 A. Yes, they are both.
 15 Q. The Department of Health?
 16 A. Yes. There are 13. I understand there are 13
 17 departments within the executive branch.
 18 Q. Now, within the Department of Transportation,
 19 what is our specific mission as an agency, the
 20 Department of Transportation?
 21 A. To maintain the State highway system within the
 22 State, which consists of the State highways and
 23 bridges, as well as we have jurisdiction over two
 24 airports, as well.
 25 Q. And the Department of Transportation,

1 internally, how is it divided; what are the basic
 2 areas of the organizational chart?
 3 A. There are five divisions. It varies now and
 4 then, but it's predominantly the Engineering
 5 Division, Operations Division, the Planning and
 6 Program Division, Legal Services, and External
 7 Relations office.
 8 Q. Okay. And let's -- we are going to go through
 9 a few of those, but as far as the Engineering
 10 Division is concerned, what is the basic work done by
 11 the Engineering Division?
 12 A. The Engineering Division has six offices, which
 13 is the design, construction, structure or bridges,
 14 the geo-tech, and Office of Environment.
 15 Q. Okay. And so, when the Department of
 16 Transportation hires contractors to do things like
 17 build a highway or build a bridge, which of those
 18 departments that you mentioned is it that hires them?
 19 A. Well, the Department advances Capital Projects
 20 either through the regional offices and the design
 21 groups, or the main office design services group, but
 22 they are all within the Engineering Division.
 23 Q. Do you have any idea as to the approximate
 24 number of employees that the Department has?
 25 A. I believe we are slightly over 8,000.

1 Q. And of those slightly over 8,000 people, where
 2 do they fit within those divisions; to the extent
 3 that you can give us an approximation?
 4 A. I believe that the Engineering Division is
 5 around 2,200 to 2,500, and the remaining is split
 6 between the other divisions; and our Operations
 7 Maintenance Division, I believe, is well over half of
 8 our staff.
 9 Q. Okay. And the Operations Maintenance Division,
 10 those are the guys in the orange hats and vests with
 11 the trucks and snowplows?
 12 A. Yes. We have a small group within the main
 13 office for operations and maintenance, but
 14 predominantly the people that you see out in the
 15 trucks and mowing the grass and plowing, yes.
 16 Q. Now, concerning the budget that the Department
 17 has, do you do the budget?
 18 A. No, I don't.
 19 Q. Okay. But in terms of the money that the
 20 Department spends for construction, where does that
 21 money come from?
 22 A. The majority of it comes from the Federal
 23 Highway Administration for the Federal Aid projects,
 24 and State projects are advanced with a hundred
 25 percent State funds.

1 Q. For the Maintenance Division, which is another
 2 division that you mentioned, do you have any idea
 3 what the budget is in that division?
 4 A. I don't know what the budget numbers are.
 5 Q. Do you know where the money comes from in that
 6 division?
 7 A. My understanding was a hundred percent State.
 8 Q. You are a division; is that right -- or you are
 9 a bureau?
 10 A. An office.
 11 Q. And it's the office --
 12 A. Office of the Environment.
 13 Q. And where in the organizational structure is
 14 the Office of the Environment?
 15 A. I report to the Assistant Commissioner and
 16 chief engineer, who reports to the Commissioner.
 17 Q. So, technically, you are in the Engineering
 18 Division?
 19 A. Yes.
 20 Q. And do the people in your office ever cross
 21 lines and work with other divisions?
 22 A. We assist all of the divisions within the
 23 Department.
 24 Q. And please tell the Judge what your division
 25 consists of?

1 A. As I mentioned before, we consist of three
 2 bureaus; the landscape architecture, environmental
 3 science bureau and third bureau, which handles the
 4 environmental impact statement, special projects,
 5 priority projects. I have approximately three dozen
 6 people, who are subject matter experts or general
 7 matter, you know, generalists who provide guidance
 8 and direction on project maintenance activity,
 9 construction activities. We assist and oversee the
 10 regional offices, as far as environmental and
 11 landscape architecture. We don't have the direct
 12 responsibility of the regional offices, but we do
 13 have oversight of what they do.
 14 Q. And now, in terms of the Department's
 15 responsibility for storm water maintenance and the
 16 maintenance of the MS4 permit applications, are the
 17 employees of the Department that have that
 18 responsibility limited to your office?
 19 A. No. We provide the guidance and policy and
 20 procedures. The regional offices are responsible for
 21 actually maintaining and complying with topics like
 22 storm water.
 23 Q. So, Mr. Hitt, you said, for example, that more
 24 than half of the Department's approximately 8,000
 25 employees are in operations; is that right?

1 A. Yes. I believe so, yes.
 2 Q. And where are those employees based?
 3 A. In the regional office, as well as the
 4 residencies. So there are the 11 regional offices
 5 and then we have a residency, or multiple
 6 residencies, in almost all of the counties within New
 7 York.
 8 Q. What is the purpose of a residency?
 9 A. They are the maintenance facility. So those
 10 are the facilities that you see that have the plows
 11 in them and the tractors for mowing, and they do the
 12 maintenance of the highway. Small -- you know, small
 13 maintenance-type activities like patching potholes
 14 and resetting guide rails and things like that.
 15 Q. And in addition to the residency, does the
 16 Department also have operations employees who are
 17 based in speciality facilities?
 18 A. They would be in the regional offices.
 19 Q. What about the bridge maintenance shops?
 20 A. I forgot those. Yes, we have bridge
 21 maintenance shops.
 22 Q. And can you give the Judge any idea as to how
 23 many of these facilities the Department of
 24 Transportation has with these 5,000-plus employees?
 25 A. Eleven regional offices, 60-plus residencies,

1 there is a number of sub-residencies in the larger
 2 counties. I don't have a clue how many we have; and
 3 we have bridge maintenance facilities, and also other
 4 offices for drill rig operators in each of the
 5 regions. I don't know the number.
 6 Q. For most of those facilities, do they all have
 7 parking lots?
 8 A. I assume so.
 9 Q. Are there places we need to park the trucks;
 10 are there places that the employees can park their
 11 cars?
 12 A. Yes.
 13 Q. In the maintenance facilities, are there large
 14 buildings that are sufficient to house a vehicle, the
 15 vehicles can enter for maintenance and other
 16 purposes?
 17 A. The residency office, itself, which is a large
 18 building, as well as the garages and also the salt
 19 storage sheds at each of the residencies.
 20 Q. Are the employees that are based in these many
 21 residencies and other specialized facilities, do they
 22 have any responsibility for compliance with the Clean
 23 Water Act requirements that you see in the MS4
 24 permit?
 25 A. Yes. Each residency is responsible for

1 compliance.

2 Q. Did they know that they had those

3 responsibilities before 2012?

4 A. They were informed, as we have procedures that

5 we establish, and those procedures are State-wide and

6 they are given to all of the different divisions.

7 They are available.

8 Q. Mr. Hitt, I'm going to ask you about the

9 training that the Department has.

10 Does the Department provide training to

11 employees?

12 A. Yes.

13 Q. And let's be clear on the training that the

14 Department gives.

15 Would you agree, Mr. Hitt, that there are

16 certain operations in the Department that are

17 seasonal in nature?

18 A. Yes.

19 Q. And so, for example, do we have a construction

20 season where the Office of Engineering, when they are

21 hiring contractors, at least it slows down in the

22 wintertime?

23 A. Yes. Predominantly, April through October, the

24 majority of the construction activity.

25 Q. Are there also times for maintenance employees

1 where things aren't particularly busy?

2 A. Yes. They are busiest with snow and ice

3 removal.

4 Q. And does the Department lay-off employees in

5 the off-season?

6 A. We don't lay-off permanent employees. We hire

7 seasonal employees, both for construction and

8 inspection and plowing and maintenance. So there are

9 seasonal employees brought on.

10 Q. So how does the Department schedule the

11 training of employees; is that scheduled, you know,

12 to fit when the needs are -- you know, when we have

13 certain needs, or is it like ongoing year-round?

14 A. I believe it varies. I can speak for my

15 office, but how the other divisions do training, it

16 varies significantly.

17 Q. Well, tell us about the training by your

18 office.

19 Does the office provide training outside of

20 your office for other employees?

21 A. Yes. We provide training monthly on

22 environmental matters to anybody in the main office

23 or the regional offices through, you know, a

24 WebX-type system, where we provide an hour to an hour

25 and a half training every month, and we have for the

1 last twelve years.

2 Q. Okay. And now, specifically with your

3 department, the Office of the Environment, is the

4 training that is offered by your office, is that

5 formal training? Does someone get a degree, a

6 diploma, a cap and gown?

7 A. No. It's just informal. We announce what the

8 training is and whoever is interested can

9 participate.

10 Q. Do you give tests to make sure that they were

11 paying attention?

12 A. We only give -- we have to have questions and

13 answers if we get the professional development

14 credits for the licensed professional that

15 participated.

16 Q. And if a highway maintenance employee is taking

17 some sort of environmental training, is there any way

18 that they can flunk out of the program and get fired?

19 A. No.

20 Q. Okay. And was there training for maintenance

21 employees before 2012 that included environmental

22 requirements?

23 A. Yes.

24 Q. And were employees trained, for example, that

25 it was inappropriate to dump oil or other petroleum

1 products into storm sewers?

2 A. Training has been provided on the subject of --

3 both, in the training I mentioned, and also there has

4 been other training provided in each of the regions.

5 From my own regional experience, when I worked in

6 Region 1, we provided training to maintenance and

7 construction and design staff on a regular basis, and

8 it was all depending on the need, not just -- you

9 know, it wasn't always scheduled and a formal

10 situation. It was as-needed. If a resident engineer

11 wanted us to help educate his staff, then we did

12 that.

13 Q. But, specifically, can you tell the Judge

14 whether or not the employees of the Department who

15 did highway maintenance work worked in these many

16 facilities and received training on their

17 responsibilities for pollution?

18 MR. GARELICK: Objection, Your Honor.

19 He is asking about a significant amount of

20 employees and whether or not he had -- he has

21 not established that this Witness had any

22 personal knowledge with respect to all of the

23 individuals who may or may not have received

24 training.

25 MR. WINANS: Your Honor, I understand

1 the objection, but if you consider what the
2 Department's alternative is, I would have to
3 produce 6,000 employees to say what training
4 they went through. I'm just asking this man,
5 generally.

6 ALJ BIRO: I think it goes to the
7 weight. You are very red. Would you like
8 some water?

9 THE WITNESS: No, that's fine.

10 ALJ BIRO: Please relax. It's not
11 intended to be too stressful and I don't want
12 anything to happen to you up here.

13 MR. WINANS: Since she said it, there is
14 a noticeable blush that has come over you.

15 THE WITNESS: No, it just happens when
16 I'm in a setting like this. I'm fine.

17 ALJ BIRO: All right. Well, if at any
18 time you feel you need to take a break, we
19 are happy to do that.

20 THE WITNESS: I'm fine; thank you.

21 Q. So I believe you can just provide -- tell us,
22 generally, whether before 2012, the maintenance
23 employees received training on their responsibilities
24 with regard to hazardous substances and the pollution
25 issues?

1 A. All I can say is the training has been offered,
2 and who took it depends on who signed up for the
3 classes or who coordinated the training within their
4 particular region with the resident engineer, for
5 example, so...

6 Q. Now, the resident engineers, they serve in a
7 management capacity, do they not?

8 A. Yes.

9 Q. And do those resident engineers provide daily
10 supervision and oversight for employees?

11 A. Yes.

12 Q. Do the resident engineers generally receive
13 training with respect to environmental concerns?

14 A. I can speak for when I was in the region. When
15 I was in Region 1, we provided training to the
16 resident engineers. We met with them on a regular
17 basis and provided training, and met with our
18 construction engineers.

19 Q. Now, you are sort of getting ahead of me, Mr.
20 Hitt. Let me ask you about that.

21 The construction operations that are under the
22 engineering department, do they fall under the
23 jurisdiction of the Office of Construction?

24 A. The regional offices report the group directors
25 who report to the each regional director. The main

1 office, different offices, oversee those groups, but
2 the regional director is responsible for his or her
3 staff within the region.

4 Q. Does every one of the regional directors have
5 an Office of Construction in their region?

6 A. Yes.

7 Q. And are there employees based in that Office of
8 Construction?

9 A. Yes.

10 Q. And do those employees include employees who,
11 whenever construction is being done, provide
12 oversight for the construction projects?

13 A. Yes.

14 Q. And are some of those employees called, I don't
15 like the term, but it's engineers in charge?

16 A. There are engineers in charge, yes.

17 Q. And is that the EIC, we call for short?

18 A. Yes.

19 Q. And are the employees in the Office of
20 Construction provided with any training concerning
21 environmental issues and the responsibility that the
22 Department has under the MS4 permit?

23 A. Yes.

24 Q. And is that something that you generally know
25 to be true in all of the regions?

1 A. Yes. And we have provided that training
2 ourselves through -- we have semi-annual meetings
3 with the construction engineers, as well as regional
4 design engineers, and we provide the information
5 as-needed.

6 Q. And did your office provide that training
7 before 2012?

8 A. Yes.

9 Q. Now, going back to the question of the
10 construction activity, does the Department have
11 complex contract agreements for whenever we do a
12 significant construction project; do we do all of our
13 construction projects pursuant to contract?

14 A. Yes.

15 Q. And you must be familiar with our standard
16 specifications?

17 A. Yes.

18 Q. It's about 1,065 pages long?

19 MR. SAPORITA: Objection, Your Honor.
20 He is leading the Witness.

21 ALJ BIRO: Sustained.

22 Q. Mr. Hitt, do the standard specifications of the
23 Department that are incorporated in every
24 construction contract, do they include any
25 requirements for the contractor?

1 MR. SAPORITA: He is continuing to lead
 2 the question; objection.
 3 MR. WINANS: No, I'm not. I'm asking.
 4 ALJ BIRO: Overruled, go ahead.
 5 Q. Do they provide any provisions on environmental
 6 requirements?
 7 A. Yes.
 8 Q. Okay. And does your office have any
 9 involvement in those requirements?
 10 A. Whenever the standard spec book is updated, we
 11 are asked to provide any comments on it. A
 12 particular contract, we would only be commenting on
 13 those that our office is involved in.
 14 Q. Can you explain, generally, what those standard
 15 specifications provide with respect to the
 16 environmental issues related to construction?
 17 A. Part 100 of the specs have subsections that
 18 address various topics as far as environmental
 19 compliance, and then, if there are particular
 20 permits, specific permits to any project, they would
 21 be incorporated into the contract proposal.
 22 Q. Okay. Now, Mr. Hitt, were you employed by the
 23 Department when the EPA first provided notification
 24 that they were going to be performing a number of
 25 audits?

1 A. I was employed then, yes.
 2 Q. Okay. And did you receive any of that
 3 notification; did you know that they were doing the
 4 Region 9 audit, which I believe is the first one?
 5 A. I believe we were informed the day of the
 6 audits.
 7 Q. Okay. And did you participate in any manner in
 8 the audit process?
 9 A. No, I did not.
 10 Q. And did you have employees in the Office of the
 11 Environment that participated in the audit process?
 12 A. I don't recall having staff involved in those,
 13 in the first audits; no.
 14 Q. What was the position of the Department with
 15 respect to the audit; was there any indication that
 16 the Department would not cooperate?
 17 A. No. The commissioner at the time, Commissioner
 18 McDonald, and I met with all of the division
 19 directors and Assistant Commissioner, and she
 20 instructed everyone to comply and fully cooperate
 21 with the order.
 22 Q. Okay. Prior to the initial audit by the EPA,
 23 which was in Region 9, had the Department ever been
 24 audited by the EPA?
 25 A. I was never involved or aware of any audits

1 myself.
 2 Q. Are you aware of any instances where the EPA
 3 had audited any other State transportation department
 4 prior to 2012?
 5 A. No, I was not aware.
 6 Q. Okay. And you indicated that you weren't
 7 involved in the audits, but do you know for a fact
 8 that they did occur?
 9 A. Yes.
 10 Q. And were you provided with copies of the audit
 11 reports when they were ultimately submitted?
 12 A. I believe we were.
 13 Q. And were you a participant in any of the exit
 14 conferences or discussions with the EPA during the
 15 audit process in 2012 and 2013?
 16 A. Yes.
 17 Q. What was your involvement in those discussions?
 18 Remember, we are talking about the audits.
 19 A. Oh, I wasn't involved in the audits. I was
 20 involved in discussions about complying with the
 21 provisions of the order.
 22 Q. So that is after the audit.
 23 So did you have any involvement --
 24 A. I was not involved.
 25 Q. And what about the people from the EPA, do you

1 recognize Christy Arvisu here?
 2 A. Yes.
 3 Q. And when was the first time you interacted with
 4 her?
 5 A. We had a meeting to go over the order in May of
 6 2014.
 7 Q. So nothing before that?
 8 A. I don't recall.
 9 Q. Okay; all right.
 10 A. I think that was our first meeting.
 11 Q. All right. Mr. Hitt, I'm going to direct your
 12 attention to what has been marked and is in evidence
 13 as Exhibit 40. It's an Administrative Compliance
 14 Order. It should be on the screen right in front of
 15 you?
 16 ALJ BIRO: That is Complainant's Exhibit
 17 40?
 18 MR. WINANS: It is Complainant's Exhibit
 19 40 in evidence, and I will note for the
 20 record that the date on the document is March
 21 5, 2014.
 22 Q. And it starts off with a letter directed to the
 23 Commissioner.
 24 Now, when this was received in the Department,
 25 to whom was it directed?

1 A. To the Commissioner's Office.
 2 Q. Okay. But where did it go from the
 3 Commissioner's Office?
 4 A. To, both, myself, as well as from what I
 5 remember, to Dave Cherubin, who was lead counsel at
 6 the time.
 7 Q. My boss?
 8 A. Right.
 9 Q. And at that time when you got the
 10 Administrative Compliance Order, did you review it?
 11 A. Yes.
 12 Q. Did you have any discussions about it with your
 13 staff?
 14 A. Yes.
 15 Q. Did you give any background on the reasons that
 16 they made these allegations in the Administrative
 17 Compliance Order?
 18 A. I don't know what you mean. We were surprised
 19 we got it.
 20 Q. Okay. And did you have some staff meetings
 21 trying to figure it out?
 22 A. Yes. We had multiple discussions to figure it
 23 out.
 24 Q. What did you decide to do once you got the ACO
 25 and reviewed it?

1 A. Well, as I mentioned before, we -- I discussed
 2 it with my boss at the time, the chief of engineer,
 3 discussed it with the Commissioner, and she
 4 instructed all of -- the Assistant Commissioner and
 5 division directors to work with us and comply with
 6 all of the provisions, and Dave Cherubin was
 7 instructed to take the lead on complying with the
 8 order.
 9 Q. And who was it that requested an extension of
 10 time?
 11 A. I believe I would have signed off on it. I
 12 can't recall if I signed it or not.
 13 Q. I want to direct your attention to the exhibit,
 14 again, that is 40, to the very last page, two
 15 paragraphs above the signature by Dore LaPosta.
 16 There is a paragraph number 6, and it says, Notice is
 17 hereby given that failure to comply with the terms of
 18 the Clean Water Act compliance order may result in
 19 your liability for civil penalties for each violation
 20 of up to \$37,500 per day.
 21 Did you see that?
 22 A. Yes.
 23 Q. When you received the Administrative Compliance
 24 Order that was addressed to the Commissioner, did you
 25 read that paragraph?

1 A. Yes.
 2 Q. And what, if any, concern did you have about
 3 that provision?
 4 A. We were very concerned about it, and that is
 5 why we setup the meeting with the EPA and DEC, to
 6 discuss our questions about the order and the
 7 provisions.
 8 Q. Now, do you remember who it is within your
 9 office that made the arrangements for the meeting?
 10 A. I delegated the work to facilitate compliance
 11 with this to Jonathan Bass. He did a lot of the
 12 coordinating. I sent him a few e-mails on the
 13 subject, but Jonathan did most of it.
 14 Q. All right. I'm going to direct your attention
 15 to what is in evidence as Exhibit 16, and I'm going
 16 to warn you, there are some notes on Exhibit 16 that
 17 I'm going to skip over because we have already had
 18 testimony about them, and we know they aren't your
 19 notes.
 20 ALJ BIRO: That is Complainant's Exhibit
 21 16?
 22 MR. WINANS: No, that is Respondent's
 23 16.
 24 ALJ BIRO: And that is why we know the
 25 difference.

1 MR. WINANS: I'm sorry. Can I assist
 2 you?
 3 ALJ BIRO: No, got it.
 4 Q. Okay. And so, I direct your attention to
 5 Exhibit 16. It should be on your screen; do you see
 6 that?
 7 A. Yes.
 8 Q. And I will show you, at the very end -- I may
 9 have to flip it around, though, but I'm directing
 10 your attention to the fourth page, and that appears
 11 to be a sign-in sheet.
 12 Does this refresh your recollection as to who
 13 was present at the meeting?
 14 A. Yes.
 15 Q. And where did the meeting take place?
 16 A. I believe it was our DOT offices.
 17 Q. Okay. And your name appears to be fifth from
 18 the bottom; is that right?
 19 A. Yes.
 20 Q. And it has got your title, NYS DOT, Office of
 21 the Environment; is that where you worked?
 22 A. Yes.
 23 Q. And it says, in parentheses, Acting Director,
 24 is that correct?
 25 A. Yes.

1 Q. Are you still acting, or do you --
 2 A. No, I received the permanent title three years
 3 ago.
 4 Q. And your phone number?
 5 A. Yes.
 6 Q. And I will direct your attention to the top of
 7 the list. The first person to sign in was Christy
 8 Arvizu from EPA Region 2.
 9 Then I will direct your attention to the last
 10 line of the sign-in sheet, and that indicates Justine
 11 Modigliani, USEPA Region 2. It says she is the
 12 Compliance Section Chief; do you see that?
 13 A. Uh-huh, yes.
 14 Q. And there are a number of DOT employees on the
 15 list, including Jonathan Bass, Keith Martin, who is
 16 another attorney in my office, Scott Kappeller, Ellen
 17 Kubek, and Carl Kochersberger. And did I skip over
 18 Jonathan; he was there, right?
 19 A. Yes.
 20 Q. Was there anybody else at the meeting?
 21 A. Not that I recall.
 22 Q. When you went into the meeting, was it in a
 23 conference room at DOT?
 24 A. Yes.
 25 Q. I take it in the conference room there must

1 have had at least ten chairs?
 2 A. Yes.
 3 Q. Was there a table?
 4 A. Yes.
 5 Q. Everyone have a seat?
 6 A. Yes.
 7 Q. And where did everyone sit around the table?
 8 A. I don't recall. I don't --
 9 Q. And where were you seated in relation to the
 10 two representatives from the EPA?
 11 A. I don't recall. I attend a lot of meetings.
 12 Q. Could you see them?
 13 A. Yes, they were all there.
 14 Q. And who at the Department of Transportation
 15 headed up this meeting, took the initiative?
 16 A. I believe I did.
 17 Q. Okay. And what was your approach at the
 18 meeting; how did you go through it?
 19 A. It was informal. Just followed the agenda. It
 20 was an informal discussion.
 21 Q. Okay. I will direct your attention back to
 22 page 1, which was the agenda. It says,
 23 Introductions. I take it everyone introduced
 24 themselves?
 25 A. Yes.

1 Q. And then it says, Review of NYS DOT 4/18
 2 Comments.
 3 Do you remember who made the comments? It says
 4 they were on a spreadsheet.
 5 A. My staff compiled the comments.
 6 Q. And then, it talks about a schedule. What does
 7 that mean?
 8 A. It was the schedule to meet the requirements of
 9 the order, the provisions of the order.
 10 Q. Now, did you come into this meeting as the
 11 senior, most senior high-level employee at the DOT;
 12 did you come into this meeting with things that you
 13 needed to accomplish?
 14 A. Yes. I needed to understand what the next
 15 steps were, as well as who we would be working with
 16 and what the potential penalties would be.
 17 Q. Did you come to the meeting with any
 18 instructions about the penalty provisions that are in
 19 paragraph 6 at the end of the Administrative
 20 Compliance Order?
 21 A. No, other than that -- seeing that in the
 22 order, we had no prior experience with an
 23 administrative order with EPA.
 24 Q. Okay. So you had no instructions on it?
 25 A. Correct.

1 Q. Okay. And now, in terms of the compliance
 2 order, Administrative Compliance Order, itself, it's
 3 19 pages in length.
 4 Would you agree that most of it -- I can show
 5 it to you if you want me to, but most of it is,
 6 basically, details of things that EPA wanted DOT to
 7 do; is that a fair statement?
 8 A. Correct.
 9 Q. And who took the lead at this meeting; were you
 10 the boss, about reviewing each of the separate items
 11 that EPA had put into the compliance order?
 12 A. It must have been Jonathan or Ellen.
 13 Q. It wasn't you?
 14 A. No.
 15 Q. Okay. You were just the boss?
 16 A. Yes.
 17 Q. And as the boss, what was your direction to
 18 Jonathan and your other staff in terms of what the
 19 DOT was going to commit to doing pursuant to this
 20 Administrative Compliance Order?
 21 A. I informed them what the Commissioner had
 22 instructed everyone, was that we would meet -- we
 23 would comply with the order. I mean, we would fully
 24 cooperate.
 25 Q. At the time of that meeting, was there a

1 uniform agreement within the DOT that NYS DOT was
 2 obligated to do everything in this Administrative
 3 Compliance Order because of our obligations under the
 4 MS4 permit, or was there some disagreement?
 5 A. There was misunderstanding, or some questions,
 6 about the order. There wasn't a disagreement,
 7 everyone was professional and discussed it
 8 professionally.
 9 Q. I wasn't there, was I?
 10 A. There were just questions as to compliance.
 11 Q. Okay. But in spite of whatever questions, to
 12 use your word, there might have been, was there still
 13 a commitment that came directly from the Commissioner
 14 of Transportation that DOT was going to do the things
 15 in the Administrative Compliance Order?
 16 A. Yes. We never varied from that commitment.
 17 Q. Now, what about the timing; was there any
 18 discussion about the timing of NYS DOT doing all of
 19 these things in the compliance order?
 20 A. We discussed the schedule and how long it would
 21 take to meet the requirements. That is why the
 22 schedule topic was on the agenda.
 23 Q. And was there general agreement as to any
 24 modifications to the schedule?
 25 A. When we left the meeting, we were all -- I

1 assumed we were all in agreement with the schedule.
 2 Q. And now, I want to ask you about that.
 3 As far as this meeting is concerned on May 13,
 4 2014, with you at a table with your staff and two
 5 representatives at the EPA, including Justine
 6 Modigliani, who is the chief, was this an adversarial
 7 conversation?
 8 A. No, not at all.
 9 Q. And what was the demeanor of the two EPA people
 10 about DOT's approach to the Administrative Compliance
 11 Order?
 12 A. They seemed to be in agreement with the way we
 13 were approaching it.
 14 Q. Did they wag their fingers at you?
 15 A. No, it was always professional and polite.
 16 Q. Did they get angry?
 17 A. No.
 18 Q. Did they make any threats?
 19 A. No.
 20 Q. At some point, I take it you went through the
 21 Administrative Compliance Order to get clarification;
 22 is that right?
 23 A. Yes.
 24 Q. And did you have a staff person who acted as
 25 sort of the -- would it be the emphasis to write

1 everything down?
 2 A. Ellen took notes.
 3 Q. Ellen took notes?
 4 A. Yes.
 5 Q. And from those notes, did you and your office
 6 formulate a plan of attack, things you needed to get
 7 done?
 8 A. Yes.
 9 Q. Okay. And in addition to discussing the things
 10 that needed to be done, once that was all finished,
 11 was there any further conversation with the EPA
 12 officials concerning the penalty that is threatened
 13 on line 9 -- page 19, excuse me, line 6, page 19?
 14 MR. GARELICK: Objection, Your Honor, to
 15 the use of the word "threat". It's, A, not
 16 in that and it's argumentative and a
 17 mischaracterization of the boilerplate
 18 language used in the compliance order.
 19 ALJ BIRO: Sustained.
 20 Q. Mr. Hitt, was there any further discussion at
 21 the meeting on May 13, 2014 concerning the provision
 22 in the Administrative Compliance Order that said, and
 23 I'm quoting, Notice is hereby given that failure to
 24 comply with the terms of the Clean Water Act, Section
 25 309(A)(3), compliance order may result in your

1 liability for civil penalties for each violation up
 2 to \$37,500 a day?
 3 A. I specifically asked if there was going to be
 4 any monetary penalties.
 5 Q. Now, when you asked that question, was your
 6 question just a general question to people in the
 7 room, or did you focus on a certain person?
 8 A. I directed it towards the EPA staff.
 9 Q. And so, you directed it to both of them?
 10 A. Yes.
 11 Q. And Ms. Arvizu, did she seem to understand the
 12 question?
 13 A. I believe both of them understood.
 14 Q. Okay. But was she looking at you at the time?
 15 A. I can't recall.
 16 Q. Okay.
 17 A. It was four years ago.
 18 Q. And what about Ms. Modigliani, did she seem to
 19 understand that you were asking a question?
 20 A. I believe so, yes.
 21 Q. Okay. And did anybody from the EPA respond to
 22 your question?
 23 A. I believe Justine responded and said there
 24 would be no monetary penalty.
 25 Q. Mr. Hitt, as best you can recall -- and I do

1 understand it has been almost four years, but as best
 2 you can recall, what was the question that you posed
 3 to the EPA officials at the meeting on May 13, 2014?
 4 A. From what I recall, my only experience with any
 5 type of penalty had to do with previous potential
 6 violations with the Corps. Of Engineers, not with the
 7 EPA. So the question was directed to EPA to see if
 8 it was similar to the Corps. Of Engineers
 9 proceedings, where they give the complaint to the
 10 Enforcement Division, then it goes to the US
 11 Marshal's office, which then informs of a potential
 12 penalty. So I wanted to see if the process was in
 13 any way the same way, which I found it was not.
 14 Q. Again, my question is: What was your question;
 15 what did you say? I understand you're giving me
 16 background for why you were asking the question, but
 17 what did you say to them?
 18 A. I don't recall the exact words. I just know I
 19 did ask if there would be a monetary penalty that was
 20 anything like what the Corps. Of Engineers would or
 21 could, you know, I guess, impose upon us, you know,
 22 like a daily penalty.
 23 Q. So just to understand, at least your thinking
 24 at the time, what was the approach of the Corps. Of
 25 Engineers? Did they, like, tell you what to do

1 upfront and then tell you about the penalty later, or
 2 did they threaten you with a penalty upfront?
 3 MR. GARELICK: Objection, Your Honor, on
 4 multiple levels; the use of the word
 5 "threaten", it's a leading question talking
 6 about something that is irrelevant to the
 7 actual proceedings in front of us today.
 8 ALJ BIRO: Sustained.
 9 Q. You know, that's a good point.
 10 Mr. Hitt, did you regard this provision in the
 11 Administrative Compliance Order as a threat?
 12 A. We weren't sure. Like I said, we asked -- I
 13 asked the question to understand what the potential
 14 penalties might be.
 15 Q. Okay. So, I guess, maybe I'm being unfair.
 16 You didn't really know one way or the other, it could
 17 have been a threat, it could have been something
 18 else?
 19 A. We did not know. That is -- I never had
 20 experience before this order.
 21 Q. Except for the Corps. Of Engineers?
 22 A. Yes.
 23 Q. Well, how does it work with the Corps. Of
 24 Engineers, Mr. Hitt?
 25 MR. GARELICK: Objection, Your Honor.

1 It's irrelevant to the proceedings of what
 2 happened.
 3 ALJ BIRO: Overruled. Go ahead.
 4 A. The couple of times I have seen potential
 5 violations with the Corps. Of Engineers, the
 6 enforcement staff issues, you know, we discussed the
 7 complaint with the Department, and then if it
 8 proceeds, it goes to the US Marshal's Office, who
 9 then provides a letter that says what the potential
 10 daily monetary penalty may be, as well as civil and
 11 criminal penalties, and it's a cease and desist
 12 order.
 13 Q. And that is in your history, in the back of
 14 your mind somewhere, but now we go back to the
 15 meeting on May 13, 2014.
 16 As best you can say, what did you ask them?
 17 A. I wanted to know if it was anything like the
 18 Corps. Of Engineers and who would be handling it
 19 after we received the order. Was there enforcement
 20 staff? Would we be dealing with another group like
 21 the US Marshal's Office. I had no history of dealing
 22 with the EPA, so we wanted -- that is why we wanted
 23 to discuss, you know, the roles and responsibilities
 24 and penalties.
 25 Q. Okay. Did somebody from the EPA respond to

1 your question?
 2 A. I recall Justine responded and said there would
 3 be no monetary penalties.
 4 Q. Did she put any conditions on what would result
 5 in no monetary penalties?
 6 A. I don't recall any.
 7 Q. Okay. So at that point, did the meeting end?
 8 A. I know we discussed it during that meeting. I
 9 would have to refer to Ellen's notes, but we
 10 discussed everything on the agenda. But it was an
 11 informal discussion, so...
 12 Q. Okay. And did you follow-up with the EPA and
 13 send them any letters and, you know, confirm there
 14 would be a penalty?
 15 A. I don't recall if --
 16 Q. Did you have any further discussions, yourself,
 17 with anybody from the EPA about a penalty?
 18 A. Not until June of 2016.
 19 Q. Did you -- obviously, the meeting ended at some
 20 point on May 13, 2014.
 21 Do you have any idea how long it took; was it
 22 an hour or half day, how long was it?
 23 A. I don't recall if it was an hour and a half or
 24 so...
 25 Q. Well, whenever it ended, at that point, did you

1 have any personal involvement in the actual work to
 2 provide compliance with the Administrative Compliance
 3 Order?
 4 A. I delegated the work to Jonathan.
 5 Q. And just for the record, no one will make me
 6 look for it, the exhibit, but isn't it true, Mr.
 7 Hitt, that at some point after the meeting on May 13,
 8 2014, the chief engineer of the DOT, who was Phil Eng
 9 at the time, signed the Administrative Compliance
 10 Order, as it had been modified based on the
 11 discussions at the meeting, and agreed to the terms
 12 and sent it back to the EPA?
 13 A. Yes.
 14 Q. Okay. And as far as that, was that order, the
 15 one that Phil signed, is that what the Department
 16 committed to doing?
 17 A. Yes.
 18 Q. And did the Department have staff assigned to
 19 doing the individual tasks?
 20 A. Jonathan and Ellen were assigned in my group,
 21 and they facilitated and coordinated with the
 22 regional staff.
 23 Q. Did you personally have any involvement in
 24 complying with any of the terms in the compliance
 25 order?

1 A. They briefed me whenever we had to send our
 2 quarterly updates.
 3 Q. So you were in a management capacity?
 4 A. Yes.
 5 Q. And did your staff request that they give them
 6 anything extra; any other resources?
 7 A. They had the resources they needed already.
 8 Q. And were there ever any complaints raised to
 9 you that they didn't have the resources that they
 10 needed to get this done?
 11 A. No.
 12 Q. Was there -- at some point, did your staff tell
 13 you that they had complied with all of the terms of
 14 the compliance order?
 15 A. Yes.
 16 Q. And I notice there are progress reports. We
 17 have them all in evidence, but it appears that
 18 Jonathan actually mailed them and he e-mailed them to
 19 Christy; is that correct?
 20 A. Yes.
 21 Q. But every one of them appears to be signed by
 22 you?
 23 A. Yes.
 24 Q. Under penalty of perjury, it says?
 25 A. Yes.

1 Q. And you signed all of the progress reports?
 2 A. Yes.
 3 MR. WINANS: Now, Your Honor we -- I'm
 4 going to pass off the Witness at this point,
 5 as our adversaries have been doing during
 6 this hearing. Thank you.
 7 ALJ BIRO: Okay. You have done that,
 8 too.
 9 MR. WINANS: I don't remember doing it
 10 in the middle of a witness, but I appreciate
 11 that.
 12 ALJ BIRO: You're going to come back.
 13 MR. WINANS: No, I'm not going to come
 14 back. I'm done with my part.
 15 MR. SAPORITA: We have no objection.
 16 ALJ BIRO: Hello, Ms. McNally.
 17 MS. McNALLY: Hello, Your Honor.
 18 *****
 19 FURTHER DIRECT EXAMINATION
 20 BY MS. McNALLY:
 21 Q. I'm going to hand the witness what has been
 22 marked for identification as Respondent's Exhibit 65.
 23 Mr. Hitt, can you describe what that document
 24 is without testifying as to what it contains?
 25 A. It was an e-mail from Justine about the

1 compliance with the permit.
 2 Q. Is that an e-mail that you received, or you
 3 recall receiving?
 4 A. I received it from Justine about the attached
 5 copy of the complaint mailed to Commissioner Driscoll
 6 at the time.
 7 Q. Is that a true and accurate description of the
 8 e-mail that you received?
 9 A. Yes.
 10 Q. Yes; okay.
 11 MS. McNALLY: It's an e-mail chain, so
 12 I'm just having him testify about that
 13 portion of the e-mail chain. I will have
 14 another witness testify about the remainder
 15 of the chain, so that's all I needed.
 16 MR. SAPORITA: Which part of the --
 17 MS. McNALLY: He is testifying to his --
 18 the e-mail that was received by him.
 19 MR. SAPORITA: The bottom of the page?
 20 MS. McNALLY: Respondent's Exhibit 65,
 21 he is testifying to the accuracy of that
 22 portion.
 23 MR. SAPORITA: So from the address line?
 24 MS. McNALLY: I don't plan on moving it
 25 into evidence through him, but I needed his

1 testimony to verify that portion. So if you
 2 have any Voir Dire or questions on that
 3 portion, now would be the time.
 4 MR. SAPORITA: No objection.
 5 MS. McNALLY: Okay; great.
 6 Q. Do you recall a time when you received
 7 notification that there was going to be a penalty in
 8 this matter?
 9 A. Yes.
 10 Q. And how did you receive that notification?
 11 A. That was the e-mail, and a phone call with
 12 Justine.
 13 Q. A phone call with Justine, is that what you
 14 said?
 15 A. Yes.
 16 Q. How did that phone call go?
 17 A. I was given a heads-up that the letter had been
 18 provided to our Commissioner that mentioned the
 19 penalty, the monetary penalty.
 20 MS. McNALLY: That's all I have. I
 21 don't have anything else.
 22 MR. GARELICK: Can we have a 5-minute
 23 break, Your Honor?
 24 ALJ BIRO: Sure. Why don't we stand in
 25 recess until 11:00.

1 (At which time, 10:53 a.m., a brief
 2 recess is taken until 11:01.)
 3 ALJ BIRO: Mr. Garelick, please begin.
 4 *****
 5 CROSS-EXAMINATION
 6 BY MR. GARELICK:
 7 Q. Good afternoon, sir -- or late morning. My
 8 name is Jason Garelick. I'm going to ask you a
 9 couple of questions here today.
 10 You testified regarding your position as --
 11 with respect to the Office of the Environment; is
 12 that correct?
 13 A. Office of the Environment, yes.
 14 Q. And what is the budget of the Office of the
 15 Environment?
 16 A. We don't have a separate budget.
 17 Q. Your budget is provided by Department of
 18 Transportation, generally speaking?
 19 A. Yes.
 20 Q. Are you aware of the overall budget of the
 21 Department of Transportation?
 22 A. I'm not. I don't deal with the overall budget,
 23 no.
 24 Q. You mentioned that you, in response to Mr.
 25 Winans's questions, that you deal with parking trucks

1 -- there are many parking trucks that fall within the
 2 Office of the Environment -- or many trucks that fall
 3 within the parameters of the Office of the
 4 Environment?
 5 A. That's not what I said, no.
 6 Q. What did you say with respect to trucks and
 7 parking?
 8 A. The trucks that the Department has are the
 9 maintenance vehicles, they reside at the maintenance
 10 facilities throughout the State. That is under the
 11 Operations Division.
 12 Q. You mentioned they have to comply with the
 13 Clean Water Act; is that correct?
 14 A. Yes.
 15 Q. Thank you. I'm going to direct your attention
 16 to Complainant's Exhibit 35, particularly page 724.
 17 Do you have that in front of you?
 18 A. No.
 19 MS. McNALLY: Your Honor, we object. He
 20 already testified that he had no involvement
 21 in the audit.
 22 ALJ BIRO: Overruled. Let's find the
 23 document and hear what the question is.
 24 What are we looking for now, gentlemen?
 25 MR. GARELICK: Your Honor, Complainant's

1 Exhibit 35, the audit report.
 2 ALJ BIRO: Okay. Mr. Garelick, he has a
 3 copy.
 4 Q. I'm going to direct your attention,
 5 particularly, to Photograph 14.
 6 Is it fair to say that that photograph depicts
 7 a dump truck parked directly over a storm drain
 8 inlet?
 9 MS. McNALLY: I'm going to object.
 10 Again, this is beyond the scope of his direct
 11 testimony.
 12 MR. GARELICK: I believe he testified to
 13 the fact that trucks parked at the
 14 maintenance facilities and had to comply with
 15 the Clean Water Act. So this is a fair
 16 follow-up question.
 17 ALJ BIRO: Okay. Overruled; go ahead.
 18 Q. Have you viewed a copy of that photograph?
 19 A. You said Photograph 14?
 20 MR. WINANS: Can you give us a page
 21 number?
 22 MR. GARELICK: Page 724 of 742, I
 23 apologize.
 24 MR. WINANS: Thank you.
 25 A. Can you show me which one that is?

1 Q. Sure. I will direct your attention to
 2 Photograph 14.
 3 Is it fair to say that that's a picture of a
 4 dump truck/snowplow parked on top of a storm drain
 5 inlet?
 6 A. I have to assume, based on the caption, it is.
 7 I don't have any direct knowledge of this photograph.
 8 Q. Okay. And would you say that that's indicative
 9 of compliance with best management practices as far
 10 as you're aware of them?
 11 A. I can't answer that. I don't know the site or
 12 the facility.
 13 Q. Well, generally speaking, parking a dump truck
 14 over a storm drain, to your knowledge and experience
 15 with respect to DOT, is that an appropriate
 16 procedure?
 17 A. I don't understand. We park our vehicles in
 18 parking lots and there are drain inlets. I am --
 19 Q. So as far as you're saying, it's an appropriate
 20 procedure to park a dump truck over a storm drain?
 21 A. I don't know. I'm sorry, I don't know how to
 22 answer that. I don't know if this vehicle is parked
 23 in a parking spot in the maintenance yard or parked
 24 there temporarily.
 25 ALJ BIRO: If you don't know, that is a

1 perfect answer.
 2 Q. If you don't know, you don't know; no problem.
 3 You testified earlier regarding training,
 4 correct?
 5 A. Yes.
 6 Q. And you testified that there is informal
 7 training that is given to DOT employees, correct?
 8 A. Yes.
 9 Q. And you also mentioned that individuals are
 10 required to sign-up for this training, correct?
 11 A. For the training that my office provides. I
 12 can't speak for the training that is provided by the
 13 other offices or divisions, because I don't
 14 participate in all of that training.
 15 Q. The training your office provides, what is that
 16 relevant to?
 17 A. Environmental topics, or topics that relate to
 18 landscape architecture. Anything that relates to our
 19 responsibilities within our office.
 20 Q. And who do you train?
 21 A. Anybody in the Department that signs up for the
 22 training, whether they be within the Engineering
 23 Division or Operations or Planning and Program. I
 24 can't say.
 25 Q. And prior to 2014, was it mandatory for

1 specific individuals to sign-up for your training?
 2 A. The training I'm talking about, the monthly
 3 training, it's not required training whatsoever.
 4 Q. Okay.
 5 A. I have created a program to provide training
 6 for those that are interested in participating.
 7 Q. So it was not mandatory to sign-up?
 8 A. No.
 9 Q. Okay. And did you keep records prior to 2014
 10 of who actually did sign-up to take these trainings?
 11 A. The training we provided, we did. We have
 12 records of who signed up.
 13 Q. And how do you keep those records?
 14 A. There is a sign-in sheet, that is maintained.
 15 I can't say that we have kept them that far back.
 16 Q. Okay. And do you know -- can you point to any
 17 specific sign-in sheets that you have brought for
 18 this proceeding?
 19 A. I -- not for this.
 20 Q. Do you know if those were provided to EPA in
 21 response to requests for training documents?
 22 A. No, we didn't provide it for this. That
 23 training isn't setup for just this topic. It's for
 24 whatever environmental topic we chose to provide
 25 training on for that month.

1 Q. Okay. And is -- so your training is only for
 2 -- with respect to your -- withdrawn.
 3 Do you know if all of the documents -- all of
 4 the training that was given by DOT prior to 2014 was
 5 documented as to who signed up for the training?
 6 A. I would have no way of knowing that.
 7 Q. Okay. And it fair to say that it's a much
 8 better practice to document who signed up for the
 9 training?
 10 A. Yes.
 11 Q. Okay. And if there was no documentation of who
 12 signed up for particular training, it would be
 13 impossible for regulatory agencies to figure out who
 14 actually received the training?
 15 A. Correct.
 16 Q. Were you present for any of the audits?
 17 A. No.
 18 Q. So you have no observations regarding any of
 19 the facilities that were inspected as part of the
 20 audits?
 21 A. Correct.
 22 Q. Okay. So you can't speak with any personal
 23 knowledge regarding the site conditions at any of the
 24 facilities at the time of the audit?
 25 A. Correct.

1 Q. There was a bunch of discussion regarding your
 2 presence at the May 13, 2014 meeting, correct?
 3 A. Yes.
 4 Q. And at the time of that meeting, I think the
 5 terminology used was, you were the boss, that Mr.
 6 Winans used?
 7 A. Yes.
 8 Q. Okay. And so, at that meeting, assuming one of
 9 your employees, or someone who worked for you, wanted
 10 to, say, settle the case at that meeting, would she
 11 or he, what would be the process by which that person
 12 would go through the steps to get that approved?
 13 A. I -- there would be no -- there is no procedure
 14 for one of my staff to get these ordered provisions
 15 approved.
 16 Q. So --
 17 A. At that time, as I said before, Dave Cherubin
 18 was the lead counsel, he had the lead on compliance
 19 with the order, and I worked through Phil Eng, our
 20 chief engineer, to facilitate compiling the
 21 information.
 22 Q. So would they all have to sign-off on any type
 23 of settlement that occurred?
 24 A. The Commissioner, I believe, would be the one
 25 to sign-off.

1 Q. Because he would have authority over DOT
 2 actions?
 3 A. Yes.
 4 Q. And did you or anyone else ask Ms. Modigliani
 5 if she had authority to bind the EPA in not pursuing
 6 penalty in this matter?
 7 A. No.
 8 Q. And you indicated that you don't recall,
 9 specifically, what you said to EPA in that meeting,
 10 correct?
 11 A. I don't recall word-for-word what I said, no.
 12 Q. Okay. And, in fact, I believe you used the
 13 terminology, "I believe", to describe some of the
 14 things that you thought you said?
 15 A. Correct.
 16 Q. Did you write down what you said that day?
 17 A. No.
 18 Q. And did you write down what any of the EPA
 19 staff said that day?
 20 A. No. The notes were taken by Ellen on behalf of
 21 our office.
 22 Q. Okay. So your perception of that event is not
 23 documented in any notes, besides Ms. Kubek's notes?
 24 A. Correct.
 25 Q. And when you were asked with regard to the

1 conditions that may or may not have been discussed
 2 with respect to the penalties, or when penalties
 3 could be pursued, you also indicated that you don't
 4 recall if any specific conditions were spoken with
 5 respect to EPA's potential pursuit of penalties; is
 6 that correct?
 7 A. We didn't. I did not hear any conditions
 8 applied to the --
 9 Q. I believe you said that you don't recall
 10 specifically; is that fair to say?
 11 A. Okay. Yes, okay.
 12 Q. Because you didn't take any notes, correct?
 13 A. I did not take any notes.
 14 Q. And this was, what, four years ago?
 15 A. Yes.
 16 Q. Okay. And you don't remember every word that
 17 was discussed specifically, the particular words
 18 used?
 19 A. No.
 20 Q. Okay. So is it fair to say that Ms. Modigliani
 21 may have indicated that EPA would not be pursuing
 22 penalties pursuant to the Administrative Compliance
 23 Order?
 24 A. I -- we left the meeting, based on my question,
 25 with the understanding that there would be no

1 monetary penalties.
 2 Q. I understand what your understanding is.
 3 A. I can't recall what was -- every word that was
 4 said. We did not have a stenographer or anybody in
 5 -- taking notes at the meeting.
 6 Q. So it's possible that she conditioned her
 7 statement that you suggest she said, that EPA would
 8 not collect penalties simply pursuant to the ACO?
 9 A. I don't recall any conditions.
 10 Q. Well, is it possible; if you don't remember
 11 what was being said?
 12 A. Well, anything is possible, but I don't recall
 13 any conditions.
 14 Q. Okay. Are you familiar with the difference
 15 between compliance and enforcement?
 16 A. I believe so, but...
 17 Q. What -- in your own words, can you explain what
 18 the difference is?
 19 A. I'm not sure, given this proceeding that's
 20 going on today.
 21 MR. GARELICK: No further questions for
 22 this Witness.
 23 *****
 24 REDIRECT EXAMINATION
 25 BY MS. McNALLY:

1 Q. Hello. When were you employed in Region 1 at
 2 the facility?
 3 A. In Region 1?
 4 Q. Yes.
 5 A. From November of '88 through 2003.
 6 Q. Okay. And as an employee there, did you
 7 receive training that included environmental and
 8 housekeeping procedures?
 9 A. I was the manager -- or supervisor of the
 10 environmental and landscape architecture within the
 11 region, so my group provided the environmental
 12 training.
 13 Q. During that time?
 14 A. Yes. I did not -- there was nobody else to
 15 give the training, other than myself or my staff.
 16 Q. Okay. And do you recall what Justine's title
 17 was? I can show you an exhibit if that would be
 18 helpful.
 19 I'm showing Respondent's Exhibit 16, the last
 20 page.
 21 A. Compliance Section Chief.
 22 Q. So when she told you that there would be no
 23 penalty, did you believe that she had the authority
 24 to speak on behalf of the EPA?
 25 A. Yes.

1 Q. And why did you believe that?
 2 A. My understanding, having dealt with other
 3 Federal agencies, typically, when dealing with a
 4 chief of a group, enforcement group or regulatory
 5 group, that that person has the authority to
 6 represent the agency.
 7 Q. And were you surprised when you received the
 8 complaint with the penalty?
 9 A. Yes. Having gone two years of working on
 10 complying with the order, we were very surprised that
 11 we received the letter about the monetary penalty.
 12 MS. McNALLY: I have no further
 13 questions.
 14 MR. GARELICK: Just briefly.
 15 *****
 16 RE-CROSS-EXAMINATION
 17 BY MR. GARELICK:
 18 Q. I direct your attention to Complainant's
 19 Exhibit 40, that is the Administrative Complaint
 20 [sic] Order you were looking at previously?
 21 ALJ BIRO: Administrative Compliance
 22 Order.
 23 Q. The Administrative Compliance Order; thank you.
 24 Did you review the Administrative Compliance
 25 Order prior to going to the meeting that had been

1 discussed on May 13, 2014?
 2 A. Yes.
 3 Q. And can you see -- I will direct your attention
 4 to the bottom of the page of -- I believe that's page
 5 21.
 6 Who is that signed by? Who is the
 7 Administrative Compliance Order signed by?
 8 A. The Division of Enforcement and Compliance, the
 9 director.
 10 Q. And is her name Dore LaPosta?
 11 A. It appears that way, yes.
 12 Q. Did you have any conversations with Dore
 13 LaPosta at or around the time of this meeting?
 14 A. No.
 15 Q. Did you have any conversations with her
 16 subsequent to this meeting?
 17 A. No.
 18 Q. Are you aware of anyone corresponding with Dore
 19 LaPosta regarding this case at this time?
 20 A. I don't have any knowledge. I was informed
 21 that Dave Cherubin would be the one handling the
 22 coordination regarding the lead on the Department
 23 complying with this order.
 24 Q. So you were the boss there at that particular
 25 meeting, correct?

1 A. For the Department, I was the highest ranking
 2 employee at the meeting, yes.
 3 Q. Okay. And so, you didn't reach out to her in
 4 your role as the boss at any time, really, before or
 5 after that meeting; is that correct?
 6 MR. WINANS: Objection. Are we talking
 7 about Dore LaPosta still?
 8 MR. GARELICK: Yes, Dore LaPosta.
 9 A. No, I have not spoken to her.
 10 Q. And you are not aware of anyone on your staff,
 11 or that you supervise, reaching out to Dore LaPosta
 12 on this case?
 13 A. That's correct.
 14 MR. GARELICK: No further questions.
 15 ALJ BIRO: I just have a few questions
 16 for you.
 17 *****
 18 EXAMINATION
 19 BY ALJ BIRO:
 20 Q. You're the director of the Department of
 21 Transportation, Office of the Environment; is that
 22 correct?
 23 A. Yes.
 24 Q. And how many staff members are part of the
 25 Office of Environment?

1 A. It's fluctuated between 21 and 36 staff over
2 the last few years.

3 Q. Okay. And what is the budget of your personnel
4 office?

5 A. We only have a non-personnel services budget.
6 We don't have an operating budget specific to our
7 office. It's included in the office -- or in the
8 Engineering Division.

9 Q. In the -- so you're not a separate line item in
10 the Engineering Division budget?

11 A. I believe we are, but I don't know what that
12 line item is.

13 Q. Okay. And so, do you know how much the budget
14 of the Department of Engineering is?

15 A. No, I don't.

16 Q. Okay. And if you believed that you might have
17 to incur a penalty in connection with this matter, is
18 there anything that you would have done differently
19 in regard to the Administrative Compliance Order?

20 A. Given that it's based on a day-to-day penalty,
21 we would have expedited -- we would have done things
22 faster. I would have recommended to the Assistant
23 Commissioner, that I report to, to put more staff on
24 it and do things faster, but based on our position
25 with the EPA about schedule, there was no mention of

1 monetary penalty. Based on the day-to-day, we did
2 not think that there would be an issue, but I would
3 have recommended that.

4 Q. If you would put additional staff on it, how
5 much quicker could you have gotten it done than the,
6 I think it was, 18 months or something you took?

7 A. I -- I don't know if we could have cut the time
8 in half or not.

9 Q. So maybe 9 months, if you --

10 A. We have expedited other matters in the office,
11 and when we put enough staff on it, we seem to be
12 able to reduce the time considerably. It depends on
13 how much.

14 Q. And did complying with the Administrative
15 Compliance Order require you to hire any other
16 additional -- any additional staff?

17 A. No. We had a hiring freeze for a number of
18 years, so we weren't hiring up until a couple of
19 years ago. So it wouldn't have been possible to
20 hire.

21 Q. Did it cause you not to be able to do any of
22 your other required activities for your office?

23 A. The two staff involved, both Ellen and
24 Jonathan, were on this, working on this quite a bit.
25 Ellen spent a considerable amount of time, so, yes,

1 she was taken off of other activities.

2 Q. And who picked up the other activities?

3 A. Either other staff, or some of it was not done.

4 Q. When you -- you mentioned that you had prior
5 experience with the Corps. Of Engineers. Were those
6 in connection with permit violations, also?

7 A. A couple that I was involved with, yes, there
8 was permit -- potential permit violations with
9 construction activities.

10 Q. That they required a Corps. Of Engineers permit
11 prior to them conducting the activities, or they were
12 not in compliance with the permit?

13 A. They were not in compliance with the permit.

14 Q. And did the Corps. Of Engineers, in the end,
15 impose penalties?

16 A. No. The ones I have been involved in have
17 never had a penalty. We resolved the issues with the
18 enforcement staff.

19 Q. Okay. And you said that the Corps. Of
20 Engineers issued cease and desist letters. When you
21 -- did you cease and desist your activities alleged
22 in violations in response to those orders?

23 A. Yes. On a couple of them, we actually turned
24 ourselves in to the Corps. Of Engineers. You know,
25 we told them there was a misunderstanding by

1 construction staff. So we informed the corps that we
2 were not in compliance, so therefore, we wanted to
3 meet with them. So we stopped before we got the
4 cease and desist order.

5 Q. So you self-reported?

6 A. Yes.

7 Q. And as a result of that, you were -- you never
8 had a penalty imposed at all?

9 A. I have -- the ones I have seen, either been
10 involved in or heard of through our construction
11 office, I have never seen a penalty imposed.

12 Q. So they didn't impose it at any time, a
13 penalty, for the actions that you took before their
14 cease and desist notice?

15 A. Correct.

16 Q. Nor any -- well, I guess you said that you came
17 into compliance, or you self-reported. So there was
18 no violative activity after the cease and desist was
19 received?

20 A. Correct.

21 Q. Did you, or anyone else at DOT, write any
22 confirmatory e-mails or letters or, you know,
23 message, text message, anything, regarding the
24 penalty not being imposed, that issue, back to EPA?

25 A. No, not that I'm aware of.

Page 612

1 Q. Okay. Did you document that in anything you
 2 sent off to your superiors, or to the Office of
 3 General Counsel or Legal Office at the DOT?
 4 A. No. We just have Ellen's notes of the meeting,
 5 and my boss at the time, as well as legal staff, were
 6 informed of our discussions.
 7 ALJ BIRO: All right. I have no further
 8 questions.
 9 Ms. McNally, any questions?
 10 MS. McNALLY: I have no questions.
 11 Thank you.
 12 ALJ BIRO: Mr. Garelick?
 13 MR. GARELICK: No questions, Your Honor.
 14 ALJ BIRO: Thank you so much.
 15 Are there intentions of calling Mr. Hitt
 16 again or can we release them?
 17 MR. WINANS: No, we can release him.
 18 (Whereupon, the Witness is excused.)
 19 ALJ BIRO: It's 11:30. Would you like
 20 to proceed now or take an early lunch?
 21 MR. WINANS: I work on your orders.
 22 ALJ BIRO: Are you ready?
 23 MR. WINANS: I'm ready to proceed.
 24 ALJ BIRO: Let's keep going.
 25 MR. WINANS: Respondent's are calling

Page 613

1 Carl Kochersberger.
 2 ALJ BIRO: Madam Reporter, can you
 3 please swear in the Witness?
 4 *****
 5 CARL KOCHERSBERGER,
 6 called as a witness, being duly sworn,
 7 testifies as follows:
 8 ALJ BIRO: Please be seated. Go ahead.
 9 DIRECT EXAMINATION
 10 BY MR. WINANS:
 11 Q. Mr. Kochersberger, would you please tell the
 12 Judge your name and your current title?
 13 A. Carl Kochersberger, K-O-C-H-E-R-S-B-E-R-G-E-R.
 14 I'm an Environmental Specialist 2.
 15 ALJ BIRO: You might want to look at Mr.
 16 Winans, he will be asking the questions.
 17 THE WITNESS: Okay.
 18 Q. What is your job at the present time?
 19 A. Environmental Program Manager and Maintenance.
 20 Q. Prior to taking a job in maintenance, were you
 21 employed in a different office within the Department?
 22 A. Yes, I worked in the Office of Environment.
 23 Q. What are the basic organizational departments
 24 within the Department of Transportation?
 25 A. Well, Engineering Division, which is design,

Page 614

1 structure, environment, many other parts; and then,
 2 I'm currently in the Operations Division, which is
 3 maintenance, fleet, traffic; and then there is the
 4 Administrative Division, which has employee safety
 5 currently, and then HR, and that sort of thing,
 6 accounting.
 7 Q. What is your educational background?
 8 A. I have an Associate's degree from Paul Smith's
 9 College in Environmental Science, Ecology and
 10 Environmental Technology, and also a Bachelor's
 11 degree from Cornell University in Natural Resources
 12 Management.
 13 Q. When did you start working for the Department
 14 of Transportation?
 15 A. In September of 2006.
 16 Q. And were you initially employed in the Office
 17 of the Environment, or did you work elsewhere?
 18 A. Well, at the time, it was Environmental
 19 Analysis Bureau, and then later became Office of the
 20 Environment, but essentially --
 21 Q. Slow down. I don't want the Reporter to sprain
 22 a finger.
 23 A. At the time, it was the Environmental Analysis
 24 Bureau and later became the Office of the
 25 Environment.

Page 615

1 Q. Okay. And is the Office of the Environment
 2 under the Engineering Division of the Department?
 3 A. That's correct.
 4 Q. And does the Office of the Environment restrict
 5 its services to the Engineering Division?
 6 A. Not really, no.
 7 Q. Can you please explain what the relation is
 8 between the Office of the Environment and the
 9 Operations Division, where the bulk of DOT employees
 10 work?
 11 A. Well, Office of the Environment has a lot of
 12 subject matter experts that don't exist elsewhere in
 13 the Department. So they provide that expertise for
 14 the other divisions.
 15 Q. How do they provide that expertise with
 16 relation to the responsibilities of the Department,
 17 under the MS4 permit, to the Operations Division?
 18 A. Well, they -- there is the Storm Water
 19 Management Pollution Prevention Plan, the SWMPP Plan,
 20 that has to be published every year, that goes to the
 21 DEC that is part of the MS4 permit. They largely
 22 deal with all of the managerial aspects of the MS4
 23 permit.
 24 Q. I want to take you back to the point in time
 25 before 2012. And would it be correct you were with

1 the Department for six years before 2012?
 2 A. That's correct.
 3 Q. And did you become familiar, in your work for
 4 the Department before 2012, with what sort of
 5 training operations department employees received on
 6 the responsibilities of the Department under the MS4
 7 permit?
 8 A. I would say, to an extent, yes.
 9 Q. Could you just describe that generally?
 10 A. Well, typically, what will happen is, there are
 11 -- well, there is a lot of training at the
 12 Department, your frontline maintenance employees,
 13 every year, each maintenance residency, which is
 14 every county, so some counties have two residencies,
 15 smaller counties have one residency, but the
 16 residency is the area served by one maintenance
 17 headquarters. So each headquarters will have spring
 18 safety meeting, and at those spring safety meetings,
 19 normally, the maintenance environmental safety
 20 coordinator will provide training. A lot will be
 21 housekeeping, a wide variety of things, but
 22 housekeeping is one of those things, and that is a
 23 very important part of storm water pollution
 24 prevention.
 25 Q. Is that training formalized training where

1 people need to get a diploma or have some sort of a
 2 degree?
 3 A. It didn't use to be. I believe, now, we have
 4 them go through the SLMS, which is the State Learning
 5 Management System.
 6 Q. Okay. And do the employees that go through
 7 that training, again -- before 2012, did the
 8 employees who went through that training, did they
 9 have to take any sort of test and pass it as a
 10 condition of employment?
 11 A. No.
 12 Q. And in addition to the training in the
 13 Operations Division, is there line management that is
 14 responsible for each of the residencies and
 15 specialized facilities?
 16 A. Line management.
 17 Q. Resident engineers?
 18 A. REs, AREs.
 19 Q. And do they provide the employees under their
 20 supervision with any sort of day-to-day guidance?
 21 A. Oh, sure. They will have tailgate training
 22 quite frequently.
 23 Q. Was the Office of the Environment available as
 24 a resource to those line managers?
 25 A. Oh, absolutely.

1 Q. Okay. So in the event that a question were to
 2 come up about, for example, where do I dump this
 3 drain oil, would it be possible to contact somebody
 4 at the main office?
 5 A. Yes. Typically, that question would first go
 6 to the maintenance environmental coordinator in the
 7 region, and if there is something that the MEC in the
 8 area couldn't handle, they would turn to subject
 9 matter experts in the Office of the Environment.
 10 Q. Now, in addition to the Operations Division,
 11 there is an Engineering Division, and within that
 12 Engineering Division, is there an Office of
 13 Construction?
 14 A. Yes.
 15 Q. And does the Office of Construction provide
 16 oversight of the Department's construction
 17 activities, where we hire contractors to build roads
 18 and bridges?
 19 A. Yes.
 20 Q. And are there environmental aspects to our
 21 management of those projects?
 22 A. Oh, yes.
 23 Q. Are you familiar with the standard
 24 specifications in all New York State DOT construction
 25 contracts?

1 A. I'm familiar with the spec book.
 2 Q. And does the spec book contain provisions
 3 requiring that contractors adhere to the obligations
 4 of the Department under the MS4 permit?
 5 A. Yes.
 6 Q. And does the Department have employees, I think
 7 we call them engineers in charge, who provide
 8 oversight of those projects?
 9 A. Yes.
 10 Q. And do those employees have responsibilities
 11 for providing oversight of contractor compliance with
 12 their obligations under the standard specifications
 13 that incorporate the obligations of the MS4 permits?
 14 A. Yes, they do.
 15 Q. Was that the case before 2012?
 16 A. Yes.
 17 Q. And did those employees within the Engineering
 18 Division, Office of Construction, did they receive
 19 any sort of regular training on what the requirements
 20 were for the Department's compliance?
 21 A. Yes.
 22 Q. Okay. And can you describe what that consisted
 23 of?
 24 A. Well, there was an annual training for
 25 engineers in charge, and there was always an

1 environmental component to that training.
 2 Q. Now, Mr. Kochersberger, were you involved in
 3 any portion of the three EPA audits that were
 4 conducted? I think they began in June of 2012.
 5 A. Yes, I was present at the Region 5 audits. I
 6 accompanied the EPA consultants to the audits of our
 7 maintenance facilities.
 8 Q. And what about -- that would be in 2013, as I
 9 recall?
 10 A. Yes, I believe so.
 11 Q. And there were two audits; one in June of 2012,
 12 and that was Region 9, down in the Binghamton area,
 13 and the second was at the end of November in 2012 in
 14 Region 8.
 15 Were you involved in either of those two
 16 earlier audits?
 17 A. No.
 18 Q. So I will only ask you, then, Mr.
 19 Kochersberger, about the audit that you participated
 20 in.
 21 What was your capacity; how did you participate
 22 in that audit?
 23 A. I was sort of the main office liaison at those
 24 audits.
 25 Q. So did the notification that the EPA was going

1 to do the audit, did that come into the main office
 2 or did that go somewhere else?
 3 A. That, I don't know. That would have gone
 4 probably to, well --
 5 Q. Did it come into your hands; did you learn
 6 about it?
 7 A. Well, I was being supervised by the person that
 8 headed the storm water section at that time.
 9 Q. Who was that?
 10 A. Dave Graves. And he just let me know that
 11 there was going to be an audit of Region 5, and he
 12 would like me to go.
 13 Q. And was there any sort of a kick-off meeting
 14 associated with the Region 5 audit that you
 15 participated in?
 16 A. We did have a meeting at the regional office,
 17 as far as I recall, before we went out to do the
 18 audits. We sort of broke up into teams.
 19 Q. And how did the -- how was the determination
 20 made as to the locations that would be audited by the
 21 EPA in Region 5?
 22 A. I'm not really sure, actually. I don't know if
 23 it was random or -- I think, for construction sites,
 24 I'm pretty sure they chose sites where there was
 25 something going on that we weren't allowed back to

1 projects for maintenance on the site. Obviously, in
 2 the MS4 areas, but I don't know if they were chosen
 3 at random or...
 4 Q. Now, there has been testimony that there were
 5 some visits to at least three DOT facilities in
 6 Region 5 in connection with the Region 5 audit; okay?
 7 A. Yes.
 8 Q. And did you accompany the EPA consultants and
 9 EPA employees that -- I guess DEC was involved, too,
 10 but that conducted that audit?
 11 A. Yes.
 12 Q. Were the residencies, or other facilities of
 13 DOT, provided with any prior notice that the EPA
 14 would be coming that day?
 15 A. I don't think a lot. I'm pretty sure they knew
 16 we were going to be coming, but I don't think there
 17 was significant notice.
 18 Q. Was there any memo that went out in advance of
 19 the audit to warn employees that they should do
 20 anything in preparation for the audit?
 21 A. Not that I'm aware of.
 22 Q. What were your observations when you made those
 23 visits in Region 5 for the audit that you
 24 participated in?
 25 A. It seemed to me that things were going fairly

1 well, but there were certainly things that we needed
 2 to correct.
 3 Q. Was there an exit meeting that occurred with
 4 the audit staff?
 5 A. Yes.
 6 Q. And at that exit meeting, was there any
 7 discussion about things that the DOT needed to do in
 8 order to get into compliance?
 9 A. Not really that I recall. Just a general
 10 overview of findings, and nothing was -- they didn't
 11 seem to make too big a deal of anything.
 12 Q. Did the auditors express any concerns that the
 13 State was going to be in trouble because of the audit
 14 results?
 15 A. No, we didn't really get into that, I don't
 16 believe. There was certainly -- they went over --
 17 there was certainly paperwork issues and they said
 18 that it was something that they found that we had
 19 some recordkeeping issues.
 20 Q. Now, prior to the meeting that you had in May
 21 of 2014, did you know anybody from the EPA?
 22 A. No -- oh, wait. No, I'm sorry, we did have a
 23 previous meeting on another matter under -- down in
 24 the city.
 25 Q. That was the --

1 A. The Northport.
 2 Q. So who did you know from the EPA from the
 3 Northport matter?
 4 A. Justine, Christy, Doug McKenna, and another
 5 gentleman, whose name I don't recall. He was the
 6 inspector that went out at Northport.
 7 Q. So none of those people participated in the
 8 Region 5 audit while you were present?
 9 A. Christy was present at the Region 5 audit. She
 10 went out to the construction sites, as I recall she
 11 got ill from sun poisoning and had to leave.
 12 Q. And during the time that you worked with
 13 Christy Arvizu before June -- before May of 2014, did
 14 you ever have any difficulties with her?
 15 A. No.
 16 Q. Did she ever express any kind of concerns about
 17 how the Department conducted its operations?
 18 A. Not that I'm aware of. I didn't deal with her
 19 a whole heck of a lot directly until the order, and
 20 then, even then, not a whole heck of a lot. I always
 21 found her good to deal with.
 22 Q. And I just want to be clear on this, Mr.
 23 Kochersberger, did Ms. Arvizu ever express to you
 24 that there were any problems at DOT that needed
 25 immediate attention?

1 A. No.
 2 Q. Okay. And now, in connection with the Region 5
 3 audit, and I'm not going to bother going through the
 4 pictures because we have all seen the pictures
 5 before, there are a number of pictures of equipment
 6 at DOT facilities and so-called petroleum staining in
 7 the parking lot.
 8 Do you remember seeing that?
 9 A. Yes.
 10 Q. When you did the audits, was that of particular
 11 concern to you?
 12 A. Not really; not a stain. A stain could be an
 13 area where it was cleaned up or the petroleum
 14 absorbed into the asphalt. It's not a tremendous
 15 concern.
 16 Q. Did the audit employees make any -- or did they
 17 make any statements to the DOT people who were
 18 present that these were conditions that needed to be
 19 remediated?
 20 A. There were things that they noted. I don't
 21 think that they said a lot more than that.
 22 Q. Now, Mr. Kochersberger, you're generally
 23 familiar with the requirements that are associated
 24 with construction projects, as far as erosion control
 25 is concerned; is that right?

1 A. Yes.
 2 Q. And what is the concern about erosion with
 3 respect to DOT facilities?
 4 A. With our facilities?
 5 Q. Yes.
 6 A. Well, certainly, if we have disturbed areas or
 7 unpaved areas, we want to make sure that we don't
 8 have sediment running into water bodies or storm
 9 drains.
 10 Q. Is there a maintenance or an operational
 11 concern about erosion, as it may affect our highways
 12 and bridges?
 13 A. Yes.
 14 Q. What is that concern?
 15 A. Well, I mean, certainly erosion can undermine
 16 the structures, cause a safety concern. Same thing
 17 for culverts. If the culvert -- if it's eroding
 18 around that, you know, you can have culvert washouts.
 19 Q. And are you familiar with the concerns about
 20 erosion as they relate to construction?
 21 A. Yes.
 22 Q. And are there certain measures contractors are
 23 required to take in connection with their work --
 24 A. Yes.
 25 Q. -- where there are disturbed areas and the

1 potential for erosion?
 2 A. Yes.
 3 Q. Can you just describe those, generally?
 4 A. Sure. Silt fencing, where required. If you
 5 have an exposed area of soil, that needs to be seeded
 6 and mulched, or temporarily mulched. Sometimes you
 7 can use erosion control products. There are just a
 8 lot of erosion and sediment control methods depending
 9 on the specific situation.
 10 Q. Before 2012, did the Department have procedures
 11 for the inspection of contractor work sites?
 12 A. Yes, I believe so.
 13 Q. And is there a type of report that needed to be
 14 prepared?
 15 A. Yes.
 16 Q. And which report was that?
 17 A. The -- oh, well, you mean -- well --
 18 Q. Is it SWIP or something?
 19 A. Well, that is the plan.
 20 Q. Okay. But is it true that in the Office of
 21 Construction, when the DOT is doing a project, the
 22 engineer in charge is supposed to do a weekly or more
 23 frequent inspection and prepare a report?
 24 A. Yes. And I think the engineer in charge may
 25 delegate that to someone, but that is something that

1 does have to happen. There are inspections that need
 2 to happen to make sure all of the erosion and
 3 sediment control practices are being kept up.
 4 Q. Is there a record supposed to be generated for
 5 those?
 6 A. Yes.
 7 Q. And in the event that the engineer in charge or
 8 his delegatee finds something wrong, is that
 9 something that the contractor is obligated to correct
 10 within a reasonable amount of time?
 11 A. Yes.
 12 Q. And in spite of all of those requirements, and
 13 in spite of all of those inspections, in your
 14 experience in working for the Department, have there
 15 occasionally been situations where a silt fence gets
 16 knocked down?
 17 A. Yes.
 18 Q. And have there been occasions when a contractor
 19 might track dirt onto a highway from a construction
 20 entrance?
 21 A. Oh, sure.
 22 Q. And how common are those sorts of occurrences?
 23 A. Probably pretty common.
 24 Q. Okay. And from a control of storm water
 25 run-off, how would you characterize, if you can, the

1 gravity of such violations?
 2 A. I mean, it would depend on the situation, but
 3 generally, I would say those are lesser things.
 4 Q. Now, Mr. Kochersberger, I'm going to direct
 5 your attention back to March of 2014, which is after
 6 the EPA audits, and I'm showing you Exhibit 40, which
 7 is in evidence, and I'm directing your attention to
 8 the date on that document, which is March 5, 2014.
 9 It starts off with a letter to Commissioner
 10 McDonald, who was the Commissioner at the time, and
 11 then it goes to an Administrative Compliance Order.
 12 Do you recognize this document?
 13 A. Yes.
 14 Q. And now, upon the receipt of this document, did
 15 there come a point in time that you became aware of
 16 the existence of the Administrative Compliance Order
 17 from EPA?
 18 A. Yes.
 19 Q. And how did you find out about it?
 20 A. I believe Dan told us that it was received, Dan
 21 Hitt.
 22 Q. And did you have an opportunity to review the
 23 Administrative Compliance Order prior to a meeting
 24 that occurred on May 13, 2014?
 25 A. Yes.

1 Q. And were you tasked, in any way, with the
 2 review of this document; did you have any part in
 3 looking it over?
 4 A. Yes.
 5 Q. Okay. And what was your role?
 6 A. Well, to review the findings, particularly with
 7 respect to the maintenance facilities, since I was at
 8 the maintenance facility in Region 5 when the audits
 9 occurred.
 10 Q. Now, the document does include a number of
 11 factual statements, as far as findings; and then, it
 12 also includes -- I think it begins at -- I think
 13 there are letters -- well, it begins with ordered
 14 provisions on Line C on page 11, and there is, like,
 15 a chart on the document, and those are things to do.
 16 Did you have any responsibility for reviewing
 17 those lists of things that the EPA contended should
 18 be taken care of?
 19 A. Yes.
 20 Q. And did you review all of them, or how was the
 21 responsibility divided up?
 22 A. I probably did look at all of them. I don't
 23 recall specifically what was the task, but I'm sure I
 24 looked at all of them and paid specific attention to
 25 the maintenance provisions.

1 Q. Who were the other DOT employees tasked with
 2 reviewing and coming up with compliance for these
 3 things?
 4 A. I believe, Ellen and Jonathan.
 5 Q. And of the three of you, who did you work for
 6 at the time?
 7 A. I worked for Jonathan at that time.
 8 Q. Who did Jonathan work for?
 9 A. Shengxin Jin, I believe.
 10 Q. Who worked for Dan Hitt?
 11 A. We all worked for Dan Hitt.
 12 Q. Okay. And now, I direct your attention to the
 13 last page of the Administrative Compliance Order,
 14 specifically paragraph 6, that starts, Notice is
 15 hereby given that failure to comply with the terms of
 16 the CWA, which I think is Clean Water Act, Section
 17 309(A)(3) compliance order may result in your
 18 liability for civil penalties for each violation of
 19 up to \$37,500 per day.
 20 Did you notice that when you were given the
 21 Administrative Compliance Order to review?
 22 A. Yes.
 23 Q. And is that something that you had seen in the
 24 past?
 25 A. Yes.

1 Q. Okay. In connection with what had you seen in
 2 the past?
 3 A. Well, there was the Northport order, but I had
 4 seen it before that. It was just something that is
 5 out there in environmental work that you see.
 6 Q. Mr. Kochersberger --
 7 A. I'm sure I have seen it in private industry, as
 8 well.
 9 Q. Mr. Kochersberger, in connection with your work
 10 in environmental matters at DOT, have you also had
 11 occasion to work with the Department of Environmental
 12 Conservation?
 13 A. Yes.
 14 Q. And has the DEC occasionally taken enforcement
 15 action against its sister agency, the Department of
 16 Transportation?
 17 A. Yes.
 18 Q. In your experience working with the, you know,
 19 enforcement matters, has the DEC ever issued, I think
 20 they call it, a Notice of Violation?
 21 A. Oh, yes.
 22 MR. GARELICK: Objection, Your Honor.
 23 Irrelevant to the proceedings in front of us
 24 today what DEC did on unrelated occasions
 25 relating to unrelated cases.

1 ALJ BIRO: Overruled.
 2 MR. WINANS: I'm trying to get his
 3 experience. I will not delve into this in
 4 detail, I assure you.
 5 Q. What did the DEC -- what was your experience
 6 working with them with similar documents?
 7 A. We had an order on petroleum bulk storage. DEC
 8 has a fine structure, I want to say \$12,500 a day --
 9 up to a possible \$12,500 a day for violations. It's
 10 just similar language.
 11 Q. Now, in working with DEC as an enforcement
 12 agency, what is the primary objective that they have
 13 sought to achieve with DOT?
 14 A. Well, to be in compliance.
 15 Q. And have there occasionally been penalties that
 16 DOT has, by agreement, paid on DEC consent orders?
 17 A. Yes.
 18 Q. Okay. And is that normally something that is
 19 worked out with the DEC in connection with their
 20 initial Notice of Violation?
 21 A. Normally.
 22 Q. Now, when DOT received this Administrative
 23 Compliance Order with -- from EPA, did you have any
 24 conversations with anybody at EPA prior to May 13,
 25 2014?

1 A. Regarding this order or...
 2 Q. Yes, regarding this order.
 3 A. No, I don't believe so.
 4 Q. Okay. And so, when is the first time that you
 5 were at any meeting where the Administrative
 6 Compliance Order was discussed?
 7 A. It was the kick-off meeting. I guess it must
 8 have been the May 13th meeting.
 9 Q. Okay. And now, I'm going to refer you to what
 10 is in evidence as Respondent's Exhibit 16, and it's a
 11 4-page document. We are only going to be going over
 12 two of these pages.
 13 The first page I'm showing you is actually the
 14 fourth page in the document, and it appears to be a
 15 sign-in sheet, and when I look at it, third from the
 16 bottom, is that your handwriting there?
 17 A. It is.
 18 Q. So you signed in and were at the meeting that
 19 day?
 20 A. Yes, that's correct.
 21 Q. I'm going to ask you some questions about the
 22 meeting.
 23 First of all, who scheduled the meeting?
 24 A. That, I don't recall. It could have been
 25 Jonathan or Ellen.

1 Q. Did you get a meeting request to be there?
 2 A. I'm sure. Yes, I did.
 3 Q. And when you arrived for the meeting, where was
 4 it?
 5 A. It was at our building on 50 Wolf Road.
 6 Q. Was it in a conference room?
 7 A. Yes.
 8 Q. And were there people there from DEC?
 9 A. Yes.
 10 Q. Were there people there from EPA?
 11 A. Yes.
 12 Q. And now, I think you said that, before she got
 13 sun poisoning, you had met Ms. Arvizu.
 14 Did you recognize her?
 15 A. Yes, and we had met earlier at the -- no, I
 16 guess the Northport thing was sort of after the
 17 audits. So, yes, I met her at the audits, just not
 18 -- she wasn't there for the full time.
 19 Q. Okay. And it also indicates that Justine
 20 Modigliani was present. Had you met her before?
 21 A. Yes, before this, at the Northport meeting.
 22 Q. And it indicates that she was the Compliance
 23 Section Chief. Did you understand her to be the
 24 senior EPA official at the meeting?
 25 A. Yes.

1 Q. Okay. I direct your attention to the first
 2 page of the exhibit. I will flip it around here.
 3 A. Sure.
 4 Q. Do you recognize this as being the agenda for
 5 the meeting?
 6 A. Yes.
 7 Q. And now, Mr. Kochersberger, as you went into
 8 the meeting, what did you understand as things that
 9 the Department wanted to discuss?
 10 A. Well, the steps for complying with the order,
 11 and that was the main purpose of it; to familiarize
 12 everyone with the process.
 13 Q. And did anybody before the meeting raise any
 14 concerns about that portion of the compliance order
 15 that I read to you, about the penalty of \$37,500 a
 16 day?
 17 A. Not that I recall. That is just standard -- in
 18 standard language. I don't recall any.
 19 Q. So was there any plan going into the meeting as
 20 to whether anybody was going to point that out or ask
 21 questions about it?
 22 A. That -- I'm not sure if there was a plan. I
 23 know it's something that, obviously, we wanted to
 24 know if there was going to be a fine associated with
 25 it or not.

1 Q. But in the pecking order of the Department,
 2 would it be fair -- not to be demeaning of you or
 3 anything, because I think you are a great guy, and I
 4 love your tie with the fish on it.
 5 A. Well, thanks.
 6 Q. Is it fair to say you are in the bottom?
 7 A. I was one of the least senior people at the
 8 meeting.
 9 Q. I think Scott was probably below you, too?
 10 A. No, we had the same -- we were at the same
 11 level at the time.
 12 Q. Fair enough. So at the meeting, there is an
 13 agenda, and it starts with Introductions. Was
 14 everyone introduced?
 15 A. I believe so.
 16 Q. And where did people sit with relation to one
 17 another? And I'm asking specifically about the EPA
 18 people; where did they sit?
 19 A. I believe they were across from where I was,
 20 kind of diagonally.
 21 Q. And where were they in relation to Dan Hitt,
 22 were they on opposite ends of the table or next to
 23 each other?
 24 A. I don't remember where Dan was sitting.
 25 Q. And the next item on the agenda, it says,

1 Review of NYS DOT 4/18 Comments. And what did those
 2 consist of -- we don't have them, what did they
 3 consist of?
 4 A. I believe they must have been comments that we
 5 made on the ordered provisions.
 6 Q. Okay. And it talks about a schedule. Were
 7 discussions had at this meeting when certain things
 8 would be done and what the schedule for compliance
 9 would be?
 10 A. Yes.
 11 Q. And in the course of that discussion, did you
 12 have any disagreements -- or did anyone have any
 13 disagreements at this meeting with EPA people?
 14 A. I'm sure there must have been, but I don't
 15 remember specific disagreements. I know there were
 16 some provisions that we thought may have been hard to
 17 meet on the compliance schedule.
 18 Q. Were there any arguments; did anybody get angry
 19 or make any threats or anything like that?
 20 A. Not that I recall.
 21 Q. Was there a general spirit of cooperation?
 22 A. Yes, I think so.
 23 Q. And what instructions were you given by your
 24 boss in terms of what the approach of the Department
 25 should be?

1 A. Get into compliance.
 2 Q. And the last item on the list here, it says,
 3 Next steps. What did that consist of?
 4 A. That, I don't know, but I'm imagining it was
 5 just moving forward after the meeting and getting out
 6 and doing what we needed to do.
 7 Q. Now, I understand you didn't raise the question
 8 of a penalty, but based upon your recollection of the
 9 meeting on May 13, 2014, did somebody from DOT bring
 10 this up?
 11 A. Yes.
 12 Q. Who was that?
 13 A. That was Dan.
 14 Q. And what is your best recollection of what Dan
 15 said?
 16 A. Is there going to be some kind of a penalty
 17 with this.
 18 Q. To whom did he address that to?
 19 A. Justine.
 20 Q. Would she have been in his view at the time, or
 21 you don't remember?
 22 A. I don't really remember.
 23 Q. And do you remember where Christy was seated in
 24 relation to Justine; were they next to each other?
 25 A. I don't remember that.

1 Q. Dan asked the question about the penalty. And
 2 do you have any recollection, as best you can
 3 remember, what would his words have been?
 4 A. I don't remember the words. I just remember
 5 the general question of whether or not there was
 6 going to be a penalty.
 7 Q. And did Justine Modigliani, the chief, did she
 8 respond to Dan?
 9 A. Yes.
 10 Q. And what was her response?
 11 A. Again, I don't remember the words, but that
 12 there would not be. There was no penalty, unless we,
 13 you know, just blow-off the order, then, of course,
 14 there will be a penalty.
 15 Q. Was that consistent with your experience
 16 dealing with DEC and how they normally handled
 17 alleged violations?
 18 A. Yes. It is very rare that we get a fine from
 19 the DEC.
 20 Q. And now, what about Ms. Arvizu, she was at the
 21 meeting; when Dan asked his question and Justine
 22 responded, was there any reaction out of Christy?
 23 A. I don't know.
 24 Q. You don't remember her saying anything positive
 25 or against?

1 A. No.
 2 Q. Did she make any faces or do anything that
 3 stood out?
 4 A. I really don't know.
 5 Q. She didn't pound her hand on the table or stomp
 6 her feet?
 7 ALJ BIRO: Sustained.
 8 MR. GARELICK: Objection. That is going
 9 way too far here. For the record, we have
 10 had three people testify about the same
 11 conversation, which is seemingly unclear to
 12 everyone, and now I would object to any
 13 further discussions regarding these
 14 conversations from these witnesses as
 15 repetitive.
 16 ALJ BIRO: Overruled. Go ahead.
 17 MR. WINANS: Well, I'm ready to move on.
 18 I do have one more witness, I'm warning
 19 you of that. There is one more guy.
 20 Q. So, Mr. Kochersberger, after the meeting and
 21 after everyone left, did you or did anyone else, to
 22 your knowledge, provide any letters or draft an
 23 e-mail confirming with anyone at EPA that there
 24 wouldn't be a penalty?
 25 A. Not that I'm aware of.

1 Q. And after that meeting, after you arranged a
 2 schedule for meeting the EPA's requirements under the
 3 Administrative Consent Order, was that Administrative
 4 Consent Order filled in by Phil Eng and sent to the
 5 EPA?
 6 A. I don't remember who signed it, if it was Phil
 7 or the Commissioner, but it was signed and went to
 8 the EPA.
 9 Q. Well, from your perspective, being someone
 10 lower in the pecking order, did you, from that date
 11 forward, have responsibility -- some responsibility
 12 for actually meeting the requirements that were
 13 spelled out in the compliance order?
 14 A. Yes.
 15 Q. Okay. And just describe, generally, what that
 16 consisted of?
 17 A. Since, at the time, even though I was in the
 18 Office of Environment still, I was working primarily
 19 with maintenance on maintenance issues. So I was
 20 tasked with working with maintenance to make sure
 21 that anything that dealt with maintenance was brought
 22 into compliance.
 23 Q. Now, Mr. Kochersberger, I understand, and you
 24 have testified, that the Department was committed to
 25 doing all of these things, but from your experience

1 as an environmental engineer, did you --
 2 A. I'm not an engineer.
 3 Q. As a -- what are you; specialist?
 4 A. Specialist; but thanks for the promotion.
 5 Q. I think they get paid more, too.
 6 From your perspective as an Environmental
 7 Specialist, were all of the things that the EPA was
 8 looking for absolutely necessarily still required?
 9 MR. GARELICK: Objection. I mean, he
 10 has made clear he is not an engineer. I
 11 don't think he has laid the groundwork to
 12 determine he is qualified --
 13 ALJ BIRO: To give an opinion;
 14 sustained.
 15 Q. I'm going to let that go, and I will just move
 16 on.
 17 So you did the things whether they were
 18 required or not because they were in the order,
 19 correct?
 20 A. Yes.
 21 Q. And now, in connection with the things that the
 22 EPA wanted to have done, were there costs associated
 23 with those things?
 24 A. Well, sure.
 25 Q. And what did those costs consist of; was it all

1 employee in-house costs, or were there any
 2 consultants used?
 3 A. I believe there were some consultants used.
 4 Q. Okay. And were there things that were done by
 5 the Department in connection with compliance that
 6 went above and beyond the requirements of the
 7 compliance order?
 8 A. I believe so.
 9 Q. Okay. And I'm going to refer you -- direct
 10 your attention to what has been marked as, I think,
 11 68 -- am I on the right one?
 12 ALJ BIRO: Respondent's Exhibit 68?
 13 MR. WINANS: No, this is Complainant's
 14 68. It is --
 15 Q. I'm going to direct your attention to this
 16 document. Have you seen this before, Mr.
 17 Kochersberger?
 18 A. I have -- or I don't really. I don't remember
 19 seeing it, but it's possible that I did.
 20 Q. Okay. And are you aware of the Department
 21 doing anything in connection with the compliance
 22 order that wasn't actually required by the MS4 permit
 23 between the Department and DEC?
 24 A. Let's see. Well, I'm sure that we did. I
 25 know, for example, with scrap metal, we certainly

1 went beyond the MS4 area and dealt with that at a
 2 State-wide level.
 3 Q. Thanks for bringing that up, Mr. Kochersberger,
 4 because isn't it true you're sort of like the master
 5 of scrap metal at this point, or you were for a
 6 period of time?
 7 A. I guess for a period.
 8 Q. Okay. And what did that consist of; what did
 9 the Department do to revise its procedures in dealing
 10 with scrap metal?
 11 A. Well, we made a uniform requirement for having
 12 containment around our scrap metal, excluding things
 13 that didn't belong in the pile.
 14 Q. Before we get into that, because nobody else
 15 here really understands it, what does the DOT
 16 generate in terms of scrap metal?
 17 A. Well, it's a variety of things. We have our
 18 fleet shops that generate scrap metal from their
 19 vehicle repair activities.
 20 Q. Fenders, and things like that?
 21 A. Fenders, radiators, any metal part that is
 22 replaced on a vehicle. It can be an axle, something
 23 that either previously contained oil of some kind or
 24 something that didn't. Any metal part of a vehicle
 25 that is replaceable or wears out.

1 Q. What else?
 2 A. Well, we have our sign crews, and our -- so
 3 they generate old signs and sign posts, guide rail.
 4 Q. Somebody crashes into a guide rail?
 5 A. That has to be replaced, so that goes into a
 6 scrap metal pile; and then, random things people
 7 chuck on the highway that get picked up. If it's
 8 metal, it goes into the metal pile.
 9 Q. And now, does that metal actually have
 10 intrinsic value?
 11 A. Oh, yes; absolutely.
 12 Q. Steel -- can steel be recycled?
 13 A. Yes. Steel can be, and non-ferous metal and
 14 aluminum, and then it all gets auctioned off on eBay
 15 through OGS.
 16 Q. And way back before 2012, did the Department
 17 have a process for dealing with scrap metal?
 18 A. Yes. I mean, it was piled up at a residency
 19 and then auctioned off by OGS.
 20 Q. And what changes were made in terms of the way
 21 that we dealt with scrap metal after the
 22 Administrative Compliance Order was signed?
 23 A. We made sure that it was contained. We
 24 eliminated things from the piles that were not
 25 supposed to go into the pile, that might contain

1 oils. Anything that was oily was segregated and
 2 stored in a separate container. We used oil
 3 absorbant pads under the piles, and also, at the
 4 opening, where we normally would put jersey barriers,
 5 they would be on three sides. So, we made sure that
 6 the run-off was going to be -- if any run-off, that
 7 would be oil-free. Some shops purchase their own
 8 containers, like a roll-off container, to put scrap
 9 metal in, and we have been working with OGS to try to
 10 actually get a contract in place where we use
 11 roll-off containers at all of our facilities but that
 12 hasn't come into place yet.
 13 Q. Have we managed to get rid of it more quickly?
 14 A. Yes, we do get rid of it pretty quickly now.
 15 Q. Because once it's off the property, nobody can
 16 find any fault with it, right?
 17 A. Yes, and it's just good to get rid of it so you
 18 have manageable size piles.
 19 Q. Okay. And did you have any responsibility for
 20 any of the other elements of compliance with the
 21 compliance order?
 22 A. Getting our regions -- or our maintenance
 23 facilities to adopt the storm water pollution
 24 prevention training, which is a PowerPoint that was
 25 delivered by MEC in general, and a video that they

1 watched, I believe.
 2 Q. And anything else?
 3 A. Nothing comes immediately to mind, but I'm sure
 4 there could have been other things.
 5 MR. WINANS: Thank you, Mr.
 6 Kochersberger. I don't have any further
 7 questions.
 8 THE WITNESS: Sure.
 9 MR. SAPORITA: Two minutes, Your Honor?
 10 ALJ BIRO: Yes.
 11 *****
 12 CROSS-EXAMINATION
 13 BY MR. SAPORITA:
 14 Q. Good morning, Mr. Kochersberger. I'm
 15 Christopher Saporita, I'm with the EPA. Just a few
 16 questions for you.
 17 You testified about training that you do for
 18 environmental matters. Do you routinely keep
 19 documentation of attendance of the trainings?
 20 A. We do now, yes.
 21 Q. You do now. But did you before the EPA
 22 Administrative Compliance Order was issued?
 23 A. For some training, not all training.
 24 Q. Okay; thank you. And are the environmental
 25 trainings required for all staff at the maintenance

1 facilities?
 2 A. Yes.
 3 Q. Okay. And were they prior to the order?
 4 A. They would have been.
 5 Q. Okay. And do you keep -- did you, before the
 6 order, keep records of all of the contents and
 7 documents, and all materials that are offered during
 8 the trainings?
 9 A. I don't.
 10 Q. You spoke a little bit about the contract
 11 provisions that were designed to ensure that
 12 contractors comply with their erosion and sediment
 13 control requirements. You said that you were on one
 14 of the audits.
 15 You reviewed the audit reports for the other
 16 audits, as well; is that correct, and you saw the
 17 list of concerns that the EPA had in its
 18 Administrative Compliance Order. Did it appear,
 19 based on the numerous photos of violations, or
 20 failures of controls, that contract provisions were
 21 working at the time of the audit?
 22 A. I didn't review a lot of the stuff regarding to
 23 contractors or construction contracts.
 24 Q. And you said at the post-audit conference for
 25 the Region 5 audit, you were there?

1 A. Yes.
 2 Q. And you said that EPA and the auditors gave an
 3 overview?
 4 A. Well, the auditors did.
 5 Q. The auditors; thank you, gave an overview of
 6 concerns?
 7 A. Yes.
 8 Q. And you said that they were mostly paperwork
 9 concerns -- or I forget how your characterized it
 10 exactly. Were there any other concerns, other than
 11 that, that you recall from this?
 12 A. There might have been, but certainly, I would
 13 say that they didn't make a huge deal out of
 14 anything. They just said, we have some findings and,
 15 you know, certainly the paperwork things were
 16 obvious.
 17 Q. So they were mild-mannered in the way they
 18 conveyed the concerns?
 19 A. Yes.
 20 Q. I'm not going to get into all of the findings
 21 you made in the audit reports with you, because we
 22 already presented evidence of that, and I know you're
 23 here mainly to talk about the penalty issue.
 24 So, in the meeting, you said that Ms.
 25 Modigliani said there would be no -- I'm sorry, that

1 Dan Hitt asked whether there would be any penalty
 2 with this, right? Now, presumably, he was referring
 3 to the Administrative Compliance Order, so --
 4 A. Yes.
 5 Q. So this response about no penalty that we have
 6 heard, that you have recalled and a couple of other
 7 witnesses recalled, is it possible that Ms.
 8 Modigliani was merely stating that, for this order,
 9 there would be no penalty, and not finding the agency
 10 to seek no penalty in the future complaint?
 11 A. That was not my understanding, I mean...
 12 Q. And did you read the first compliance order,
 13 the one issued March 4, 2014?
 14 A. Yes.
 15 Q. Okay. And did you read the reissued one with
 16 the -- after the meeting in June?
 17 A. I don't know if I did or not.
 18 Q. Okay. You were asked whether the DOT went
 19 above and beyond compliance as a result of the EPA
 20 audits. You mentioned the one example you gave, the
 21 only example you gave, was that you took the scrap
 22 pile covering controls that you developed as a result
 23 of the audits, and you kind of built them out
 24 State-wide; is that correct?
 25 A. Yes.

1 Q. Did EPA, at any time, insist that DOT make
 2 those things applicable State-wide?
 3 A. I don't recall.
 4 MR. SAPORITA: That's all I have.
 5 MR. WINANS: Nothing further; thank you.
 6 ALJ BIRO: Okay. Thank you very much.
 7 (Whereupon, the Witness is excused.)
 8 ALJ BIRO: How many more witnesses do
 9 you have?
 10 MS. McNALLY: Just one.
 11 ALJ BIRO: Why don't we break for lunch
 12 and can we be back by quarter after one. We
 13 will stand in recess until then.
 14 (At which time, 12:20 p.m., a recess for
 15 lunch was taken until 1:17 p.m.)
 16 ALJ BIRO: We were at your last witness,
 17 Ms. McNally.
 18 MS. McNALLY: We would like to call
 19 Jonathan Bass.
 20 ALJ BIRO: Madam Reporter, please swear
 21 in the Witness.
 22 *****
 23 JONATHAN BASS,
 24 called as a witness, being duly sworn,
 25 testifies as follows:

1 ALJ BIRO: Go ahead.
 2 DIRECT EXAMINATION
 3 BY MR. WINANS:
 4 Q. Mr. Bass, could you please tell us your full
 5 name and position?
 6 A. Jonathan Bass, and Environmental Scientist 2.
 7 Q. By whom are you employed?
 8 A. New York State DOT.
 9 Q. And what is your current role at New York State
 10 DOT?
 11 A. Environmental Specialist 2, in the Office of
 12 Construction.
 13 Q. And prior to moving to the Office of
 14 Construction, did you work in the Office of
 15 Environmental --
 16 A. Environmental Science Bureau?
 17 Q. Yes.
 18 A. Yes.
 19 Q. And what was your title when you were in the
 20 Environmental Science Bureau?
 21 A. Environmental Scientist 2.
 22 Q. And can you give us just a brief description of
 23 the organization we work for, and the placement of
 24 the Environmental Science Bureau in that
 25 organization?

1 A. The Environmental Science Bureau is part of
 2 the, now, Office of Environment. It used to be just
 3 a separate bureau in the Engineering Division. So
 4 you have an Engineering Division, which does your
 5 design and also your construction, which supports the
 6 Capital Program; and then on the other side of the
 7 house, you have maintenance/operations, that runs our
 8 maintenance facilities and residencies, and the
 9 Environmental Science Bureau gives support to, both,
 10 Capital Program and operations.
 11 Q. Now, are you in management -- or were you in a
 12 management capacity, Mr. Bass?
 13 A. I had staff.
 14 Q. Okay. But are you familiar with the budget of
 15 the Department of Transportation?
 16 A. Not that familiar with it, no.
 17 Q. Are you familiar with the number of employees
 18 we have at the DOT?
 19 A. I believe it's somewhere around 8 or 9,000.
 20 Q. Okay. And are you familiar with the
 21 distribution of those employees; how many work for
 22 the chief engineer and how many work for the
 23 Operations Division?
 24 A. I do not.
 25 Q. Okay. Is there a system whereby the Office of

1 Environmental Services does work for other areas in
 2 the organization that are not in their chain of
 3 command? Do you understand the question?
 4 A. Yes. Yes. And the answer is yes. So like I
 5 was saying, they give support to operations, they
 6 give support to construction, they give support to
 7 design, health and safety, planning, yes.
 8 Q. And what is your educational background?
 9 A. I have a Bachelor's of Science degree from SUNY
 10 Fredonia, and I also have post-graduate work in
 11 industrial hygiene, asbestos, a lot of asbestos
 12 accreditations, certification training, that kind of
 13 thing.
 14 Q. Did you do any work in your field before you
 15 joined the DOT?
 16 A. Yes, I did.
 17 Q. Where did you work?
 18 A. So in 1987, I worked with the firm of
 19 Laboratory Testing Services out of Westbury doing a
 20 lot of project supervision, abatement, and I worked
 21 for them for about two years. I opened up an office
 22 for them in Boston, and then, my father passed away
 23 and I moved back to Central New York, which is where
 24 I'm from, and I worked for a certified engineering
 25 and testing firm until about 1991, when the economy

1 kind of dropped out and the company went belly-up
 2 nationwide. And I also worked -- or did a short
 3 stint for BOCES, here in Upstate New York, doing,
 4 basically, Right-To-Know training and asbestos
 5 inspection work, and I worked with a firm name Jack
 6 Eisenbach Engineering in Utica, doing project
 7 management, mostly asbestos, but also indoor air
 8 quality, phase one, phase two environmental
 9 assessments, that kind of thing, for bank transfers.
 10 Q. And then you joined the Department?
 11 A. Then, I joined the Department in 1994.
 12 Q. Were you always in the environmental field
 13 after you joined the Department?
 14 A. Yes.
 15 Q. In 1994, you said?
 16 A. Yes.
 17 Q. Okay. Back before 2012, did the Department
 18 have systems in place to train employees in the
 19 Operations Division as to how they should address
 20 environmental requirements?
 21 A. Yes, they did.
 22 Q. And can you describe those systems, please?
 23 A. They were basically informal, but we -- New
 24 York State DOT is a unique department, a unique State
 25 transportation agency, because we are only one of the

1 few DOTs in the country who actually put
 2 environmental staff in both their maintenance and
 3 construction programs. And so, that training was in
 4 place through the -- what we call the MEC, the
 5 Maintenance Environmental Coordinators, that perform
 6 that. I wasn't directly involved in that, but that
 7 would be my assessment.
 8 Q. And is this training that you're talking about
 9 generalized training that includes environmental
 10 matters, or is it specific to environmental matters?
 11 A. It would be specific to certain environmental
 12 matters.
 13 Q. Okay. And what are the matters that were
 14 addressed in that training before 2012?
 15 A. The ones that I'm aware of, there would be
 16 asbestos training for certain folks, I believe there
 17 was a lot of stuff associated with fuel, and the, you
 18 know, fuel that is stored on-site on our residencies,
 19 and the maintenance of the fuel tanks, and that kind
 20 of thing; a lot to do with fuel, and also, transfer
 21 of waste from the sites, clean-up and maintaining the
 22 facilities so that things weren't polluted, that kind
 23 of stuff.
 24 Q. What about the proper disposal of petroleum
 25 products?

1 A. Absolutely. That would be part of it, yes.
 2 Q. Now, in addition to the training that was
 3 provided before 2012, was there on-site supervision
 4 for operations employees?
 5 A. There was. I'm not sure that it was 24/7.
 6 Q. And did they have managers, resident engineers?
 7 A. Oh, yes; absolutely.
 8 Q. So are there people who are in authority at
 9 these DOT facilities, who can provide resources in
 10 the event that somebody doesn't understand how to
 11 dispose of drain oil or something of that nature?
 12 A. Absolutely.
 13 Q. The sort of training is provided to those
 14 resident engineers, is it the same or is it
 15 different?
 16 A. I would say it's the same training, because
 17 they are dwelling upon the MEC. It's through those
 18 maintenance environmental coordinators that provide
 19 that.
 20 Q. Is this training something that is graded; do
 21 people have to take a test?
 22 A. I don't believe so.
 23 Q. Do you lose your job if you don't have the
 24 training?
 25 A. No.

1 Q. And when the training is done of these
 2 employees, are there sign-up sheets that are
 3 maintained that we could refer to to see who had the
 4 training and ensure that all 8,000 employees went
 5 through some sort of training?
 6 A. No.
 7 Q. Okay. Now, in addition to the Operations
 8 Division, which is the part that has the snowplows
 9 and the maintenance workers that fill potholes and
 10 stuff like that --
 11 A. Uh-huh.
 12 Q. -- you indicated that the Department also has
 13 an Engineering Division?
 14 A. Correct.
 15 Q. And the Engineering Division, does that include
 16 the Office of Construction?
 17 A. It does.
 18 Q. And does the Office of Construction manage the
 19 Department's Capital Program that would be the
 20 construction of highways and bridges?
 21 A. Yes.
 22 Q. And do we do that ourselves or do we usually
 23 rely on contractors for that purpose?
 24 A. Mostly contractors, yes.
 25 Q. And are those contractors working pursuant to

1 contracts with the State of New York?
 2 A. Yes.
 3 Q. And are you familiar with the standard
 4 specifications that are attached to those contracts?
 5 A. Yes.
 6 Q. And now, again, back before 2012, did those
 7 contracts with the DOT contractors that do
 8 construction, did they include environmental
 9 requirements for which the contractors were
 10 responsible?
 11 A. Yes.
 12 Q. And does the Office of Construction have a
 13 staff of employees who oversee the Capital Program?
 14 A. Yes.
 15 Q. What are the titles of some of those people?
 16 A. So the direct people on the projects are called
 17 the engineers in charge. They report to area
 18 supervisors. Typically, the engineers in charge
 19 cover one project, and one project at a time. Then
 20 the area supervisor, who they report to in the
 21 regions, covers several projects as managers, and
 22 then the supervisors report to the regional
 23 construction engineers. We also have construction
 24 environmental coordinators, similar to the MEC.
 25 Those act as support during the construction work for

1 specific -- just for environmental work.
 2 Q. The project supervisors for construction, do
 3 they have responsibilities that include oversight of
 4 the contractor's performance of the environmental
 5 work?
 6 A. Yes, absolutely.
 7 Q. Are there regular records that are supposed to
 8 be generated by those oversight employees?
 9 A. Yes.
 10 Q. And can you tell us what any of those are?
 11 A. For environmental purposes?
 12 Q. Yes.
 13 A. Well, there is -- for example, it depends on
 14 what the area is, but for asbestos abatement, there
 15 is recordkeeping and project records that have to be
 16 documented for any asbestos work.
 17 Q. Let's talk about storm water, I think --
 18 A. There is a whole lot of recordkeeping related
 19 to the SPDES project.
 20 Q. In the event that a supervisory employee of the
 21 Department notes a problem with the compliance with
 22 the MS4 requirements, is it the normal practice for
 23 that oversight employee to go to the contractor and
 24 make sure they fix the problem?
 25 A. Yes.

1 Q. Now, you're familiar with the concept of
 2 erosion in connection with the State highway system?
 3 A. Yes.
 4 Q. And is erosion something that we, you know,
 5 take action on at the Department of Transportation?
 6 A. Yes.
 7 Q. And why is that?
 8 A. It has been a focus of the Department for a
 9 number of years, and it's basically something that
 10 can be publically seen, and so, it's a sensitive area
 11 to people. And there is a lot of water in New York
 12 State, so we want to make sure that the sediment
 13 isn't getting into any of the waterways.
 14 Q. Is the erosion of the soil underneath State
 15 highways, is that something that can even threaten
 16 the highway?
 17 A. Absolutely, it can degrade, you know, the
 18 actual ability to use the highway.
 19 Q. Is erosion control one of the requirements
 20 under construction contracts?
 21 A. Yes.
 22 Q. And how is that erosion control normally
 23 specified; what sort of techniques or devices?
 24 A. There are a number of them. There is sediment
 25 control associated with silt fence. We also have

1 done fiber logs that can be used for erosion sediment
 2 control. There is stone work that can be used, check
 3 dam for that type of purpose. Vegetation and mesh
 4 netting. These are the ones I can think of off the
 5 top of my head.
 6 Q. To the extent that those types of safeguards
 7 are necessary or reasonable for a project, is the
 8 engineer in charge responsible for enforcing the
 9 requirement?
 10 A. Yes.
 11 Q. At New York State DOT, do we have what we
 12 generally call a construction season?
 13 A. Yes.
 14 Q. And when does the construction season run?
 15 A. Basically, depending on the winters, mid-April
 16 until mid to late October. Long Island probably has
 17 a longer season.
 18 Q. Okay. Do we have some projects at DOT, Capital
 19 Projects, that are actually multiple year projects,
 20 where a contractor will work for a season and then
 21 come back in the following year?
 22 A. Oh, yes.
 23 Q. And are those contracts for those projects
 24 technically kept open during the period between the
 25 construction seasons?

1 A. Yes.

2 Q. Do the contractors continue to have
3 responsibility for specifying erosion control on
4 those projects, even in the off-season?

5 A. Yes.

6 Q. And as a practical matter, how frequently are
7 contractors and Department employees on-site on these
8 projects in the off-season?

9 A. Not very often.

10 Q. So in the event that an audit were to occur in
11 late November, would that be outside of the
12 construction season?

13 A. Typically, it would be, yes.

14 Q. So would the level of oversight being provided
15 by DOT for that project in late November, would it be
16 the same or would it be less or would it be different
17 in some way?

18 A. It would be less.

19 Q. Now, Mr. Bass, are you familiar with the audits
20 that were performed in Region 9, Region 8 and Region
21 5 of the DOT by the EPA in June of 2012, November of
22 2012 and May of 2013 -- I think it's May?

23 A. I did not participate directly in the audits.
24 I am familiar with them, based on the information
25 that is in the order.

1 Q. Okay. So did you have any direct involvement
2 in the audit process; were you present for any of
3 that?

4 A. No.

5 Q. Okay. And were there other employees at the
6 Department who were involved in those audits?

7 A. Yes.

8 Q. Okay. And are you aware of any audits by the
9 EPA of the DOT before June of 2013?

10 A. No.

11 Q. Are you familiar with any Administrative
12 Compliance Orders served by the EPA on the DOT before
13 2014?

14 A. No.

15 Q. Have you had experience with other enforcement
16 against the Department, other than the enforcement
17 that brings us here today?

18 A. Yes.

19 Q. By DEC?

20 A. Yes.

21 Q. Okay. And can you describe, just generally and
22 very briefly, the process that the Department has
23 gone through with DEC?

24 MR. GARELICK: Objection, Your Honor.
25 This is repetitive and irrelevant to the

1 proceeding in front of us, and about the
2 fourth witness that is testifying to
3 something that is irrelevant.

4 ALJ BIRO: Yes. If it's something that
5 is going to be relevant here that is
6 different than what we heard before...

7 MR. WINANS: I hope it's the same, Your
8 Honor, but I don't want there to be any
9 question that this Witness might have a
10 different perspective on it. I'm trying to
11 lay the foundation. I won't go very long
12 about this part.

13 ALJ BIRO: Can we stipulate he will
14 testify to the same effect as the last
15 Witness?

16 MR. GARELICK: Yes.

17 ALJ BIRO: Is that acceptable to you?

18 MR. WINANS: That certainly is
19 acceptable.

20 ALJ BIRO: So stipulated. Let's move
21 on.

22 Q. Mr. Bass, at some point in 2016, did you become
23 aware of an Administrative Compliance Order that was
24 served by the EPA on the Commissioner of
25 Transportation?

1 A. Yes.

2 Q. And I'm showing you what has been marked as --
3 and it's in evidence, as Exhibit 40. It's dated
4 March 5, 2014. It begins with a letter to the
5 Commissioner.

6 ALJ BIRO: Complainant's Exhibit 40?

7 MR. WINANS: Yes, I'm sorry.

8 Q. What follows is the Administrative Compliance
9 Order. And how did this come into your possession?

10 A. My office director gave it to me.

11 Q. Did he give it to you with any instructions?

12 A. Yes. So, basically, I was directed to carry
13 out the provisions. This was delegated to him, and
14 he delegated it to me.

15 Q. When you say "he", are we talking about Dan?

16 A. Dan Hitt, yes. And he delegated to me to start
17 working on this, to get these provisions met.

18 Q. And what were his instructions to you; just to
19 meet them or --

20 A. Yes.

21 Q. Anything else?

22 A. Yes. He wanted all of them met by the regions
23 and by the Department.

24 Q. And I'm directing your attention to page 21 of
25 the exhibit, paragraph 6, where it makes reference to

1 a civil penalty for each violation of \$37,500 per
 2 day; do you see that?
 3 A. I do.
 4 Q. Did you notice that when you were initially
 5 assigned to work on this?
 6 A. Yes.
 7 Q. Is that something that you discussed
 8 internally?
 9 A. Yes.
 10 Q. And what was the nature of the internal
 11 discussion that you had?
 12 A. There was concern among many people internally
 13 whether or not that would be levied on us if we were
 14 weren't to meet this order.
 15 Q. Were efforts made to get an extension of time?
 16 The document, itself, requires a response within 20
 17 days; was there a response within 20 days or did
 18 somebody ask for an extension?
 19 A. Yes. I believe there was, yes.
 20 Q. And who was it that reached out to EPA to get
 21 the extension?
 22 A. I believe that was Dan.
 23 Q. Okay. And at that point, were arrangements
 24 made for a meeting that was ultimately held on May
 25 13, 2014?

1 A. Yes.
 2 Q. And who made the arrangements for that meeting?
 3 A. I coordinated that meeting.
 4 Q. With whom did you coordinate it at EPA?
 5 A. Christy Arvizu, Justine Modigliani.
 6 MR. GARELICK: I'm sorry, Your Honor. I
 7 apologize. If you want to finish the
 8 question, feel free to finish the question.
 9 I just -- I don't know.
 10 ALJ BIRO: Your objection?
 11 MR. GARELICK: I don't know if we ever
 12 finished our prior objection, but if the
 13 testimony is going to be he was present at
 14 the meeting, and exactly similar to what we
 15 have heard, we would stipulate to the fact he
 16 was present at the meeting and his
 17 interpretation of what was said is what was
 18 said by the previous witnesses.
 19 MR. WINANS: Your Honor, I don't want to
 20 drag out these proceedings, okay, and I
 21 appreciate the offer to stipulate, and I'm
 22 more than happy to go through this a little
 23 faster than I have with the last two
 24 witnesses, but the Department has asserted an
 25 affirmative defense here that we relied upon

1 the representations made at the meeting. So
 2 I think it's very important that at least I
 3 get in an abbreviated version of what
 4 happened at the meeting.
 5 ALJ BIRO: Okay. Four questions. Just
 6 ask him four questions.
 7 MR. WINANS: Well, I can ask one
 8 question and have him --
 9 ALJ BIRO: That's good, too. Let's just
 10 ask one question.
 11 MR. WINANS: Very good.
 12 Q. Mr. Bass, would you please explain what
 13 occurred at the meeting that occurred on May 13,
 14 2014?
 15 A. Okay. So that meeting was to go over all of
 16 the provisions and to get a preliminary indication
 17 from EPA what those provisions meant and what we were
 18 supposed to do to meet those provisions, and also to
 19 adjust time frames when those provisions were due,
 20 because some of those dates would not work. And
 21 then, at the end of the meeting, Dan Hitt asked
 22 Justine Modigliani, quite frankly, so how does this
 23 order get closed, how does the order get closed out,
 24 and the answer was, once all of the provisions were
 25 met, we would get something in writing that closes

1 out the order. And then, Dan followed-up with a
 2 question: Would there be an associated penalty with
 3 the order, and she responded, no, as long as you meet
 4 all of the provisions in the order, there will be no
 5 penalty.
 6 ALJ BIRO: Good. Can we move on?
 7 MR. WINANS: We can.
 8 Q. Mr. Bass, did you have a role -- well, I want
 9 to follow-up just slightly.
 10 Was this conversation about how there wouldn't
 11 be a penalty ever memorialized by an e-mail or phone
 12 call or a letter to anyone at the EPA?
 13 A. No, not that I'm aware of.
 14 Q. And did you have a continuing role in the
 15 compliance process and submission of progress
 16 reports?
 17 A. Yes.
 18 Q. And please, describe how that process worked?
 19 A. So, basically, I worked with Ellen mostly.
 20 Ellen had really mostly done most of the grunt work,
 21 working with the regional staff to meet -- and our
 22 main office staff, to meet the provisions of the
 23 order. My job was to make sure that regional staff
 24 and main office staff above her level would listen to
 25 her and follow-up, and do the things that they were

1 being asked to do. And then, she would draft
 2 quarterly reports on the progress of the provisions
 3 and give them to me. I would finalize them, have Dan
 4 sign those reports, and we submit them.
 5 Q. I'm just going to show you one of those from
 6 earlier in the proceedings. I'm sure my adversary
 7 would be happy to stipulate to all of that, too, to
 8 get this moving along, but I will direct your
 9 attention to an e-mail, this is in Complainant's
 10 Exhibit 59, it's a 338-page exhibit.
 11 A. Uh-huh.
 12 Q. And it starts out with an e-mail that purports
 13 to be from you?
 14 A. Yes.
 15 Q. To Christy Arvizu; you see that?
 16 A. Yes.
 17 Q. Is this the typical form of the submittals that
 18 you made, that you would have the report, you would
 19 scan it?
 20 A. Yes.
 21 Q. You would mail it in hard copy, but you would
 22 send it to Christy by e-mail?
 23 A. Yes, and copy involved staff over at DEC and
 24 others, as well.
 25 Q. And in this situation, Christy seems to have

1 replied to you as stated here in the e-mail. It
 2 says, Thank you for forwarding NYS DOT's submittal, I
 3 will begin my review in the near future and be in
 4 touch if I have any questions.
 5 Is this the normal process that was used?
 6 A. Yes.
 7 Q. And it appears as though this is the final
 8 progress report that you made?
 9 A. Correct.
 10 Q. And do you know whether Christy contacted you
 11 in the near future following this?
 12 A. No, she did not.
 13 Q. So was this basically the close-out report?
 14 A. This was the last, you know, acknowledgment of
 15 that submission.
 16 Q. Well, further down is the actual letter and
 17 report. Is that the final progress report that you
 18 submitted?
 19 A. Yes.
 20 Q. Now, can you please explain to the Judge what,
 21 if any, measures were taken by DOT in relation to the
 22 compliance order that were above and beyond what was
 23 required by EPA?
 24 A. Well, I think above and beyond, that would have
 25 to do a lot with our maintenance facilities, in my

1 opinion. So one of the provisions was that we had to
 2 do these assessments of our residencies, that is
 3 where our trucks are kept and the plow trucks and all
 4 of that stuff. And so, when we did those
 5 assessments, we not only did it for the residencies
 6 that were in the MS4 areas, but the areas outside of
 7 the MS4, too. So that is one thing.
 8 Another ordered provision had to do with --
 9 they had issues that they had found at one of the
 10 residencies that was stockpiling and how the
 11 stockpiles were being treated. So we worked through,
 12 trying to figure out what we needed to do to correct
 13 that stockpiling in terms of coverage, to make sure
 14 the sediment was protected from going anywhere. Also
 15 they had issues with scrap metal, didn't like the way
 16 our scrap metal was being stored on-site. And so,
 17 when we implemented changes for those types of things
 18 at our residencies, we not only did it for areas in
 19 the MS4, but we did it outside of the MS4 areas, as
 20 well, you know. It's a State agency, so those are
 21 the types of things that we did. Those are the
 22 things, off the top of my head, that I can remember
 23 anyway.
 24 Q. Did any of those things entail additional costs
 25 to the Department?

1 A. Oh, yes; sure.
 2 Q. And did the assurance at the meeting on May 13,
 3 2014 have anything to do with DOT's willingness to
 4 undertake those additional measures?
 5 A. No.
 6 Q. Okay; all right. Now, Mr. Bass, after the
 7 final submission in February of 2016, did there come
 8 a point in time when you learned of the Notice of
 9 Proposed Assessment of a Civil Penalty, dated June
 10 15, 2016?
 11 A. Yes.
 12 Q. I direct your attention to Complainant's
 13 Exhibit 60, I think you recognize that. How did this
 14 come to you?
 15 A. Dan gave this to me, I believe, but it might
 16 have been e-mailed to me, as well. I can't recall.
 17 I mean, verbally, it was Dan who told me about it
 18 because I believe he had a call with Justine, a
 19 verbal call with Justine Modigliani, and then I
 20 believe he forwarded me an e-mail that included some
 21 kind of summary of that.
 22 Q. Just a moment, please. I'm looking for that
 23 e-mail.
 24 MR. WINANS: Okay. This is not in
 25 evidence yet, so I'm going to offer it at

1 this time, but just to identify the document.
 2 May I approach, Your Honor?
 3 ALJ BIRO: You may.
 4 Q. I'm showing you what has been marked for
 5 identification as Exhibit 65. Do you recognize that
 6 as an e-mail?
 7 ALJ BIRO: Respondent's Exhibit 65?
 8 MR. WINANS: It is.
 9 A. Yes.
 10 MR. WINANS: Did you want me to pause,
 11 Your Honor?
 12 ALJ BIRO: No, go ahead. I will find
 13 it.
 14 Q. And this purports to be an e-mail that was
 15 forwarded to you by your boss, Dan Hitt?
 16 A. Yes.
 17 Q. And it includes an e-mail from Justine
 18 Modigliani?
 19 A. Correct.
 20 Q. And she is the person who was at the meeting on
 21 May 13th?
 22 A. Yes.
 23 Q. And is this a record that is kept in the
 24 ordinary course of business by the Department or an
 25 e-mail system?

1 A. Yes.
 2 MR. WINANS: Your Honor, I would offer
 3 this exhibit.
 4 MR. SAPORITA: I believe the Witness
 5 testified to the portion from Christy's
 6 address to below, but not the above-portion
 7 from Ellen.
 8 MR. WINANS: We had previous testimony
 9 about that.
 10 MS. McNALLY: No, no. He is talking
 11 about Jonathan also talked about what he
 12 received, but he should testify about what he
 13 sent.
 14 Q. Okay. Mr. Bass, after you received the e-mail
 15 that was forwarded to you by Mr. Hitt, did you
 16 forward the e-mail to Ellen Kubek, Scott Kappeller
 17 and Shengxin Jin?
 18 A. Shengxin Jin was my supervisor at the time.
 19 Ellen was working for me, obviously, on the order and
 20 Scott Kappeller was also staff working for me at the
 21 time that was involved. So I forwarded it to them,
 22 initially, and then, you know, in surprise, letting
 23 them know we would get a penalty after all.
 24 Q. Don't read it yet. I just offered the
 25 document.

1 ALJ BIRO: Is there any objection?
 2 MR. SAPORITA: No, Your Honor.
 3 ALJ BIRO: So Respondent's Exhibit 65 is
 4 admitted into evidence.
 5 Q. So, Mr. Bass, the initial e-mail that was given
 6 to you by Dan Hitt is from Justine Modigliani, who
 7 was at the meeting on May 13th, correct?
 8 A. Right.
 9 Q. And she sent that on Tuesday, June 21, 2016 at
 10 10:29 a.m.?
 11 A. Yes.
 12 Q. And the document states, I wanted to thank you,
 13 once again, for all the work you have put forward to
 14 come into compliance with the MS4 permit. We
 15 recognize that it took a great deal of time and
 16 effort to make the changes you have made to your
 17 program. That said, we also have an obligation to
 18 collect penalties for past violations of the permit.
 19 I have attached a copy of the complaint that was
 20 mailed to Commissioner Matthew J. Driscoll late last
 21 week so you may review it as soon as possible.
 22 Please let me know if you have any specific questions
 23 at this point.
 24 Do you see that, sir?
 25 A. I do.

1 Q. And that is what you got from Dan Hitt?
 2 A. Well, yes, but now I look at it, I guess I also
 3 got it. Dan sent it to me, but Christy also sent to
 4 to me, as well.
 5 Q. Oh, yes, it does indicate that. And Christy
 6 says, Hi, Jonathan. FYI, I'm forwarding Justine
 7 Modigliani's recent message to Dan Hitt for your
 8 records.
 9 And you want to read what your statement was to
 10 your staff on Tuesday, June 21, 2016 at 11:16 a.m.?
 11 A. So approximately twenty or thirty minutes
 12 later, I sent it to my staff and I said, FYI,
 13 apparently we were going to get a penalty all along.
 14 Based on the letter, my sense is we should request
 15 the informal conference to argue the penalty up to
 16 the attorneys on the whole hearing thing. Dan and
 17 Terry are already aware, and Dan has forwarded
 18 upstairs. Justine Modigliani called him this morning
 19 as a heads-up.
 20 Q. Okay; thank you.
 21 MR. WINANS: I don't have any further
 22 questions.
 23 *****
 24 CROSS-EXAMINATION
 25 BY MR. SAPORITA:

1 Q. Good afternoon, Mr. Bass.
 2 A. Good afternoon.
 3 Q. I have just a couple of questions, actually.
 4 You describe the efforts that the Department
 5 made in response to the EPA'S compliance order and
 6 you were asked whether the Department went above and
 7 beyond in complying?
 8 A. Yes.
 9 Q. And as an example, you gave self-assessments of
 10 the maintenance facilities?
 11 A. Uh-huh.
 12 Q. But that you didn't stop with the maintenance
 13 facilities, you applied that self-assessment beyond
 14 the -- I'm sorry, not to all of, but those not within
 15 the MS4; is that correct?
 16 A. Yes. As part of the order in the MS4, one of
 17 the provisions was weren't doing self-assessment at
 18 the residencies. When we did them, we did them not
 19 only in the MS4 areas, but outside, as well.
 20 Q. And same thing with the stockpiling and scrap
 21 metal pile controls that you developed as a result of
 22 the order?
 23 A. Right. So, you know, we implemented policy,
 24 things that we were going to do to deal with the
 25 stockpile and deal with the scrap metal applied to

1 the residencies, but outside of the MS4, as well.
 2 Q. It was a judgment you made, to apply them
 3 State-wide?
 4 A. Yes, that was something that was made. It
 5 wasn't made by me, but made.
 6 Q. But by the Department of Transportation?
 7 A. Yes.
 8 Q. At any point, did the EPA insist that you apply
 9 the controls beyond the scope of the MS4?
 10 A. No, I don't believe so.
 11 MR. SAPORITA: Thank you; that's it.
 12 ALJ BIRO: Any redirect?
 13 MR. WINANS: Nothing further.
 14 ALJ BIRO: Thank you, Mr. Bass.
 15 (Whereupon, the Witness is excused.)
 16 ALJ BIRO: Okay. Mr. Winans, do you
 17 have anymore witnesses you would like to
 18 call?
 19 MS. McNALLY: We are resting.
 20 ALJ BIRO: Before you rest, let's go
 21 over what exhibits are in the record for the
 22 Respondent. Respondent's 1, 2, 3, pages 1
 23 through 4 of Exhibit 3, 4, 5, 7 through 29,
 24 31 through 34, 36 through 43, 45 through 50,
 25 52 through 57, 59 through 67, and 70 through

1 73.
 2 MR. SAPORITA: Your Honor, I don't
 3 believe that Exhibit 10 was ever moved into
 4 evidence.
 5 MS. McNALLY: That's correct. That was
 6 one of the documents that we had an issue --
 7 it was missing information.
 8 ALJ BIRO: Okay. So we agreed that 7
 9 through 9, then Exhibits 11 through 29?
 10 MS. McNALLY: Yes.
 11 MR. SAPORITA: Yes.
 12 ALJ BIRO: Any other corrections?
 13 MR. SAPORITA: That's all.
 14 ALJ BIRO: How about the stipulations
 15 that we had in this case, do we want to move
 16 them into evidence?
 17 MS. McNALLY: Yes. I thought we did.
 18 MR. SAPORITA: We did that in the
 19 beginning of the Hearing.
 20 ALJ BIRO: I don't think -- we moved the
 21 stipulations in, but not the stipulations,
 22 themselves.
 23 MR. SAPORITA: Yes, we would like to,
 24 Your Honor.
 25 ALJ BIRO: And we will mark them as

1 Joint Exhibit 1, the stipulations.
 2 MR. SAPORITA: Yes.
 3 ALJ BIRO: And what is the date on the
 4 stipulations.
 5 MR. SAPORITA: January 12, 2018.
 6 ALJ BIRO: We will admit, as Joint
 7 Exhibit 1, the stipulations of the parties
 8 dated January 12, 2018.
 9 MR. SAPORITA: We were just wondering
 10 whether -- I think we know the answer to
 11 this. The motion, your order on the motion
 12 the findings in that order are part of the
 13 record?
 14 ALJ BIRO: Yes that is already in the
 15 record. It's not evidence in the record, but
 16 it's part of the record, and those findings,
 17 they are already made for this case.
 18 MR. SAPORITA: Right. So no need to.
 19 MS. McNALLY: Are the pleadings in the
 20 record?
 21 ALJ BIRO: The pleadings are part of the
 22 record.
 23 Okay. Are there any witnesses you wish to
 24 call on redirect?
 25 MR. GARELICK: Yes. The People plan to

1 call two redirect witnesses, Ms. Arvizu and
 2 Ms. Modigliani.
 3 ALJ BIRO: In rebuttal, really, right?
 4 MR. GARELICK: Yes, rebuttal witnesses.
 5 Ms. Arvizu?
 6 (Whereupon, the Witness, Christy Arvizu,
 7 retakes the stand.)
 8 ALJ BIRO: Welcome back. You can
 9 testify again today with the assistance of
 10 the sign language interpreters, and they
 11 remainder oath, as do you from before.
 12 THE WITNESS: Yes.
 13 *****
 14 FURTHER DIRECT EXAMINATION
 15 BY MR. GARELICK:
 16 Q. You have been present in the courtroom during
 17 certain testimony that Respondents have put on?
 18 A. That's correct.
 19 Q. And that includes Ms. Kubek?
 20 A. Yes, that's correct.
 21 Q. And, particularly, you heard testimony from Ms.
 22 Kubek regarding DOT compliance with the violations
 23 described in the complaint?
 24 A. Yes, that's correct.
 25 Q. Okay. And, additionally, Ms. Kubek's opinion

1 regarding, essentially, DOT liability for the charges
 2 in the complaint?
 3 A. I'm sorry, could you say that again?
 4 Q. Ms. Kubek's opinion regarding DOT's compliance
 5 with the violations listed in the complaint?
 6 A. Yes.
 7 Q. And with respect to Ms. Kubek's testimony
 8 regarding DOT compliance with respect to the
 9 violations described in the complaint, particularly
 10 paragraph F, relating to track down procedures, do
 11 you agree with her testimony?
 12 MS. McNALLY: Objection. I just want it
 13 clear for the record, are you asking for
 14 expert testimony here?
 15 MR. GARELICK: No, she testified as to
 16 compliance, and I believe that this is a
 17 rebuttal witness to Ms. Kubek's testimony
 18 regarding, both, compliance and her opinions
 19 with respect to the complaint and DOT actions
 20 regarding the complaint.
 21 MS. McNALLY: So you're rebutting expert
 22 testimony with non-expert testimony? Just so
 23 I'm clear.
 24 ALJ BIRO: Are we asking for her opinion
 25 or -- we have to ask her facts.

1 MR. GARELICK: Well, maybe I can make
 2 this clearer.
 3 Q. I will ask you look at Complainant's Exhibit
 4 58, pages 15 through 19?
 5 A. 58?
 6 Q. Yes.
 7 A. And 15?
 8 Q. Yes. Was this document discussed during Ms.
 9 Kubek's testimony?
 10 A. Yes.
 11 Q. Particularly, I would like to direct your
 12 attention to 15 through 19.
 13 A. Yes, I have that in front of me.
 14 Q. And what relevance does the information
 15 contained within 15 through 19 have with respect to
 16 the veracity of Ms. Kubek's testimony regarding DOT
 17 compliance?
 18 A. This is the submission to EPA in response to
 19 the compliance order on December -- let me look at
 20 the cover letter; on December 1, 2015, and I remember
 21 Ms. Kubek stating that they were procedures of what
 22 were already existing, that they lengthened it. So,
 23 what we reviewed was that this included additional --
 24 included procedures for how DOT would coordinate with
 25 MS4s adjacent to their right-of-way, follow

1 procedures for coordination with MS4s outside of the
 2 right-of-way. They did track down and decided that
 3 the illicit discharge was outside of their
 4 right-of-way. Adjacent MS4s, I think, connections
 5 and investigation team documented that procedure on
 6 pages 15 through 19.
 7 Q. Okay. And were these procedures in place at
 8 the time of the audits?
 9 A. At the time of audits, they indicated to refer
 10 to the Department of Health.
 11 Q. And was that the only information that was
 12 provided to EPA regarding the extent of their policy
 13 with regard to illicit discharge track down?
 14 A. At the time of the audit, yes.
 15 Q. Ms. Kubek also testified regarding Paragraph I
 16 of the complaint with respect to DOT's obligation to
 17 implement and enforce a program including written
 18 procedures, receipt and follow-up of complaints by
 19 the public regarding construction site storm water
 20 run-off?
 21 A. Yes, I recall that.
 22 Q. I direct your attention to Complainant's
 23 Exhibit 48.
 24 A. 48?
 25 Q. Yes.

1 A. Yes.
 2 Q. And Ms. Kubek testified regarding DOT
 3 compliance with this paragraph, or the charges in
 4 this paragraph?
 5 A. Yes, I remember that discussion.
 6 Q. I direct your attention to Complainant's
 7 Exhibit 48, particularly page 147.
 8 A. 147?
 9 Q. Yes.
 10 A. Yes.
 11 Q. And what relevance, if any, does what is
 12 contained in that exhibit have on the veracity of Ms.
 13 Kubek's statement regarding DOT compliance efforts?
 14 MR. WINANS: Objection; form. This
 15 Witness shouldn't be talking about anything
 16 about veracity.
 17 ALJ BIRO: Well, she's here on rebuttal.
 18 So I understand your objection to the
 19 terminology "veracity", but she is here to
 20 contradict the testimony of your prior
 21 witnesses, if she can.
 22 MR. WINANS: And I don't have any
 23 problem with that, Judge, but if we are going
 24 to start getting into people, you know,
 25 testifying about what other -- whether other

1 people are telling the truth or not, which is
 2 the definition of veracity, that is a whole
 3 different area, Judge.
 4 ALJ BIRO: Okay. Do you understand the
 5 concern?
 6 Do you agree with the testimony of Ms.
 7 Kubek or do you disagree; and if so, why?
 8 A. Okay. What was submitted to us in -- this
 9 exhibit is DOT's July 1, 2014 submittal in response
 10 to the order. And in that response to us, it
 11 summarized what DOT procedures were for public -- or
 12 a complaint from the public. The last sentence of
 13 that paragraph stated, that the Office of Environment
 14 is working with the Department's Office of External
 15 Relations to develop procedures for responding to
 16 public inquiries that are in accordance with the
 17 official Department protocol. And we said, okay, we
 18 are waiting to see what that procedure was, because
 19 that is what the permit required, procedures. At the
 20 time of the audit, there were no procedures.
 21 Q. You didn't receive any procedures at the time
 22 of the audit?
 23 A. That's correct.
 24 Q. Okay. And as far as you were aware, there were
 25 no procedures at that time?

1 A. Correct.
 2 Q. I would like to direct your attention to
 3 Complainant's Exhibit 57, particularly page 2.
 4 A. 57?
 5 Q. Yes.
 6 A. I have it.
 7 Q. Okay. And what relevance did this have to the
 8 prior testimony?
 9 A. Page 2 was a follow-up to that, because as
 10 proper procedure or follow-up to other information,
 11 DOT forwarded a summary on how written procedures --
 12 well, forwarded a summary on how complaints are
 13 handled, and, basically, what Ms. Kubek summarized
 14 this morning in her earlier testimony was how they
 15 got information at the main office, and it's
 16 forwarded to the regional office and then from an
 17 excerpt from the construction manual that was not
 18 made available to us at the audit. I understand now
 19 that DOT says that was available prior, but it wasn't
 20 made available to us and was undated, so...
 21 Q. Okay; thank you. You also heard testimony from
 22 Ms. Kubek regarding statements that allegedly you
 23 made at the Region 9 closing conference, correct?
 24 A. Yes.
 25 Q. And, particularly, she used the words that you

1 said that violations were minor?
 2 A. I heard that.
 3 Q. Was that an accurate assessment of what you
 4 said at the time?
 5 A. That is an inaccurate statement.
 6 Q. What?
 7 A. Inaccurate.
 8 Q. What, if anything, did you say at the time?
 9 A. At the time, standard practice for us at audit
 10 -- or inspection is to state that this is a
 11 preliminary finding, and findings would be summarized
 12 or outlined in an inspection report or audit report.
 13 Now, with the Region 9 audit, since it was done by
 14 the contractor -- led by the contractor, I should
 15 say, I did kick-off the conference with an opening
 16 statement, and said that the findings are
 17 preliminary. And then Max Kuker, who led the audit,
 18 then got into the overview of the findings and the
 19 general categories.
 20 Q. What, if anything, did you say relating to the
 21 level of violations at the closing meeting?
 22 A. I didn't say anything.
 23 Q. You also heard testimony today, I believe this
 24 was in cross-examination of Ms. Kubek, where she
 25 indicated that that Dan [sic] Graves was not the

1 storm water management coordinator during the time of
 2 the audit?
 3 A. I believe she said Dave Graves.
 4 Q. Yes, sorry. Dave Graves was not the storm
 5 water management coordinator at the time of the
 6 audit, correct?
 7 A. I believe she said that.
 8 Q. I would ask that you take a look at
 9 Complainant's Exhibit 39, particularly Page 4.
 10 A. 39?
 11 Q. Yes.
 12 A. I have it. This is the Region 5 audit report,
 13 yes.
 14 Q. Okay. And does the -- that report mentions
 15 Dave Graves and his position?
 16 A. Yes, it does.
 17 Q. And what is his position?
 18 A. Dave Graves is the State-wide storm water
 19 program coordinator.
 20 Q. And what was the date of that document?
 21 A. The date of -- this is the audit report. So
 22 this was dated December 17, 2013 for the June 25th
 23 through 27th 2013 audit.
 24 Q. And I direct your attention further to -- well,
 25 how is that information acquired as to his position?

1 A. It is acquired during the audit preparation,
 2 and from Dave Graves himself.
 3 Q. Okay. And I'm going to direct your attention
 4 to the same exhibit, page 462.
 5 A. 462?
 6 Q. Yes. What is that document?
 7 A. This is the annual report submitted by DOT to
 8 DEC for the 2013 -- for the period ending March 9,
 9 2013.
 10 Q. And is that exhibit provided by DOT itself?
 11 A. Yes. It's an annual report prepared by DOT
 12 sent to DEC.
 13 Q. What is the date of that document?
 14 A. It was signed May 22, 2013.
 15 Q. And is that prior to the audit of Region 5?
 16 A. Yes.
 17 Q. Okay. And what does that say, if anything,
 18 relating to Dave Graves' position?
 19 A. On page 462, it has Session 2 Contact
 20 Information, and this is the Municipal Compliance
 21 Certification Form for the MS4, and it has contact
 22 information and "to contact" circle filled in that
 23 says, Storm Water Management Program, in parens, SWMP
 24 Coordinator, and that coordinator's name is David
 25 Graves.

1 Q. Okay. And just -- you know, what is the
 2 relevance of a storm water management coordinator; is
 3 that an important position?
 4 A. The storm water coordinator is the person who
 5 is responsible for ensuring that the MS4 program is
 6 being implemented on behalf of the regulated entity,
 7 and is kind of the glue of the MS4 program.
 8 Q. So it's essentially the most important person
 9 with respect to the MS4 program?
 10 A. It's a key important -- or key contact of the
 11 program, yes.
 12 MR. GARELICK: No further questions of
 13 this Witness, Your Honor.
 14 MS. McNALLY: Can we have one second?
 15 ALJ BIRO: Of course.
 16 *****
 17 FURTHER CROSS-EXAMINATION
 18 BY MR. WINANS:
 19 Q. I'm going to be very brief with you.
 20 I understand from your rebuttal testimony that
 21 you disagree with Ms. Kubek on four different things;
 22 is that right?
 23 A. I wasn't keeping track, but...
 24 Q. Okay. You're not here to testify about Ms.
 25 Kubek's veracity or credibility, or whether she

1 intentionally lied, are you?
 2 A. No.
 3 Q. Understood. You would agree that it's possible
 4 for educated professionals to have differences of
 5 opinion?
 6 A. Yes.
 7 Q. Okay. And in your testimony here today, one of
 8 the things that you disagreed about was a
 9 characterization of your testimony -- or of your
 10 statements after the Region 9 audit and the closing
 11 session; is that right?
 12 A. Yes.
 13 Q. And you were at that meeting, were you not?
 14 A. I was there, yes.
 15 Q. And you simply disagree with Ms. Kubek's
 16 characterization of what you said?
 17 A. Yes.
 18 Q. Okay. And she said, and I'm paraphrasing, that
 19 you said the violations were minor, and you disagreed
 20 with that. You don't think that that's what you said
 21 at all, correct?
 22 A. That's correct.
 23 Q. But, Ms. Arvizu, when you did that Region 9
 24 audit, you didn't tell them that there was going to
 25 be a penalty waiting at the end of the train, did

1 you?
 2 MR. GARELICK: Objection, Your Honor.
 3 That is outside of the scope of what I was
 4 asking for in a rebuttal witness.
 5 ALJ BIRO: Overruled.
 6 Q. You didn't tell them that?
 7 A. No, I did not say that.
 8 MR. WINANS: Thank you.
 9 ALJ BIRO: Is there any redirect?
 10 MR. GARELICK: No, Your Honor.
 11 ALJ BIRO: Thank you, Ms. Arvizu.
 12 (Whereupon, the Witness is excused.)
 13 MR. SAPORITA: We have one more witness.
 14 I will go get her.
 15 ALJ BIRO: Madam Reporter, will you
 16 please swear in the Witness?
 17 *****
 18 JUSTINE MODIGLIANI,
 19 called as a witness, being duly sworn,
 20 testifies as follows:
 21 DIRECT EXAMINATION
 22 BY MR. SAPORITA:
 23 Q. Good afternoon, Ms. Modigliani. Please state
 24 your name for the record.
 25 A. Justine Modigliani.

1 Q. And what is your job?
 2 A. I am a Section Chief at the EPA in the Division
 3 of Enforcement and Compliance Assistance.
 4 Q. And do you supervise any staff in that
 5 capacity?
 6 A. Yes. I have about eight inspectors that I
 7 supervise. I say "about" because there are some
 8 inspectors that do work for me and another manager,
 9 as well.
 10 Q. Are there supervisors above you in the
 11 structure at Region 2 EPA?
 12 A. Yes.
 13 Q. How many levels of supervisors are above you?
 14 A. Branch Chief, and Division Director is above
 15 them, and then Regional Administrator.
 16 Q. And is the Division Director Dore LaPosta?
 17 A. Yes.
 18 Q. Is she the person that signed the complaint in
 19 this matter?
 20 A. Yes.
 21 Q. Okay. I'm just going to cut right to the
 22 chase.
 23 Were you present at a meeting with Department
 24 of Transportation and others on May 13, 2014 to
 25 discuss the Administrative Compliance Order that the

1 EPA issued to the DOT in this matter?
 2 A. Yes, I was.
 3 Q. And at that meeting, were you asked about
 4 whether there would be a penalty associated with the
 5 order?
 6 A. I believe I was.
 7 Q. Okay. And best of your recollection, I know it
 8 has been a while, do you recall what you said in
 9 response to that question?
 10 A. I don't recall the exact response, but I know
 11 that my response, at least in part, would have been
 12 that this order was for compliance, that was the
 13 purpose of the meeting, that was what we were there
 14 to discuss, and the order that had been issued was
 15 for compliance.
 16 Q. Okay. And do you believe that you offered to
 17 waive any penalty for the underlying violations in
 18 this matter?
 19 A. No.
 20 Q. Do you have the authority to do that?
 21 A. I absolutely do not.
 22 Q. Were you asked, at any time in that meeting, or
 23 any time after that meeting up until the EPA issued
 24 that complaint, whether you had such authority?
 25 A. No.

1 Q. Were you ever asked by anybody from DOT,
 2 between that meeting and the issuance of the
 3 complaint, to confirm your alleged position that you
 4 would not seek penalties?
 5 A. I do not recall anybody else asking me about
 6 that.
 7 MR. SAPORITA: That's all I have, Your
 8 Honor.
 9 MR. WINANS: May I inquire?
 10 ALJ BIRO: Please.
 11 *****
 12 CROSS-EXAMINATION
 13 BY MS. WINANS:
 14 Q. Ms. Modigliani, my name is David Winans. I'm
 15 an attorney for the Department of Transportation. I
 16 just have a few questions, and then everyone can get
 17 to their planes, if they can make them.
 18 What did you say your title is at the EPA at
 19 the present time? You haven't been promoted yet,
 20 have you?
 21 A. No. Section Chief.
 22 Q. Okay. And that is the same position that you
 23 had back on May 13, 2014, correct?
 24 A. It is, yes.
 25 Q. And now, I notice that -- I'm sorry, I lost it.

1 You said that you have in your section, eight
 2 inspectors; is that right?
 3 A. About.
 4 Q. Is that pretty much consistent over the last
 5 five years?
 6 A. Yes. I mean we have had some retirements, some
 7 hires, so...
 8 Q. Okay. And in addition, is Christy one of the
 9 inspectors?
 10 A. She actually does not -- she does work under my
 11 section, but she answers to a different manager.
 12 Officially, in our ORG chart, so she does work for
 13 me, I do sign-off on her audit reports, but she also
 14 has a team leader and branch chief.
 15 Q. Okay. And you said that above you have
 16 somebody you called a branch chief?
 17 A. Correct.
 18 Q. Who is that?
 19 A. Doug McKenna.
 20 Q. Okay. And then, Dore LaPosta is the Division
 21 Chief?
 22 A. Division Director, yes.
 23 Q. Okay; thank you. Now, I would just like you to
 24 explain for the record, and so we all understand what
 25 the process is, had EPA Region 2 engaged in any

1 audits of a State Department of Transportation before
 2 2012?
 3 MR. SAPORITA: Objection. This is
 4 beyond the scope of the Witness's testimony.
 5 MR. WINANS: It is, but she is on our
 6 list, too.
 7 ALJ BIRO: So you're calling her on
 8 direct?
 9 MR. WINANS: I will.
 10 MR. SAPORITA: Can we reserve those
 11 questions for direct then?
 12 ALJ BIRO: Then you will get another
 13 opportunity. Let's finish with her on
 14 rebuttal and call her on your own.
 15 MR. SAPORITA: Objection sustained?
 16 ALJ BIRO: Yes.
 17 MR. SAPORITA: Just note that
 18 Respondents did rest their case.
 19 ALJ BIRO: Yes, but they are entitled to
 20 call a rebuttal witness, even if they call
 21 the same rebuttal witness, but I -- you know,
 22 I wouldn't have any problem, but for the fact
 23 we will end up going back and forth six
 24 times.
 25 MR. WINANS: I'm going to see if I can

1 avoid that, Judge, but I appreciate you are
 2 giving us the opportunity, and it's on me,
 3 okay.
 4 ALJ BIRO: Okay.
 5 MR. WINANS: Let's see how we do.
 6 Q. Ms. Modigliani, were you involved in the
 7 issuance of the Administrative Compliance Order that
 8 prompted your meeting on June 13, 2014?
 9 A. I believe I concurred on it.
 10 Q. Did you review that Administrative Compliance
 11 Order before the meeting that you testified about on
 12 May 13, 2014?
 13 A. Yes.
 14 Q. And directing your attention, it should be on
 15 the screen in front of you, to the Administrative
 16 Compliance Order that was served on the DOT.
 17 Directing your attention to Complainant's
 18 Exhibit 40, page 21. At the -- very close to the
 19 end, there is a provision there about a penalty; you
 20 see that?
 21 A. Uh-huh.
 22 Q. Please say yes.
 23 A. Yes.
 24 Q. And is that something that you had seen in EPA
 25 Administrative Compliance Orders before?

1 A. This is standard general provision language.
 2 Q. Had anybody ever asked you about it before?
 3 A. Asked me about this provision?
 4 Q. Yes.
 5 A. I don't think specifically, but, maybe -- you
 6 mean -- could you clarify the question?
 7 Q. In your capacity as a Section Chief for Region
 8 2, United States Environmental Protection Agency that
 9 issues Administrative Compliance Orders, had anybody
 10 ever raised questions to you about this provision
 11 that you put in every one of the Administrative
 12 Compliance Orders?
 13 MR. GARELICK: Objection, Your Honor. I
 14 mean, the scope of this question is the world
 15 of who in the world might have raised
 16 questions concerning this paragraph, that
 17 their interpretations and their questions are
 18 not relevant to what this Witness -- the
 19 relevance of the Witness's testimony
 20 regarding this case.
 21 ALJ BIRO: Overruled.
 22 If you can recall.
 23 A. Can I say what I think he's getting at?
 24 Q. Just answer the question, please.
 25 A. I don't recall anybody pointing to this

1 paragraph and asking me about this paragraph,
 2 specifically.
 3 Q. But you do remember that on May 13, 2014,
 4 consistent with four witnesses that have testified,
 5 and one that doesn't remember, you do remember that
 6 it was raised at that meeting; isn't that right?
 7 MR. GARELICK: Just -- objection.
 8 ALJ BIRO: Sustained, because she wasn't
 9 here to hear the testimony.
 10 Q. Let me withdraw the question.
 11 Ms. Modigliani, do you recall that on May 13,
 12 2014, the matter of a penalty was raised at the
 13 meeting?
 14 A. Yes.
 15 Q. And do you remember who raised the matter of
 16 the penalty?
 17 A. I don't specifically remember.
 18 Q. Did you understand that whoever expressed a
 19 question about the penalty was concerned about the
 20 possibility that a penalty might be assessed?
 21 A. Yes.
 22 Q. And you say that you, the Section Chief, had no
 23 authority to waive a penalty; is that your testimony?
 24 A. Yes.
 25 Q. So you would get in trouble if you were to

1 waive the penalty; is that correct?
 2 A. Well, I couldn't waive it.
 3 Q. Wouldn't it be reasonable for people attending
 4 a meeting with you, the EPA Section Chief, to believe
 5 that you had authority to speak for the agency that
 6 you work for?
 7 MR. GARELICK: Objection, Your Honor.
 8 He is asking her to speculate and he is
 9 really testifying here in this question.
 10 ALJ BIRO: Overruled. But let's
 11 maintain a calm. Go ahead.
 12 A. I'm guessing that if somebody knew that I was a
 13 section chief, they might think I had authority to
 14 say whether they would get a penalty or not.
 15 Q. There was a sign-in sheet, wasn't there?
 16 A. Yes.
 17 Q. And you had introductions at the meeting, did
 18 you not?
 19 A. We did.
 20 Q. When you signed the sign-in sheet, you put your
 21 title down as the -- I want to quote this exactly,
 22 Compliance Section Chief?
 23 A. That's right.
 24 Q. Isn't that right?
 25 A. Yes.

1 Q. And were the people from DOT cooperative at the
 2 meeting?
 3 A. Yes.
 4 Q. Was it the intention, at least at that point in
 5 time in your relationship with the New York State
 6 Department of Transportation, that everyone wanted to
 7 comply with EPA's interpretation of the permit?
 8 A. Yes.
 9 Q. And were you aware of the fact that the DOT
 10 employees did, following that meeting, arrange for a
 11 revised Administrative Compliance Order; did you know
 12 that?
 13 A. Yes.
 14 Q. Okay. And were they cooperative from then
 15 forward?
 16 A. Yes.
 17 MR. WINANS: Thank you. I don't have
 18 anything further, and I won't ask for an
 19 surrebuttal witness, but I might change my
 20 mind.
 21 MR. SAPORITA: No further questions,
 22 Your Honor.
 23 ALJ BIRO: Thank you.
 24 (Whereupon, the Witness is excused.)
 25 ALJ BIRO: Are there any other witnesses

1 or documents you wish to introduce in your
 2 rebuttal case?
 3 MR. SAPORITA: No, Your Honor.
 4 ALJ BIRO: Okay. Is there any
 5 surrebuttal that you wish to introduce.
 6 MS. McNALLY: No, Your Honor.
 7 ALJ BIRO: Is there anything else
 8 anybody wants to put on the record before we
 9 close? Speak now.
 10 MR. WINANS: On behalf the Respondents,
 11 we would simply like to thank everyone for
 12 their courtesy during these proceedings.
 13 ALJ BIRO: That is very lovely.
 14 MR. GARELICK: We would similarly like
 15 to thank everyone for their courtesy.
 16 MR. SAPORITA: Really thank them.
 17 ALJ BIRO: This is really not expected
 18 for New York, to have this kind of kindness.
 19 Thank you everyone. We are going to close
 20 the record today.
 21 There will be no additional documents
 22 admitted into the record, into evidence,
 23 unless you file a motion for some reason.
 24 Everything that was admitted, and only those
 25 things that were admitted today, can be

Page 708

1 relied on in your briefs that you have in
 2 this case, and we will rely on in making a
 3 decision in this case. We will get the
 4 transcript in, hopefully, a few weeks and we
 5 will send that to you with an order. The
 6 order will tell you that you have a certain
 7 amount of time to review it and submit a
 8 motion, hopefully a joint motion, to confirm
 9 the transcript to the testimony given. Read
 10 the transcript carefully, because we are
 11 likely to cite it exactly as written. I will
 12 also set dates for the briefs.

13 Do you have any feeling on whether you
 14 would like to have briefs in sequence or
 15 simultaneous?

16 MR. SAPORITA: What sequence would that
 17 be?

18 ALJ BIRO: Normally, the Agency would go
 19 first and then we would give the Respondent a
 20 chance to respond, and then you would be able
 21 to file rebuttal briefs, and they could file
 22 a rebuttal brief. Alternatively, you could
 23 file simultaneously. It's a little quicker,
 24 you know, in the sense you can both file at
 25 the same time and you can both respond to the

Page 709

1 opposing briefs at the same time.

2 MS. McNALLY: We prefer the sequence.

3 MR. WINANS: That is standard. That's
 4 fine, Your Honor.

5 ALJ BIRO: So, then, we will write an
 6 order providing for that, try to give
 7 everyone enough time accounting for whatever
 8 happens, you know, summer breaks or whatever.
 9 If you need more time, you can certainly
 10 apply for that. You know, we are pretty
 11 accommodating in that regard.

12 We are going to get -- or make
 13 arrangements for the set of exhibits to go
 14 back with me and that is what I will be
 15 looking at in rendering my decision. The
 16 official set is going to go with the Court
 17 Reporter, and those will go to the Regional
 18 Hearing Clerk to be maintained exactly as
 19 they are.

20 MS. ALMASE: Did anyone have a copy of
 21 the Joint Stipulations to give to the Court
 22 Reporter to include with the record?

23 ALJ BIRO: I do. Okay. Is there
 24 anything else.

25 MR. SAPORITA: We just need to confirm

Page 710

1 that the contents of this set are complete.

2 ALJ BIRO: Do you want to go over, one
 3 last time, all of the exhibits that are
 4 admitted or do you think you have that?

5 MR. SAPORITA: I think we are fine. In
 6 reviewing the transcript, if there are any
 7 questions about exhibits, we can raise that.

8 ALJ BIRO: Yes, as part of your motion
 9 for clarification. Hopefully, we don't. The
 10 reason we go over them is that way when we
 11 leave, we know exactly what the universe of
 12 exhibits are.

13 MR. SAPORITA: Understood.

14 ALJ BIRO: Thank you to our translators
 15 who have been so lovely and accommodating,
 16 and come so far to help us out. I really
 17 appreciate it. Good evening, everyone.

18 (Whereupon, the Hearing concluded at
 19 2:38 p.m.)

20
 21
 22
 23
 24
 25

Page 711

1 CERTIFICATION

2

3 I, DIANA M. RUSSELL, Court Reporter and
 4 Notary Public in and for the State of New York,
 5 state that I attended the foregoing
 6 proceedings, took stenographic notes of the
 7 same, and state that the foregoing is a true
 8 and correct copy of the same, and the whole
 9 thereof, to the best of my ability.

10
 11
 12
 13
 14
 15
 16
 17
 18
 19

20 _____
 21 DIANA M. RUSSELL, Court Reporter
 22
 23
 24
 25

| A | | | | |
|-------------------------|--------------------------|-----------------------|------------------------|-------------------------|
| a.m 500:15 | 655:12 | additionally | 706:11 | 685:11 689:6 |
| 551:4,5 593:1 | accumulated | 521:24 684:25 | Administrator | 695:3 |
| 678:10 679:10 | 527:1 | address 522:21 | 697:15 | agreed 588:11 |
| A6 537:12 | accuracy 591:21 | 530:20 532:17 | admit 683:6 | 682:8 |
| abatement | 591:7 691:3 | 539:14,20 | admitted 505:3 | agreement |
| 655:20 661:14 | achieve 633:13 | 542:7 550:9 | 678:4 707:22 | 516:14 580:1 |
| abbreviated | acknowledgm... | 568:18 591:23 | 707:24,25 | 580:23 581:1 |
| 670:3 | 508:20 673:14 | 639:18 656:19 | 710:4 | 581:12 633:16 |
| abilities 535:23 | ACO 572:24 | 677:6 | adopt 647:23 | agreements |
| 541:11 | 603:8 | addressed | advance 533:25 | 567:11 |
| ability 662:18 | acquired 692:25 | 508:20 573:24 | 534:3 622:18 | ahead 565:19 |
| 711:9 | 693:1 | 657:14 | advanced | 568:4 586:3 |
| able 526:11 | act 547:8 559:23 | addresses | 555:24 | 595:17 613:8 |
| 609:12,21 | 573:18 582:24 | 521:17 | advances 554:19 | 641:16 653:1 |
| 708:20 | 594:13 595:15 | addressing | adversarial | 676:12 705:11 |
| above-portion | 631:16 660:25 | 522:13 525:16 | 581:6 | Aid 555:23 |
| 677:6 | acted 581:24 | adhere 619:3 | adversaries | air 656:7 |
| absolutely | acting 575:23 | 516:24 686:25 | 590:5 | airports 553:24 |
| 617:25 643:8 | 576:1 | 687:4 | adversary 672:6 | Albany 500:8 |
| 646:11 658:1,7 | action 546:19,19 | adjust 670:19 | advise 552:20 | 501:4,6 502:16 |
| 658:12 661:6 | 632:15 662:5 | administration | Affairs 519:14 | 553:4 |
| 662:17 698:21 | actions 601:2 | 521:25 526:14 | 519:22,22 | ALICIA 502:13 |
| absorbant | 611:13 685:19 | 540:21 555:23 | 521:12 | Alicia.Mcnull... |
| 526:25 647:3 | activities 521:23 | administrative | affect 626:11 | 502:17 |
| absorbed 527:5 | 539:2 546:24 | 500:17 529:5 | 669:25 | ALJ 503:6,13 |
| 625:14 | 547:11 557:9 | 529:12 531:18 | afternoon 593:7 | 506:1,5,14,16 |
| absorbent | 558:13 609:22 | 533:17 534:18 | 680:1,2 696:23 | 506:19 510:3 |
| 528:14 | 610:1,2,9,11 | 535:2 546:18 | agencies 599:13 | 514:17 516:13 |
| acceptable | 610:21 618:17 | 571:13 572:10 | 605:3 | 531:10,16,25 |
| 666:17,19 | 645:19 | 572:16 573:23 | agency 500:2 | 532:4 534:11 |
| accepted 517:9 | activity 533:23 | 578:19,23 | 502:3,6 546:16 | 534:20 537:13 |
| 540:16 | 557:8 560:24 | 579:2,20 580:2 | 553:10,13,19 | 542:13 543:21 |
| access 539:14 | 567:10 611:18 | 580:15 581:10 | 605:6 632:15 | 543:24 544:11 |
| 540:24 | actual 538:1 | 581:21 582:22 | 633:12 651:9 | 550:6,11,22 |
| accessible | 585:7 588:1 | 585:11 588:2,9 | 656:25 674:20 | 551:1,6,9,16 |
| 529:15 549:20 | 662:18 673:16 | 602:22 605:19 | 703:8 705:5 | 564:6,10,17 |
| accessing | add 515:20 | 605:21,23,24 | 708:18 | 567:21 568:4 |
| 506:11 | added 532:24,25 | 606:7 608:19 | agenda 547:15 | 571:16 574:20 |
| accommodating | 538:18 | 609:14 614:4 | 547:24 548:10 | 574:24 575:3 |
| 709:11 710:15 | addition 558:15 | 629:11,16,23 | 577:19,22 | 582:19 585:8 |
| accompanied | 582:9 617:12 | 631:13,21 | 580:22 587:10 | 586:3 590:7,12 |
| 620:6 | 618:10 658:2 | 633:22 634:5 | 636:4 637:13 | 590:16 592:24 |
| accompany | 659:7 700:8 | 642:3,3 646:22 | 637:25 | 593:3 594:22 |
| 622:8 | additional | 648:22 649:18 | agendas 547:20 | 595:2,17 |
| accomplish | 511:11 520:5 | 651:3 665:11 | ago 576:3 | 596:25 605:21 |
| 578:13 | 547:3 609:4,16 | 666:23 667:8 | 583:17 602:14 | 607:15,19 |
| accounting | 609:16 674:24 | 697:25 702:7 | 609:19 | 612:7,12,14,19 |
| 614:6 709:7 | 675:4 686:23 | 702:10,15,25 | agree 549:2,10 | 612:22,24 |
| accreditations | 707:21 | 703:9,11 | 560:15 579:4 | 613:2,8,15 |
| | | | | 633:1 641:7,16 |

| | | | | |
|---|---|--|---|--|
| 643:13 644:12 648:10 652:6,8 652:11,16,20 653:1 666:4,13 666:17,20 667:6 669:10 670:5,9 671:6 676:3,7,12 678:1,3 681:12 681:14,16,20 682:8,12,14,20 682:25 683:3,6 683:14,21 684:3,8 685:24 688:17 689:4 694:15 696:5,9 696:11,15 699:10 701:7 701:12,16,19 702:4 703:21 704:8 705:10 706:23,25 707:4,7,13,17 708:18 709:5 709:23 710:2,8 710:14 | annual 510:8 619:24 693:7 693:11 annually 528:20 answer 511:19 530:24 533:25 596:11,22 597:1 655:4 670:24 683:10 703:24 answers 562:13 700:11 anticipated 547:1 anybody 561:22 576:20 583:21 587:17 597:21 603:4 623:21 633:24 636:13 636:20 638:18 699:1,5 703:2 703:9,25 707:8 anymore 681:17 anyway 538:11 674:23 apologize 531:14 534:23 595:23 669:7 apparently 679:13 appear 649:18 Appearing 502:2,11 appears 575:10 575:17 589:17 589:21 606:11 634:14 673:7 append 505:2 applicable 527:7 652:2 application 539:25 applications 557:16 applied 602:8 680:13,25 apply 515:9 552:18 681:2,8 709:10 appreciate | 590:10 669:21 702:1 710:17 approach 577:17 581:10 584:24 638:24 676:2 approaching 548:4 581:13 appropriate 521:18 523:22 596:15,19 approved 600:12,15 approximate 554:23 approximately 557:5,24 679:11 approximation 555:3 April 500:14 518:10,14 560:23 architecture 552:9,11,13,18 557:2,11 597:18 604:10 area 512:3,4 528:12 530:24 543:4 545:17 546:1 616:16 618:8 620:12 625:13 627:5 645:1 660:17 660:20 661:14 662:10 689:3 areas 518:3 528:5 542:25 554:2 622:2 626:6,7,25 655:1 674:6,6 674:18,19 680:19 AREs 617:18 argue 679:15 argumentative 582:16 arguments 638:18 arrange 706:10 | arranged 642:1 arrangements 574:9 668:23 669:2 709:13 arrived 635:3 articulate 522:11 artificial 546:6,7 Arvisu 571:1 Arvizu 502:20 504:2 517:14 576:8 583:11 624:13,23 635:13 640:20 669:5 672:15 684:1,5,6 695:23 696:11 as-needed 528:21 563:10 567:5 asbestos 655:11 655:11 656:4,7 657:16 661:14 661:16 asked 507:21 511:10 536:15 537:2 539:6 541:23 550:16 568:11 583:3,5 585:12,13 601:25 640:1 640:21 651:1 651:18 670:21 672:1 680:6 698:3,22 699:1 703:2,3 asking 512:24 539:16,23,24 544:11 563:19 564:4 568:3 583:19 584:16 613:16 637:17 685:13,24 696:4 699:5 704:1 705:8 aspects 615:22 618:20 asphalt 625:14 asserted 669:24 assessed 704:20 | assessment 657:7 675:9 691:3 assessments 656:9 674:2,5 assigned 588:18 588:20 668:5 assist 556:22 557:9 575:1 assistance 508:19 684:9 697:3 Assistant 556:15 569:19 573:4 608:22 Associate's 614:8 associated 515:13 517:18 621:14 625:23 636:24 643:22 657:17 662:25 671:2 698:4 assume 559:8 596:6 assumed 581:1 assuming 506:9 600:8 assurance 675:2 assure 633:4 atmosphere 548:1 attached 591:4 660:4 678:19 attachment 532:9,11,16 533:5 540:10 attachments 532:9 attack 582:6 attend 533:13 577:11 attendance 648:19 attended 548:18 711:5 attending 547:24 705:3 attention 509:1 509:19 510:11 |
|---|---|--|---|--|

| | | | | |
|------------------------|------------------------|------------------------|-----------------------|------------------------|
| 515:18 520:7 | 691:12,13,17 | 622:21 624:18 | basis 528:11 | 668:22 675:15 |
| 525:8 552:20 | 692:2,6,12,21 | 629:15 641:25 | 563:7 565:17 | 675:18,20 |
| 562:11 571:12 | 692:23 693:1 | 644:20 657:15 | Bass 503:20 | 677:4 681:10 |
| 573:13 574:14 | 693:15 695:10 | 665:8 666:23 | 517:14 574:11 | 682:3 685:16 |
| 575:4,10 576:6 | 695:24 700:13 | 671:13 679:17 | 576:15 652:19 | 691:23 692:3,7 |
| 576:9 577:21 | audited 531:4 | 689:24 706:9 | 652:23 653:4,6 | 698:6,16 702:9 |
| 594:15 595:4 | 569:24 570:3 | axle 645:22 | 654:12 664:19 | 705:4 |
| 596:1 605:18 | 621:20 | | 666:22 670:12 | believed 608:16 |
| 606:3 624:25 | auditors 518:20 | B | 671:8 675:6 | belly-up 656:1 |
| 629:5,7 630:24 | 531:4 623:12 | Bachelor's | 677:14 678:5 | belong 645:13 |
| 631:12 636:1 | 650:2,4,5 | 614:10 655:9 | 680:1 681:14 | berms 528:3 |
| 644:10,15 | audits 508:5 | back 512:16 | Bay 545:13 | 542:20 |
| 667:24 672:9 | 518:24 519:6 | 530:5 552:23 | began 620:4 | best 523:7 |
| 675:12 686:12 | 519:17,25 | 567:9 577:21 | beginning | 535:23 541:11 |
| 687:22 688:6 | 522:5 531:2 | 586:13,14 | 525:24 530:5 | 583:25 584:1 |
| 690:2 692:24 | 547:18 548:23 | 588:12 590:12 | 542:16 543:25 | 586:16 596:9 |
| 693:3 702:14 | 568:25 569:6 | 590:14 598:15 | 682:19 | 639:14 640:2 |
| 702:17 | 569:13,25 | 611:24 615:24 | begins 513:13 | 698:7 711:9 |
| attest 512:23 | 570:7,18,19 | 621:25 629:5 | 520:9 525:25 | better 599:8 |
| attorney 576:16 | 599:16,20 | 646:16 652:12 | 526:3 630:12 | beyond 546:24 |
| 699:15 | 620:3,5,6,11 | 655:23 656:17 | 630:13 667:4 | 595:10 644:6 |
| attorneys | 620:16,24 | 660:6 663:21 | behalf 601:20 | 645:1 651:19 |
| 679:16 | 621:18 625:10 | 684:8 699:23 | 604:24 694:6 | 673:22,24 |
| auction 526:9 | 629:6 630:8 | 701:23 709:14 | 707:10 | 680:7,13 681:9 |
| auctioned | 635:17,17 | background | believe 520:22 | 701:4 |
| 646:14,19 | 649:14,16 | 572:15 584:16 | 523:12 525:11 | big 623:11 |
| audience 531:12 | 651:20,23 | 614:7 655:8 | 532:15 533:5 | Billions 544:23 |
| audit 507:24 | 664:19,23 | bags 528:14 | 537:23 538:5 | bind 601:5 |
| 508:2,8,10,15 | 665:6,8 687:8 | bank 656:9 | 538:17,22 | binders 534:21 |
| 518:21 523:23 | 687:9 701:1 | barrier 546:8 | 541:12 545:4 | Binghamton |
| 533:25 534:3 | authority | barriers 528:3 | 549:17 554:25 | 620:12 |
| 539:8 540:14 | 527:13 601:1,5 | 542:19 647:4 | 555:4,7 558:1 | Biro 500:17 |
| 540:17 541:1 | 604:23 605:5 | based 558:2,17 | 561:14 564:21 | 503:6,13 506:1 |
| 541:25 542:4 | 658:8 698:20 | 559:20 566:7 | 569:4,5 570:12 | 506:5,14,16,19 |
| 548:13 569:4,8 | 698:24 704:23 | 588:10 596:6 | 573:11 575:16 | 510:3 514:17 |
| 569:11,15,22 | 705:5,13 | 602:24 608:20 | 577:16 583:13 | 516:13 531:10 |
| 570:10,15,22 | authorized | 608:24 609:1 | 583:20,23 | 531:16,25 |
| 594:21 595:1 | 515:2 | 639:8 649:19 | 595:12 600:24 | 532:4 534:11 |
| 599:24 620:19 | available 529:8 | 664:24 679:14 | 601:12,13 | 534:20 537:13 |
| 620:22 621:1 | 560:7 617:23 | basic 552:3 | 602:9 603:16 | 542:13 543:21 |
| 621:11,14 | 690:18,19,20 | 554:1,10 | 604:23 605:1 | 543:24 544:11 |
| 622:6,10,19,20 | avoid 702:1 | 613:23 | 606:4 608:11 | 550:6,11,16,22 |
| 622:23 623:4 | aware 520:1 | basically 512:4 | 617:3 620:10 | 551:1,6,9,16 |
| 623:13 624:8,9 | 523:3,5,24 | 546:11 579:6 | 623:16 627:12 | 564:6,10,17 |
| 625:3,16 | 524:17 525:1,3 | 656:4,23 662:9 | 629:20 631:4,9 | 567:21 568:4 |
| 649:15,21,25 | 530:16 533:22 | 663:15 667:12 | 634:3 637:15 | 571:16 574:20 |
| 650:21 664:10 | 544:15 569:25 | 671:19 673:13 | 637:19 638:4 | 574:24 575:3 |
| 665:2 687:14 | 570:2,5 593:20 | 690:13 | 644:3,8 648:1 | 582:19 585:8 |
| 689:20,22 | 596:10 606:18 | basin 527:6 | 654:19 657:16 | 586:3 590:7,12 |
| 690:18 691:9 | 607:10 611:25 | 545:25 | 658:22 668:19 | 590:16 592:24 |

| | | | | |
|---|--|--|---|---|
| 593:3 594:22 595:2,17 596:25 605:21 607:15,19 612:7,12,14,19 612:22,24 613:2,8,15 633:1 641:7,16 643:13 644:12 648:10 652:6,8 652:11,16,20 653:1 666:4,13 666:17,20 667:6 669:10 670:5,9 671:6 676:3,7,12 678:1,3 681:12 681:14,16,20 682:8,12,14,20 682:25 683:3,6 683:14,21 684:3,8 685:24 688:17 689:4 694:15 696:5,9 696:11,15 699:10 701:7 701:12,16,19 702:4 703:21 704:8 705:10 706:23,25 707:4,7,13,17 708:18 709:5 709:23 710:2,8 710:14 bit 510:20 518:15 528:24 539:6,11 544:1 545:11 546:24 547:12 609:24 649:10 blow-off 640:13 blush 564:14 BMP 527:8 BMPs 523:9,21 528:18 BOCES 656:3 bodies 626:8 boilerplate 582:17 bold 520:9 | book 568:10 619:1,2 boom 528:14 boss 572:7 573:2 579:10,15,17 600:5 606:24 607:4 612:5 638:24 676:15 Boston 655:22 bother 625:3 bottom 532:20 575:18 591:19 606:4 634:16 637:6 branch 553:17 697:14 700:14 700:16 break 506:11 531:11 564:18 592:23 652:11 breaks 709:8 Brent 509:10 bridge 554:17 558:19,20 559:3 bridges 553:23 554:13 618:18 626:12 659:20 brief 551:4 552:25 593:1 653:22 694:19 708:22 briefed 589:1 briefly 605:14 665:22 briefs 708:1,12 708:14,21 709:1 bring 515:18 639:9 bringing 645:3 brings 665:17 BROADWAY 501:5 502:7 broke 621:18 brought 552:20 561:9 598:17 642:21 buckets 549:21 549:24 | budget 544:13 544:20 545:1,3 555:16,17 556:3,4 593:14 593:16,17,20 593:22 608:3,5 608:6,10,13 654:14 budgets 545:4 Buffalo 524:3,7 524:11 build 554:17,17 618:17 building 559:18 635:5 buildings 559:14 built 651:23 bulk 615:9 633:7 bullet 513:16 bulleted 525:23 525:25 bullets 513:21 bunch 600:1 bureau 552:14 552:14,15 556:9 557:3,3 614:19,24 653:16,20,24 654:1,3,9 bureaus 557:2 busiest 561:2 business 676:24 busy 561:1 | 681:18 683:24 684:1 701:14 701:20,20 called 551:13 566:14 613:6 652:24 660:16 679:18 696:19 700:16 calling 612:15 612:25 701:7 calm 705:11 cap 562:6 capacity 565:7 589:3 620:21 654:12 697:5 703:7 Capital 554:19 654:6,10 659:19 660:13 663:18 caption 596:6 capture 532:10 532:18 549:15 care 506:6 630:18 carefully 708:10 Carl 503:15 530:19 576:17 613:1,5,13 carrot 548:4 carry 667:12 cars 559:11 cartoon 538:17 case 600:10 606:19 607:12 619:15 682:15 683:17 701:18 703:20 707:2 708:2,3 cases 549:17 632:25 catch 527:6 528:11 categories 691:19 cause 609:21 626:16 cease 586:11 610:20,21 611:4,14,18 | Central 655:23 certain 560:16 561:13 583:7 626:22 638:7 657:11,16 684:17 708:6 certainly 623:1 623:16,17 626:6,15 644:25 650:12 650:15 666:18 709:9 certification 540:12 655:12 693:21 certified 655:24 cetera 527:2 chain 591:11,13 591:15 655:2 chairs 577:1 chance 708:20 change 706:19 changes 646:20 674:17 678:16 characterizati... 695:9,16 characterize 628:25 characterized 650:9 charge 521:19 540:23 566:15 566:16 619:7 619:25 627:22 627:24 628:7 660:17,18 663:8 charges 685:1 688:3 chart 554:2 630:15 700:12 chase 697:22 check 517:8 663:2 chemical 526:22 Cherubin 572:5 573:6 600:17 606:21 Chesapeake 545:13 |
| | | <hr/> C <hr/> | | |
| | | C 502:1 630:14 711:1,1 C-2-K 540:6 calendar 513:24 514:3 call 519:19 539:12 551:7 566:17 592:11 592:13,16 619:7 632:20 652:18 657:4 663:12 671:12 675:18,19 | | |

| | | | | |
|---|--|---|---|--|
| chief 552:21 556:16 573:2 576:12 581:6 588:8 600:20 604:21 605:4 635:23 640:7 654:22 697:2 697:14 699:21 700:14,16,21 703:7 704:22 705:4,13,22 | 625:13 clear 560:13 624:22 643:10 685:13,23 clearer 686:2 Clerk 502:25 709:18 climate 524:7,8 542:8 close 702:18 707:9,19 close-out 673:13 closed 670:23,23 closes 670:25 closing 508:7,14 508:24 690:23 691:21 695:10 clue 559:2 coconut 527:2 coincidence 550:2 colder 524:10,12 collect 603:8 678:18 college 552:6 614:9 colon 515:1 come 555:21 564:14 578:10 578:12,17 590:12,13 618:2 621:1,5 629:15 647:12 663:21 667:9 675:7,14 678:14 710:16 comes 555:22 556:5 648:3 coming 527:21 622:14,16 631:2 command 655:3 commentary 510:23 commenting 568:12 comments 539:15,21 568:11 578:2,3 578:5 638:1,4 | commissioner 556:15,16 569:17,17,19 571:23 573:3,4 573:24 579:21 580:13 591:5 592:18 600:24 608:23 629:9 629:10 642:7 666:24 667:5 678:20 Commissioner's 552:21 572:1,3 commit 579:19 commitment 546:20 580:13 580:16 committed 588:16 642:24 commodity 526:6 common 628:22 628:23 company 656:1 compilation 529:15 530:2 compiled 578:5 compiling 600:20 Complainant's 509:19 510:6 511:15,17 513:10 514:5 517:22 520:7 521:1 525:9 532:3 534:14 571:16,18 574:20 594:16 594:25 605:18 644:13 667:6 672:9 675:12 686:3 687:22 688:6 690:3 692:9 702:17 COMPLAIN... 502:2 complaint 518:21 519:9 519:16 521:18 522:2 539:7 | 584:9 586:7 591:5 605:8,19 651:10 678:19 684:23 685:2,5 685:9,19,20 687:16 689:12 697:18 698:24 699:3 complaints 518:17 519:11 519:13 521:15 539:9 589:8 687:18 690:12 complete 511:2 513:3,4,8 517:10 521:21 710:1 completed 511:3 514:3 complex 567:11 compliance 508:18 515:15 517:7 520:21 521:8 522:3,9 525:18 529:5 529:12 531:18 532:7,13,25 533:17 534:19 535:3,13,22 540:14 541:3 546:18 559:22 560:1 568:19 571:13 572:10 572:17 573:18 573:23 574:10 576:12 578:20 579:1,2,11,20 580:3,10,15,19 581:10,21 582:18,22,25 585:11 588:2,2 588:9,24 589:14 591:1 596:9 600:18 602:22 603:15 604:21 605:21 605:23,24 606:7,8 608:19 609:15 610:12 610:13 611:2 | 611:17 619:11 619:20 623:8 629:11,16,23 631:2,13,17,21 633:14,23 634:6 635:22 636:14 638:8 638:17 639:1 642:13,22 644:5,7,21 646:22 647:20 647:21 648:22 649:18 651:3 651:12,19 661:21 665:12 666:23 667:8 671:15 673:22 678:14 680:5 684:22 685:4,8 685:16,18 686:17,19 688:3,13 693:20 697:3 697:25 698:12 698:15 702:7 702:10,16,25 703:9,12 705:22 706:11 complicated 508:15 complied 546:18 546:21 589:13 comply 535:14 541:9 546:22 569:20 573:5 573:17 579:23 582:24 594:12 595:14 631:15 649:12 706:7 complying 546:24 548:25 549:3 557:21 570:20 573:7 588:24 605:10 606:23 609:14 636:10 680:7 component 620:1 components 545:5 |
|---|--|---|---|--|

| | | | | |
|-------------------------|-------------------------|------------------------|-------------------------|------------------------|
| concept 662:1 | confirmatory | 531:6 537:24 | 645:12 | 515:13 526:21 |
| concepts 507:17 | 611:22 | 540:21 554:13 | contains 521:25 | 625:24 627:7,8 |
| concern 574:2 | confirming | 555:20 557:9 | 523:17 590:24 | 628:3,24 |
| 625:11,15 | 641:23 | 560:19,24 | contended | 649:13 662:19 |
| 626:2,11,14,16 | confused 507:22 | 561:7 563:7 | 630:17 | 662:22,25 |
| 668:12 689:5 | 547:17 | 565:18,21,23 | content 507:22 | 663:2 664:3 |
| concerned | confusing | 566:5,8,11,12 | contents 649:6 | controlling |
| 554:10 574:4 | 537:20 | 566:20 567:3 | 710:1 | 528:25 |
| 581:3 625:25 | confusion | 567:10,12,13 | continue 506:7 | controls 513:23 |
| 704:19 | 507:16,18,19 | 567:24 568:16 | 528:2 530:4,25 | 523:15 536:17 |
| concerning | connection | 610:9 611:1,10 | 664:2 | 649:20 651:22 |
| 555:16 566:20 | 608:17 610:6 | 618:13,15,16 | continuing | 680:21 681:9 |
| 582:12,21 | 622:6 625:2 | 618:24 619:18 | 568:1 671:14 | convenient |
| 703:16 | 626:23 632:1,9 | 621:23 624:10 | contract 540:11 | 528:15 |
| concerns 565:13 | 633:19 643:21 | 625:24 626:20 | 567:11,13,24 | conversation |
| 623:12 624:16 | 644:5,21 662:2 | 627:21 628:19 | 568:12,21 | 581:7 582:11 |
| 626:19 636:14 | connections | 649:23 653:12 | 647:10 649:10 | 641:11 671:10 |
| 649:17 650:6,9 | 687:4 | 653:14 654:5 | 649:20 | conversations |
| 650:10,18 | CONR-5 540:10 | 655:6 657:3 | contracted | 546:15 606:12 |
| concluded | consent 633:16 | 659:16,18,20 | 509:3 | 606:15 633:24 |
| 710:18 | 642:3,4 | 660:8,12,23,23 | contractor | 641:14 |
| concrete 528:3 | Conservation | 660:25 661:2 | 513:24 536:16 | conveyed |
| concurred 702:9 | 547:8 632:12 | 662:20 663:12 | 537:2,16 | 650:18 |
| condition | consider 564:1 | 663:14,25 | 567:25 619:11 | cooperate |
| 617:10 | considerable | 664:12 687:19 | 627:11 628:9 | 569:16,20 |
| conditioned | 609:25 | 690:17 | 628:18 661:23 | 579:24 |
| 603:6 | considerably | consultants | 663:20 691:14 | cooperation |
| conditions 587:4 | 609:12 | 620:6 622:8 | 691:14 | 638:21 |
| 599:23 602:1,4 | consist 557:1 | 644:2,3 | contractor's | cooperative |
| 602:7 603:9,13 | 638:2,3 639:3 | contact 517:1 | 661:4 | 706:1,14 |
| 625:18 | 643:25 645:8 | 527:22 618:3 | contractors | coordinate |
| conduct 510:18 | consisted 619:22 | 693:19,21,22 | 508:9 515:25 | 669:4 686:24 |
| 537:1 | 642:16 | 694:10 | 516:9,10 | coordinated |
| conducted | consistent | contacted | 554:16 560:21 | 565:3 588:21 |
| 509:13 511:24 | 640:15 700:4 | 673:10 | 618:17 619:3 | 669:3 |
| 620:4 622:10 | 704:4 | contain 619:2 | 626:22 649:12 | coordinating |
| 624:17 | consists 552:13 | 646:25 | 649:23 659:23 | 574:12 |
| conducting | 553:2,3,22 | contained | 659:24,25 | coordination |
| 547:23 610:11 | 556:25 | 542:19 645:23 | 660:7,9 664:2 | 606:22 687:1 |
| conference | constraints | 646:23 686:15 | 664:7 | coordinator |
| 508:7,14,24 | 542:25 | 688:12 | contracts | 519:5 616:20 |
| 576:23,25 | constructed | container 647:2 | 526:12,16 | 618:6 692:1,5 |
| 635:6 649:24 | 543:3 546:7 | 647:8 | 618:25 649:23 | 692:19 693:24 |
| 679:15 690:23 | construction | containers | 660:1,4,7 | 694:2,4 |
| 691:15 | 514:15 515:7,9 | 526:17,24 | 662:20 663:23 | coordinator's |
| conferences | 515:12,13,23 | 647:8,11 | contradict | 693:24 |
| 570:14 | 516:8,10 | containing | 688:20 | coordinators |
| confirm 587:13 | 518:18 521:15 | 525:6 | contrast 553:12 | 547:23 657:5 |
| 699:3 708:8 | 521:17,20,21 | containment | control 507:3,12 | 658:18 660:24 |
| 709:25 | 521:24,25 | 527:9 528:4 | 510:1 514:16 | copies 570:10 |

| | | | | |
|--|---|---|--|--|
| copy 539:23 591:5 595:3,18 672:21,23 678:19 709:20 711:8 | counsel 572:5 600:18 612:3 counties 553:6 558:6 559:2 616:14,15 | 699:12 culvert 539:17 626:17,18 culverts 528:20 626:17 | 693:13 dated 667:3 675:9 683:8 692:22 | 665:23 672:23 693:8,12 December 517:15 686:19 686:20 692:22 |
| Cornell 614:11 corps 584:6,8,20 584:24 585:21 585:23 586:5 586:18 610:5 610:10,14,19 610:24 611:1 | country 657:1 county 616:14 couple 534:12 586:4 593:9 609:18 610:7 610:23 651:6 680:3 | current 526:7 552:12 613:12 653:9 currently 526:11,15 614:2,5 | dates 541:3,14 670:20 708:12 Dave 518:23 519:8 572:5 573:6 600:17 606:21 621:10 692:3,4,15,18 693:2,18 | decide 572:24 decided 687:2 decision 708:3 709:15 defense 669:25 definition 689:2 degrade 662:17 degree 562:5 614:8,11 617:2 655:9 |
| correct 508:3,6 511:9,21 512:12 516:3 522:20,24 525:13 530:3 575:24 578:25 579:8 589:19 593:12 594:13 597:4,7,10 599:15,21,25 600:2 601:10 601:15,24 602:6,12 606:25 607:5 607:13,22 611:15,20 615:3,25 616:2 623:2 628:9 634:20 643:19 649:16 651:24 659:14 673:9 674:12 676:19 678:7 680:15 682:5 684:18 684:20,24 689:23 690:1 690:23 692:6 695:21,22 699:23 700:17 705:1 711:8 | course 534:11 546:23 551:1 638:11 640:13 676:24 694:15 Court 501:4,5,9 709:16,21 711:3,20 courtesy 707:12 707:15 courtroom 684:16 cover 528:7 544:10 660:19 686:20 coverage 674:13 covered 515:10 526:17,24 528:10 548:11 covering 525:6 543:1 651:22 covers 521:21 528:14 543:7 543:15 660:21 crashes 646:4 create 535:20 538:16 542:5 created 540:13 541:1 598:5 credibility 694:25 credits 562:14 crews 646:2 criminal 586:11 cross 556:20 cross-examina... 506:3 593:5 648:12 679:24 691:24 694:17 | cut 609:7 697:21 CWA 631:16 CWA-02-2016... 500:11 CX 510:4 514:17,20 515:18 531:22 536:7 537:6 538:4 540:4,18 542:10 | David 502:14 693:24 699:14 day 508:14 514:3 549:25 569:5 573:20 583:2 587:22 601:16,19 622:14 631:19 633:8,9 634:19 636:16 668:2 day-to-day 547:10 608:20 609:1 617:20 days 508:11 513:24 536:17 668:17,17 deal 593:22,25 615:22 623:11 624:18,21 650:13 678:15 680:24,25 dealing 527:9,16 586:20,21 605:3 640:16 645:9 646:17 dealt 543:16 605:2 642:21 645:1 646:21 DEC 510:24 511:8,10 516:6 531:4 553:12 574:5 615:21 622:9 632:14 632:19,24 633:5,7,11,16 633:19 635:8 640:16,19 644:23 665:19 | decide 572:24 decided 687:2 decision 708:3 709:15 defense 669:25 definition 689:2 degrade 662:17 degree 562:5 614:8,11 617:2 655:9 degrees 552:8 delegate 627:25 delegated 574:10 588:4 667:13,14,16 delegatee 628:8 delivered 647:25 delve 633:3 demeaning 637:2 demeanor 581:9 demonstrate 512:25 513:1,2 513:6 denied 541:21 DENISE 502:21 department 500:6 501:2 502:11 520:2 520:15 524:21 539:16 544:1 544:14,21 545:2 552:5,18 552:24 553:2,9 553:15,18,20 553:25 554:15 554:19,24 555:16,20 556:23 557:17 558:16,23 560:9,10,14,16 561:4,10 562:3 563:14 565:22 566:22 567:10 |
| corrections 682:12 correspondence 521:19 540:22 corresponding 606:18 costs 643:22,25 644:1 674:24 | | daily 521:23 565:9 584:22 586:10 dam 663:3 Dan 503:8 551:8 629:20,20 631:10,11 637:21,24 639:13,14 640:1,8,21 651:1 667:15 667:16 668:22 670:21 671:1 672:3 675:15 675:17 676:15 678:6 679:1,3 679:7,16,17 691:25 Daniel 551:12 551:21 date 517:13 520:17 521:3 530:15,23 533:18 550:3 571:20 629:8 642:10 683:3 692:20,21 | | |

| | | | | |
|---|--|---|---|--|
| 567:23 568:23 569:14,16,23 570:3 571:24 577:14 586:7 588:15,18 593:17,21 594:8 597:21 606:22 607:1 607:20 608:14 613:21,24 614:13 615:2 615:13,16 616:1,4,5,6,12 619:4,6 624:17 627:10 628:14 632:11,15 636:9 637:1 638:24 642:24 644:5,20,23 645:9 646:16 654:15 656:10 656:11,13,17 656:24 659:12 661:21 662:5,8 664:7 665:6,16 665:22 667:23 669:24 674:25 676:24 680:4,6 681:6 687:10 689:17 697:23 699:15 701:1 706:6 | 516:23 518:2 521:4 527:15 527:17 531:23 536:8,12 540:8 590:23 601:13 616:9 619:22 627:3 642:15 656:22 665:21 671:18 680:4 described 684:23 685:9 description 505:3 553:1 591:7 653:22 design 515:7 554:13,20,21 563:7 567:4 613:25 654:5 655:7 designed 649:11 desist 586:11 610:20,21 611:4,14,18 detail 633:4 detailed 520:25 details 530:2 579:6 detection 517:11 determination 621:19 determinations 508:17 determine 509:12 514:1 528:21 643:12 develop 515:2 515:16 520:13 689:15 developed 525:17,19 526:18 527:8 527:11 530:13 530:19 532:12 651:22 680:21 developing 520:24 development 562:13 devices 662:23 diagonally | 637:20 Diana 501:8 711:3,20 dictated 541:3,6 difference 574:25 603:14 603:18 differences 524:22,24,25 525:2,3,4 695:4 different 524:5 536:22,24,24 537:7 542:7,8 560:6 566:1 613:21 658:15 664:16 666:6 666:10 689:3 694:21 700:11 differently 608:18 difficult 509:16 difficulties 624:14 difficulty 517:24 digit 512:7 digitally 506:12 diploma 562:6 617:1 Dire 592:2 direct 525:8 551:17 557:11 571:11 573:13 574:14 575:4 576:6,9 577:21 590:19 594:15 595:4,10 596:1 596:7 605:18 606:3 613:9 629:4 631:12 636:1 644:9,15 653:2 660:16 665:1 672:8 675:12 684:14 686:11 687:22 688:6 690:2 692:24 693:3 696:21 701:8 701:11 directed 516:25 | 517:1 519:21 571:22,25 583:8,9 584:7 667:12 directing 518:4 575:9 629:7 667:24 702:14 702:17 direction 557:8 579:17 directly 580:13 595:7 624:19 657:6 664:23 director 551:23 565:25 566:2 575:23 606:9 607:20 667:10 697:14,16 700:22 directors 552:22 565:24 566:4 569:19 573:5 dirt 628:19 disagree 689:7 694:21 695:15 disagreed 695:8 695:19 disagreement 580:4,6 disagreements 638:12,13,15 discharge 517:11 528:16 538:19,23 540:2 687:3,13 discharged 528:22 549:18 discharges 510:14 517:18 518:6 discuss 574:6 586:23 636:9 697:25 698:14 discussed 535:17 573:1,3 580:7,20 586:6 587:8,10 602:1 602:17 606:1 634:6 668:7 686:8 | discussing 582:9 discussion 538:13 540:22 577:20 580:18 582:20 587:11 600:1 623:7 638:11 668:11 688:5 discussions 515:25 570:14 570:17,20 572:12,22 587:16 588:11 612:6 638:7 641:13 dispersed 528:6 disposal 657:24 dispose 658:11 distance 549:14 distribution 654:21 disturbed 626:6 626:25 ditches 528:19 divided 554:1 630:21 division 519:10 544:16,17 554:5,5,6,10 554:11,12,22 555:4,7,9 556:1,2,3,6,8 556:18,24 569:18 573:5 584:10 594:11 597:23 606:8 608:8,10 613:25 614:2,4 615:2,5,9,17 617:13 618:10 618:11,12 619:18 654:3,4 654:23 656:19 659:8,13,15 697:2,14,16 700:20,22 divisions 554:3 555:2,6 556:21 556:22 560:6 561:15 597:13 |
|---|--|---|---|--|

| | | | | |
|-----------------------|---------------------|------------------------|-------------------------|------------------------|
| 615:14 | 513:18 516:9 | 675:3 685:4 | 677:14,16 | elaborated |
| Docket 500:11 | 517:17,20 | 687:16 689:9 | 678:5 | 516:18,21 |
| document 510:5 | 519:1,5,17 | DOTs 657:1 | e-mailed 541:19 | elements 647:20 |
| 513:17 514:14 | 521:6,24 522:3 | Doug 624:4 | 589:18 675:16 | Eleven 558:25 |
| 517:12 518:13 | 526:13 530:22 | 700:19 | e-mails 539:15 | eliminated |
| 521:4 528:24 | 531:5 535:16 | dozen 557:5 | 574:12 611:22 | 527:22 646:24 |
| 531:8 534:18 | 536:9 537:1 | draft 641:22 | earlier 597:3 | elimination |
| 534:24 536:8 | 538:11 539:7,9 | 672:1 | 620:16 635:15 | 517:11 |
| 540:13,16,19 | 539:22 541:9 | drag 669:20 | 672:6 690:14 | Ellen 576:16 |
| 548:12 571:20 | 541:17 542:4 | drain 528:11,14 | early 547:13 | 579:12 582:2,3 |
| 590:23 594:23 | 542:23 548:12 | 528:15,18 | 612:20 | 588:20 601:20 |
| 599:8 612:1 | 548:16,22 | 538:25 546:2 | easily 508:21 | 609:23,25 |
| 629:8,12,14 | 551:24 552:1 | 595:7 596:4,14 | 529:15 | 631:4 634:25 |
| 630:2,10,15 | 553:3 575:16 | 596:18,20 | Eastern 524:3 | 671:19,20 |
| 634:11,14 | 575:20 576:14 | 618:3 658:11 | easy 529:8,16 | 677:7,16,19 |
| 644:16 668:16 | 576:23 578:1 | drains 626:9 | eBay 526:10 | Ellen's 587:9 |
| 676:1 677:25 | 578:11 579:6 | draw 510:11 | 646:14 | 612:4 |
| 678:12 686:8 | 579:19 580:1,1 | 520:7 | Ecology 614:9 | emergency |
| 692:20 693:6 | 580:14,18 | drill 559:4 | economy 655:25 | 528:13 |
| 693:13 | 588:8 596:15 | drinkable | educate 515:25 | emphasis |
| documentation | 597:7 599:4 | 545:20,21 | 563:11 | 581:25 |
| 537:24 599:11 | 601:1 611:21 | Driscoll 591:5 | educated 516:5 | employed |
| 648:19 | 612:3 615:9 | 678:20 | 695:4 | 512:10 542:22 |
| documented | 618:24 622:5 | dropped 656:1 | Educates 515:7 | 568:22 569:1 |
| 599:5 601:23 | 622:13 623:7 | dry 510:13 | Educating | 604:1 613:21 |
| 661:16 687:5 | 624:24 625:6 | due 541:14 | 515:23 | 614:16 653:7 |
| documenting | 625:17 626:3 | 670:19 | education 538:9 | employee |
| 521:23 | 627:21 631:1 | duly 551:13 | 538:14 552:6 | 562:16 578:11 |
| documents | 632:10 633:13 | 613:6 652:24 | educational | 604:6 607:2 |
| 523:20 535:20 | 633:16,22 | 696:19 | 614:7 655:8 | 614:4 644:1 |
| 598:21 599:3 | 638:1 639:9 | dump 538:25 | effect 522:15 | 661:20,23 |
| 633:6 649:7 | 645:15 651:18 | 562:25 595:7 | 666:14 | employees 544:3 |
| 682:6 707:1,21 | 652:1 653:8,10 | 596:4,13,20 | effective 528:17 | 544:5 554:24 |
| doing 569:3 | 654:18 655:15 | 618:2 | effort 678:16 | 557:17,25 |
| 579:19 580:18 | 656:24 658:9 | duties 552:12 | efforts 522:22 | 558:2,16,24 |
| 588:16,19 | 660:7 663:11 | dwelling 658:17 | 668:15 680:4 | 559:10,20 |
| 590:5,9 627:21 | 663:18 664:15 | | 688:13 | 560:11,25 |
| 639:6 642:25 | 664:21 665:9 | E | EIC 521:19,19 | 561:4,6,7,9,11 |
| 644:21 655:19 | 665:12 673:21 | e 502:1,1,9,17 | 566:17 | 561:20 562:21 |
| 656:3,6 680:17 | 684:22 685:1,8 | 532:9,16 711:1 | eight 697:6 | 562:24 563:14 |
| dollars 544:23 | 685:19 686:16 | e-mail 505:4 | 700:1 | 563:20 564:3 |
| 544:24 | 686:24 688:2 | 517:13 520:6 | Eisenbach 656:6 | 564:23 565:10 |
| Dore 535:5,6 | 688:13 689:11 | 539:13 590:25 | either 512:18 | 566:7,10,10,14 |
| 573:15 606:10 | 690:11,19 | 591:2,8,11,13 | 519:21 533:12 | 566:19 569:10 |
| 606:12,18 | 693:7,10,11 | 591:18 592:11 | 541:19 544:15 | 576:14 597:7 |
| 607:7,8,11 | 698:1 699:1 | 641:23 671:11 | 554:20 610:3 | 600:9 615:9 |
| 697:16 700:20 | 702:16 706:1,9 | 672:9,12,22 | 611:9 620:15 | 616:5,12 617:6 |
| DOT 502:19 | DOT's 521:11 | 673:1 675:20 | 645:23 | 617:8,19 619:6 |
| 510:9,17 512:4 | 535:12 540:8 | 675:23 676:6 | elaborate | 619:10,17 |
| 512:10,18 | 581:10 673:2 | 676:14,17,25 | 520:25 | 622:9,19 |

| | | | | |
|--|---|---|---|---|
| 625:16 631:1 654:17,21 656:18 658:4 659:2,4 660:13 661:8 664:7 665:5 706:10 employment 617:10 encourage 548:7 ended 587:19,25 ends 510:5 637:22 enforce 515:3 687:17 enforcement 584:10 586:6 586:19 603:15 605:4 606:8 610:18 632:14 632:19 633:11 665:15,16 697:3 enforcing 663:8 Eng 588:8 600:19 642:4 engage 539:3 engaged 700:25 engineer 521:17 521:18 540:23 552:21 556:16 563:10 565:4 573:2 588:8 600:20 627:22 627:24 628:7 643:1,2,10 654:22 663:8 engineering 554:4,9,11,12 554:22 555:4 556:17 560:20 565:22 597:22 608:8,10,14 613:25 615:2,5 618:11,12 619:17 654:3,4 655:24 656:6 659:13,15 engineers 515:8 547:22 565:6,9 565:12,16,18 | 566:15,16 567:3,4 584:6 584:8,20,25 585:21,24 586:5,18 610:5 610:10,14,20 610:24 617:17 619:7,25 658:6 658:14 660:17 660:18,23 ensure 649:11 659:4 ensuring 694:5 entail 674:24 enter 559:15 entirely 545:17 entitled 701:19 entity 515:10 694:6 entrance 628:20 enumerated 509:25 515:5 environment 519:4 520:12 544:18 548:7 551:23 552:10 554:14 556:12 556:14 562:3 569:11 575:21 593:11,13,15 594:2,4 607:21 607:25 613:22 614:1,17,20,25 615:1,4,8,11 617:23 618:9 642:18 654:2 689:13 environmental 500:2 502:2,6 519:3 529:19 529:22 547:22 552:8,11,14,17 552:22 557:2,4 557:10 561:22 562:17,21 565:13 566:21 568:5,16,18 597:17 598:24 604:7,10,11 613:14,19 | 614:9,10,18,23 616:19 618:6 618:20 620:1 632:5,10,11 643:1,6 648:18 648:24 653:6 653:11,15,16 653:20,21,24 654:1,9 655:1 656:8,12,20 657:2,5,9,10 657:11 658:18 660:8,24 661:1 661:4,11 703:8 EPA 502:20 508:9 515:16 516:1 517:6 518:8,19 520:4 521:6 522:19 522:24 523:4 525:18 531:9 531:17 532:6 532:13 533:20 537:22 538:13 539:4 540:16 541:5,8,10 543:7,14 568:23 569:22 569:24 570:2 570:14,25 574:5 576:8 577:10 578:23 579:6,11 581:5 581:9 582:11 583:8,21 584:3 584:7,7 586:22 586:25 587:12 587:17 588:12 598:20 601:5,9 601:18 602:21 603:7 604:24 608:25 611:24 620:3,6,25 621:21 622:8,9 622:13 623:21 624:2 629:6,17 630:17 633:23 633:24 635:10 635:24 637:17 638:13 641:23 | 642:5,8 643:7 643:22 648:15 648:21 649:17 650:2 651:19 652:1 664:21 665:9,12 666:24 668:20 669:4 670:17 671:12 673:23 681:8 686:18 687:12 697:2 697:11 698:1 698:23 699:18 700:25 702:24 705:4 EPA's 516:17 529:4,12 533:17 546:20 602:5 642:2 680:5 706:7 equipment 625:5 eroding 626:17 erosion 507:2 625:24 626:2 626:11,15,20 627:1,7,8 628:2 649:12 662:2,4,14,19 662:22 663:1 664:3 ESQ 502:4,5,13 502:14 essentially 614:20 685:1 694:8 establish 517:1 526:12 560:5 established 563:21 et 527:2 evening 710:17 event 528:16 601:22 618:1 628:7 658:10 661:20 664:10 events 528:21 537:3 evidence 548:25 571:12,19 | 574:15 589:17 591:25 629:7 634:10 650:22 667:3 675:25 678:4 682:4,16 683:15 707:22 exact 525:4 529:13 584:18 698:10 exactly 507:1 544:5 650:10 669:14 705:21 708:11 709:18 710:11 EXAMINATI... 503:1,3,9,16 503:21 504:3,8 535:10 543:23 551:17 590:19 603:24 607:18 613:9 653:2 684:14 696:21 EXAMINATI... 504:1 example 548:13 557:23 560:19 562:24 565:5 618:2 644:25 651:20,21 661:13 680:9 excerpt 690:17 excluding 645:12 exclusion 543:2 excuse 530:10 582:13 excused 531:13 551:3 612:18 652:7 681:15 696:12 706:24 executive 553:9 553:13,17 exhibit 505:4,7 506:11 509:9 509:20,22,24 510:6 511:15 511:17 513:11 514:5,7 517:22 517:25 520:8 521:1 525:9 |
|--|---|---|---|---|

| | | | | |
|---|---|---|---|---|
| 532:3 534:15 543:14 571:13 571:16,18 573:13 574:15 574:16,20 575:5 588:6 590:22 591:20 594:16 595:1 604:17,19 605:19 629:6 634:10 636:2 644:12 667:3,6 667:25 672:10 672:10 675:13 676:5,7 677:3 678:3 681:23 682:3 683:1,7 686:3 687:23 688:7,12 689:9 690:3 692:9 693:4,10 702:18 exhibits 505:1 509:2 512:17 512:18 681:21 682:9 709:13 710:3,7,12 exist 529:11,14 615:12 existed 522:16 529:8 533:20 existence 522:5 532:18 533:3 540:17 541:2 553:8 629:16 existing 686:22 exit 570:13 623:3,6 expect 508:15 expected 508:22 707:17 expedited 608:21 609:10 experience 545:18 552:4 563:5 578:22 584:4 585:20 596:14 610:5 628:14 632:18 633:3,5 640:15 | 642:25 665:15 experimented 525:11 expert 506:24 507:1,4,11 524:9,13 685:14,21 expertise 545:17 615:13,15 experts 557:6 615:12 618:9 explain 568:14 603:17 615:7 670:12 673:20 700:24 Explaining 511:1 explanation 511:8 536:13 exploring 526:15 exposed 627:5 express 623:12 624:16,23 expressed 704:18 extension 541:17,20,21 573:9 668:15 668:18,21 extensions 541:12 extent 548:18 555:2 616:8 663:6 687:12 External 519:14 519:22 520:13 521:13 554:6 689:14 extra 589:6 <hr/> F <hr/> F 532:11 533:5 540:10 685:10 711:1 faces 641:2 facilitate 574:10 600:20 facilitated 588:21 | facilities 523:9 523:21,25 524:2,15,23 525:7 526:11 529:1 530:11 531:7 533:8 542:20,24 553:6 558:10 558:17,23 559:3,6,13,21 563:16 594:10 595:14 599:19 599:24 617:15 620:7 622:5,12 625:6 626:3,4 630:7 647:11 647:23 649:1 654:8 657:22 658:9 673:25 680:10,13 facility 517:20 523:18,22 528:6 558:9 596:12 604:2 630:8 fact 524:17 570:7 595:13 601:12 669:15 701:22 706:9 facts 685:25 factual 630:11 failure 573:17 582:23 631:15 failures 649:20 fair 543:15 579:7 595:6,15 596:3 599:7 602:10,20 637:2,6,12 fairly 547:14 622:25 fall 534:5 543:2 565:22 594:1,2 familiar 539:8 567:15 603:14 616:3 618:23 619:1 625:23 626:19 654:14 654:16,17,20 660:3 662:1 | 664:19,24 665:11 familiarize 636:11 far 514:25 549:11 552:6 554:9 557:10 568:18 581:3 588:14 596:9 596:19 598:15 621:17 625:24 630:11 641:9 689:24 710:16 faster 608:22,24 669:23 father 655:22 fault 647:16 feasible 528:8 542:22 February 675:7 Federal 555:22 555:23 605:3 feedback 508:21 feel 548:2 564:18 669:8 feeling 708:13 feet 641:6 fence 628:15 662:25 fencing 627:4 Fenders 645:20 645:21 fiber 527:2 663:1 field 509:18 512:20 531:5 655:14 656:12 fifth 575:17 figure 572:21,22 599:13 674:12 file 707:23 708:21,21,23 708:24 fill 511:4,14 512:1,11 659:9 fillable 510:21 filled 642:4 693:22 filter 527:2,3,5 549:15 | filters 546:12 filtration 545:21 546:4 final 508:17,19 526:1 673:7,17 675:7 finalize 672:3 find 522:10,12 529:21 594:22 629:19 647:16 676:12 finding 517:24 651:9 691:11 findings 509:15 509:17 623:10 630:6,11 650:14,20 683:12,16 691:11,16,18 finds 628:8 fine 564:9,16,20 633:8 636:24 640:18 709:4 710:5 finger 614:22 fingers 581:14 finish 669:7,8 701:13 finished 582:10 669:12 fired 562:18 firm 655:18,25 656:5 first 513:17 514:19 515:1 527:20 568:23 569:4,13 571:3 571:10 576:7 618:5 634:4,13 634:23 636:1 651:12 708:19 fish 637:4 fishery 545:24 fishing 545:23 fit 555:2 561:12 five 554:3 700:5 fix 661:24 fleet 526:14,15 526:18 527:11 531:6 614:3 |
|---|---|---|---|---|

| | | | | |
|-------------------------|-------------------------|-------------------------|------------------------|-----------------------|
| 645:18 | forward 521:14 | 543:19 550:6 | generalists | 631:20 638:23 |
| flip 575:9 636:2 | 639:5 642:11 | 550:14 582:11 | 557:7 | 678:5 708:9 |
| flooding 528:12 | 677:16 678:13 | 582:20 587:16 | generalized | gives 560:14 |
| 528:17 539:19 | 706:15 | 590:19 603:21 | 657:9 | 654:9 |
| FLOOR 502:7 | forwarded | 605:12 607:14 | generally | giving 584:15 |
| flow 545:12 | 675:20 676:15 | 612:7 641:13 | 524:10 539:14 | 702:2 |
| flows 545:13 | 677:15,21 | 648:6 652:5 | 543:17 564:5 | glue 694:7 |
| fluctuated 608:1 | 679:17 690:11 | 673:16 679:21 | 564:22 565:12 | go 517:12 |
| flunk 562:18 | 690:12,16 | 681:13 684:14 | 566:24 568:14 | 518:13 530:5 |
| focus 583:7 | forwarding | 692:24 694:12 | 593:18 596:13 | 537:4 540:4,6 |
| 662:8 | 673:2 679:6 | 694:17 706:18 | 616:9 625:22 | 554:8 568:4 |
| focusing 522:22 | found 538:21,23 | 706:21 | 627:3 629:3 | 571:5 572:2 |
| folks 547:24 | 584:13 623:18 | future 651:10 | 642:15 663:12 | 577:18 586:3 |
| 548:17 657:16 | 624:21 674:9 | 673:3,11 | 665:21 | 586:14 592:16 |
| follow 529:16 | foundation | FYI 679:6,12 | generate 645:16 | 595:17 600:12 |
| 686:25 | 666:11 | | 645:18 646:3 | 613:8 617:4,6 |
| follow-up | four 515:17 | G | generated | 618:5 621:2,12 |
| 587:12 595:16 | 520:20 583:17 | garages 559:18 | 549:16 628:4 | 641:16 643:15 |
| 671:9,25 | 584:1 602:14 | Garelick 502:5 | 661:8 | 646:25 653:1 |
| 687:18 690:9 | 670:5,6 694:21 | 503:12 504:4 | gentleman | 661:23 666:11 |
| 690:10 | 704:4 | 506:8,15 | 624:5 | 669:22 670:15 |
| followed 577:19 | fourth 513:16 | 563:18 582:14 | gentlemen | 676:12 681:20 |
| followed-up | 575:10 634:14 | 585:3,25 | 594:24 | 696:14 705:11 |
| 671:1 | 666:2 | 592:22 593:3,6 | geo-database | 708:18 709:13 |
| following 522:1 | frames 670:19 | 593:8 594:25 | 539:24 | 709:16,17 |
| 527:23 663:21 | frankly 670:22 | 595:2,12,22 | geo-hay 527:2 | 710:2,10 |
| 673:11 706:10 | Fredonia 655:10 | 603:21 605:14 | geo-tech 554:14 | goal 535:12,23 |
| follows 551:14 | free 669:8 | 605:17 607:8 | getting 565:19 | goes 509:17 |
| 613:7 652:25 | freeze 609:17 | 607:14 612:12 | 639:5 647:22 | 526:21 528:24 |
| 667:8 696:20 | frequent 627:23 | 612:13 632:22 | 662:13 688:24 | 564:6 584:10 |
| foregoing 711:5 | frequently | 641:8 643:9 | 703:23 | 586:8 615:20 |
| 711:7 | 617:22 664:6 | 665:24 666:16 | give 536:12 | 629:11 646:5,8 |
| forget 650:9 | front 509:20 | 669:6,11 | 541:12 552:3 | going 552:23 |
| forgot 558:20 | 539:18 571:14 | 683:25 684:4 | 552:25 555:3 | 554:8 560:8 |
| form 510:21,21 | 585:7 594:17 | 684:15 685:15 | 558:22 562:10 | 567:9 568:24 |
| 511:2,18 512:2 | 632:23 666:1 | 686:1 694:12 | 562:12 572:15 | 571:11 574:14 |
| 512:6,11 513:1 | 686:13 702:15 | 696:2,10 | 584:9 589:5 | 574:15,17 |
| 525:20 529:8 | frontline 616:12 | 703:13 704:7 | 595:20 604:15 | 579:19 580:14 |
| 540:10 672:17 | fuel 657:17,18 | 705:7 707:14 | 643:13 653:22 | 583:3 590:4,12 |
| 688:14 693:21 | 657:19,20 | Garelick.Jaso... | 655:5,6,6 | 590:13,21 |
| formal 562:5 | full 551:19 | 502:9 | 667:11 672:3 | 592:7 593:8 |
| 563:9 | 635:18 653:4 | general 507:7 | 708:19 709:6 | 594:15 595:4,9 |
| formalized | fully 528:17 | 514:10 519:19 | 709:21 | 603:20 605:25 |
| 616:25 | 535:14 546:22 | 523:14 526:8 | given 505:2 | 612:24 620:25 |
| format 529:14 | 569:20 579:23 | 539:2,9,22 | 527:13 533:12 | 621:11,25 |
| formerly 521:12 | function 540:25 | 557:6 580:23 | 534:4 560:6 | 622:16,25 |
| forms 512:21,24 | functioning | 583:6 612:3 | 573:17 582:23 | 623:13 625:3,3 |
| 512:25 513:2 | 514:2 | 623:9 638:21 | 592:17 597:7 | 629:4 634:9,11 |
| formulate 582:6 | funds 555:25 | 640:5 647:25 | 599:4 603:19 | 634:11,21 |
| forth 701:23 | further 511:7 | 691:19 703:1 | 608:20 631:15 | 636:19,20,24 |

| | | | | |
|-----------------------|------------------------|------------------------|-------------------------|-------------------------|
| 639:16 640:6 | 588:20 604:11 | 628:1,2 | 534:21 563:11 | 532:3 534:10 |
| 641:8 643:15 | 605:4,4,5 | happened 586:2 | 710:16 | 534:22 535:8 |
| 644:9,15 647:6 | groups 554:21 | 670:4 | helpful 604:18 | 537:14 543:20 |
| 650:20 666:5 | 566:1 | happens 564:15 | Hi 679:6 | 550:12 563:18 |
| 669:13 672:5 | grunt 671:20 | 709:8 | high 545:18 | 563:25 567:19 |
| 674:14 675:25 | guess 584:21 | happy 564:19 | high-level | 582:14 585:3 |
| 679:13 680:24 | 585:15 611:16 | 669:22 672:7 | 578:11 | 585:25 590:3 |
| 688:23 693:3 | 622:9 634:7 | hard 549:3 | highest 607:1 | 590:17 592:23 |
| 694:19 695:24 | 635:16 645:7 | 638:16 672:21 | highlighted | 594:19,25 |
| 697:21 701:23 | 679:2 | hats 555:10 | 513:20,22 | 612:13 632:22 |
| 701:25 707:19 | guessing 705:12 | haulers 526:12 | 532:22 | 648:9 665:24 |
| 709:12,16 | guidance 523:14 | 526:16 | highway 547:25 | 666:8 669:6,19 |
| good 506:14,22 | 523:18 537:2 | hazardous | 553:21 554:17 | 676:2,11 677:2 |
| 506:23 523:8 | 552:16,16,19 | 564:24 | 555:23 558:12 | 678:2 682:2,24 |
| 531:23 548:6 | 557:7,19 | hazards 517:17 | 562:16 563:15 | 694:13 696:2 |
| 585:9 593:7 | 617:20 | 518:5 538:19 | 628:19 646:7 | 696:10 699:8 |
| 624:21 647:17 | guide 558:14 | head 516:14 | 662:2,16,18 | 703:13 705:7 |
| 648:14 670:9 | 646:3,4 | 518:9 663:5 | highways 518:4 | 706:22 707:3,6 |
| 670:11 671:6 | guy 637:3 | 674:22 | 539:25 553:22 | 709:4 |
| 680:1,2 696:23 | 641:19 | headed 577:15 | 626:11 659:20 | hope 530:19 |
| 710:17 | guys 555:10 | 621:8 | 662:15 | 666:7 |
| gotten 609:5 | | heading 514:15 | hire 561:6 | hopefully |
| Government | H | 537:19 | 609:15,20 | 506:12 708:4,8 |
| 519:22 521:12 | half 513:25 | headquartered | 618:17 | 710:9 |
| gown 562:6 | 555:7 557:24 | 553:4 | hires 554:16,18 | hour 561:24,24 |
| grade 544:22 | 561:25 587:22 | headquarters | 700:7 | 587:22,23 |
| graded 658:20 | 587:23 609:8 | 616:17,17 | hiring 560:21 | house 559:14 |
| grass 555:15 | Hampton's | heads-up 592:17 | 609:17,18 | 654:7 |
| grassed 549:15 | 524:8,11,12 | 679:19 | history 586:13 | housekeeping |
| gravel 528:14 | hand 590:21 | health 520:16 | 586:21 | 523:8 531:20 |
| Graves 518:23 | 641:5 | 553:15 655:7 | Hitt 503:8 551:8 | 604:8 616:21 |
| 519:8 621:10 | handbook | 687:10 | 551:12,19,21 | 616:22 |
| 691:25 692:3,4 | 523:16 529:19 | hear 594:23 | 557:23 560:8 | housekeeping/... |
| 692:15,18 | 529:22,24 | 602:7 704:9 | 560:15 565:20 | 531:24 |
| 693:2,25 | 530:1 | heard 611:10 | 567:22 568:22 | HR 614:5 |
| Graves' 693:18 | handed 514:11 | 651:6 666:6 | 571:11 582:20 | Huff 509:11,12 |
| gravity 629:1 | handle 618:8 | 669:15 684:21 | 583:25 585:10 | huge 650:13 |
| great 515:14 | handled 519:11 | 690:21 691:2 | 585:24 588:7 | hundred 515:17 |
| 525:22 592:5 | 519:14 640:16 | 691:23 | 590:23 612:15 | 555:24 556:7 |
| 637:3 678:15 | 690:13 | hearing 501:1 | 629:21 631:10 | hundreds |
| ground 526:25 | handles 557:3 | 590:6 679:16 | 631:11 637:21 | 516:24 |
| 546:9,12 | handling 530:11 | 682:19 709:18 | 651:1 667:16 | hygiene 655:11 |
| 549:19 | 586:18 606:21 | 710:18 | 670:21 676:15 | |
| groundwater | hands 621:5 | heavy 528:21 | 677:15 678:6 | I |
| 546:5,13 | handwriting | heck 624:19,20 | 679:1,7 | ice 561:2 |
| groundwork | 634:16 | held 500:14 | Hold 542:11 | IDDE 515:15 |
| 643:11 | handy 513:12 | 501:2 668:24 | holders 512:1 | 516:16 |
| group 552:22 | 534:16 | Hello 590:16,17 | homes 539:3 | idea 554:23 |
| 554:21 555:12 | happen 550:3 | 604:1 | Honor 506:4 | 556:2 558:22 |
| 565:24 586:20 | 564:12 616:10 | help 518:1 | 514:18 531:15 | 587:21 |

| | | | | |
|---------------------------------------|--------------------------------------|----------------------------------|--------------------------------------|------------------------------------|
| identification 590:22 676:5 | 676:17 684:19 | 587:11 597:6 | 536:5 537:1 | 577:23 637:13 |
| identify 676:1 | including 515:11 548:21 | 656:23 679:15 | 547:7 628:1,13 | 705:17 |
| ill 624:11 | 576:15 581:5 | information 519:12,23 | inspector 624:6 | inventories 512:20 513:7 |
| illicit 517:10,18 | 687:17 | 521:14 541:16 | inspectors 509:10 697:6,8 | inventory 510:15,18 |
| 518:5 538:19 | incorporate 619:13 | 567:4 600:21 | 700:2,9 | 513:3 |
| 538:23 540:1 | incorporated 567:23 568:21 | 664:24 682:7 | instances 570:2 | investigation 687:5 |
| 549:9 687:3,13 | incorrect 511:12 | 686:14 687:11 | instructed 569:20 573:4,7 | involved 507:23 |
| imagining 639:4 | 512:8 | 690:10,15 | 579:22 | 508:1 520:25 |
| immediate 624:25 | Increased 526:21 | 692:25 693:20 | instructions 522:1 538:19 | 548:14 568:13 |
| immediately 648:3 | incur 608:17 | 693:22 | 578:18,24 | 569:12,25 |
| impact 557:4 | INDEX 503:1 | informed 560:4 | 638:23 667:11 | 570:7,19,20,24 |
| implement 515:2 523:9,21 | 504:1 505:1 | 569:5 579:21 | 667:18 | 609:23 610:7 |
| 687:17 | indicate 548:24 | 606:20 611:1 | intended 514:2 | 610:16 611:10 |
| implemented 527:24,25 | 679:5 | 612:6 | 564:11 | 620:2,15 622:9 |
| 528:1 674:17 | indicated 547:16 570:6 | informs 584:11 | intending 550:23 | 657:6 665:6 |
| 680:23 694:6 | 601:8 602:3,21 | 569:22 633:20 | intent 546:22 | 672:23 677:21 |
| important 616:23 670:2 | 659:12 687:9 | 678:5 | intention 706:4 | 702:6 |
| 694:3,8,10 | 691:25 | initially 614:16 | intentionally 695:1 | involvement 568:9 570:17 |
| impose 584:21 | indicates 576:10 | 668:4 677:22 | intentions 612:15 | 570:23 588:1 |
| 610:15 611:12 | 635:19,22 | initiative 577:15 | interacted 571:3 | 588:23 594:20 |
| imposed 546:17 | indicating 539:18 | inlet 595:8 596:5 | interested 513:15 562:8 | 665:1 |
| 547:2 611:8,11 | indication 511:5 | inlets 528:11,15 | 598:6 | irrelevant 585:6 |
| 611:24 | 547:13 569:15 | 596:18 | interim 526:18 | 586:1 632:23 |
| impossible 599:13 | 670:16 | inquire 551:15 | internal 668:10 | 665:25 666:3 |
| in-house 644:1 | indicative 596:8 | 699:9 | internally 554:1 | Island 524:4 |
| inaccurate 691:5,7 | individual 588:19 | inquiries 521:16 | 668:8,12 | 663:16 |
| inappropriate 562:25 | individuals 515:8 539:20 | 689:16 | internet 538:22 | issuance 699:2 |
| inch 513:25 | 540:24 548:15 | inquiry 520:14 | 538:23 | 702:7 |
| 536:18 | 563:23 597:9 | inserts 527:6 | interpretation 507:5 516:2 | issue 609:2 |
| include 526:16 | 598:1 | inside 526:24 | 669:17 706:7 | 611:24 650:23 |
| 566:10 567:24 | indoor 656:7 | insist 652:1 | interpretations 703:17 | 682:6 |
| 630:10 659:15 | industrial 655:11 | 681:8 | Interpreter 502:22,24 | issued 520:21 |
| 660:8 661:3 | industry 632:7 | inspect 528:19 | interpreters 684:10 | 522:10 533:20 |
| 709:22 | infeasible 525:13 | 536:16 537:2 | intrinsic 646:10 | 610:20 632:19 |
| included 541:19 | infiltration 545:25 | 512:9,13 | introduce 707:1 | 648:22 651:13 |
| 543:5 562:21 | inform 517:17 | 513:23 599:19 | 707:5 | 698:1,14,23 |
| 604:7 608:7 | informal 547:14 | inspection 536:3 | introduced 577:23 637:14 | 698:1,14,23 |
| 675:20 686:23 | 548:9 562:7 | 536:4 550:3 | introductions 637:25 639:2 | issues 508:20 |
| 686:24 | 577:19,20 | 561:8 627:11 | | 522:22 542:8 |
| includes 521:22 | | 627:23 656:5 | | 550:8 552:19 |
| 630:12 657:9 | | 691:10,12 | | 564:25 566:21 |
| | | inspections 509:5,6,12 | | 568:16 586:6 |
| | | 510:19 511:23 | | 610:17 623:17 |
| | | 512:22,23 | | 623:19 642:19 |
| | | 514:2 515:12 | | 674:9,15 703:9 |
| | | 535:25 536:4,5 | | item 608:9,12 |

| | | | | |
|---|---------------------------------------|-----------------------|--|---|
| items 526:22 535:16 548:10 579:10 | 675:9 678:9 679:10 692:22 702:8 | 705:12 | 701:21 706:11 708:24 709:8 709:10 710:11 | language 502:21 502:23 507:5 525:16 527:13 536:24 582:18 633:10 636:18 684:10 703:1 |
| <hr/> J <hr/> | jurisdiction | knocked 628:16 | knowing 599:6 | LaPosta 535:5,6 573:15 606:10 606:13,19 607:7,8,11 697:16 700:20 |
| J 678:20 | 512:5 515:10 | know 508:10,11 | knowledge | 573:15 606:10 606:13,19 607:7,8,11 697:16 700:20 |
| Jack 656:5 | 539:17 553:23 | 517:20 518:7 | 508:4 534:6,7 | large 559:13,17 |
| January 683:5,8 | 565:23 | 518:23 519:1,9 | 548:19 563:22 | largely 615:21 |
| Jason 502:5 | Justine 504:7 | 523:1 524:10 | 596:7,14 | larger 510:20 |
| 593:8 | 576:10 581:5 | 533:14,18,20 | 599:23 606:20 | 512:5,15 527:3 559:1 |
| JENNIFER | 583:23 587:2 | 533:23 534:20 | 641:22 | lastly 527:6 |
| 502:25 | 590:25 591:4 | 544:12,12,22 | Kochersberger | late 593:7 |
| jersey 647:4 | 592:12,13 | 544:25 545:1,9 | 503:15 530:19 | 663:16 664:11 664:15 678:20 |
| JESSICA | 624:4 635:19 | 545:9,10 | 576:17 613:1,5 | LAW 500:17 |
| 502:23 | 639:19,24 | 548:18 549:5 | 613:11,13 | lay 666:11 |
| Jin 631:9 677:17 | 640:7,21 669:5 | 549:24 553:6 | 620:2,19 | lay-off 561:4,6 |
| 677:18 | 670:22 675:18 | 556:4,5 557:7 | 624:23 625:22 | lead 568:1 572:5 573:7 579:9 |
| job 613:18,20 | 675:19 676:17 | 558:12 559:5 | 629:4 632:6,9 | 600:18,18 606:22 |
| 658:23 671:23 | 678:6 679:6,18 | 560:2 561:11 | 636:7 641:20 | leader 700:14 |
| 697:1 | 696:18,25 | 561:12,23 | 642:23 644:17 | leading 567:20 585:5 |
| joined 655:15 | Justine's 604:16 | 563:9 566:24 | 645:3 648:6,14 | learn 621:5 |
| 656:10,11,13 | <hr/> K <hr/> | 569:3 570:7 | Kubek 502:19 | learned 675:8 |
| joint 505:7,7 | K-O-C-H-E-R... | 572:18 574:18 | 506:16,22 | Learning 617:4 |
| 683:1,6 708:8 | 613:13 | 574:24 584:18 | 534:16 537:13 | leave 534:8 |
| 709:21 | KAHLER-BR... | 584:21,21 | 543:21 550:23 | 624:11 710:11 |
| Jonathan | 502:21 | 585:9,16,19 | 576:17 677:16 | led 691:14,17 |
| 503:20 574:11 | Kappeller | 586:6,17,23 | 684:19,22 | left 506:2 580:25 602:24 641:21 |
| 574:13 576:15 | 576:16 677:16 | 587:8,13 | 686:21 687:15 | legal 507:5 |
| 576:18 579:12 | 677:20 | 596:11,21,21 | 688:2 689:7 | 554:6 612:3,5 |
| 579:18 588:4 | keep 528:10 | 596:22,25 | 690:13,22 | length 579:3 |
| 588:20 589:18 | 548:3 598:9,13 | 597:2,2 598:16 | 691:24 694:21 | lengthened |
| 609:24 631:4,7 | 612:24 648:18 | 598:20 599:3 | Kubek's 506:3 | 516:17,20 |
| 631:8 634:25 | 649:5,6 | 608:11,13 | 601:23 684:25 | 686:22 |
| 652:19,23 | keeping 694:23 | 611:22 621:3 | 685:4,7,17 | lesser 629:3 |
| 653:6 677:11 | Keith 576:15 | 621:10,22 | 686:9,16 | let's 521:1 |
| 679:6 | kept 598:15 | 622:2 623:21 | 688:13 694:25 | 525:22 530:4,5 534:8 536:7 537:4 540:18 554:8 560:13 |
| Judge 500:17 | 628:3 663:24 | 624:2 626:18 | 695:15 | |
| 550:16 553:1 | 674:3 676:23 | 632:18 636:23 | KUBEK-conti... | |
| 556:24 558:22 | key 694:10,10 | 636:24 638:15 | 503:2 | |
| 563:13 613:12 | kick-off 621:13 | 639:4 640:13 | Kuker 691:17 | |
| 673:20 688:23 | 634:7 691:15 | 640:23 641:4 | <hr/> L <hr/> | |
| 689:3 702:1 | kind 541:15 | 644:25 650:15 | L 500:17 502:13 | |
| judgment 681:2 | 624:16 637:20 | 650:22 651:17 | labeling 509:23 | |
| July 520:17 | 639:16 645:23 | 657:18 662:4 | Laboratory | |
| 689:9 | 651:23 655:12 | 662:17 669:9 | 655:19 | |
| jump 525:22 | 656:1,9 657:19 | 669:11 673:10 | laid 643:11 | |
| June 587:18 | 657:22 675:21 | 673:14 674:20 | landscape 552:9 | |
| 620:4,11 | 694:7 707:18 | 677:22,23 | 552:11,13,17 | |
| 624:13 651:16 | kindness 707:18 | 678:22 680:23 | 557:2,11 | |
| 664:21 665:9 | knew 622:15 | 683:10 688:24 | 597:18 604:10 | |
| | | 694:1 698:7,10 | | |

| | | | | |
|---|---|--|--|---|
| 594:22 612:24 644:24 661:17 666:20 670:9 681:20 701:13 702:5 705:10 letter 521:6,10 571:22 586:9 592:17 605:11 629:9 667:4 671:12 673:16 679:14 686:20 letters 587:13 610:20 611:22 630:13 641:22 letting 677:22 level 530:2 545:19 637:11 645:2 664:14 671:24 691:21 levels 585:4 697:13 levied 668:13 liability 573:19 583:1 631:18 685:1 liaison 620:23 licensed 562:14 lied 695:1 limited 517:21 522:21 557:18 line 514:19 515:1 576:10 582:13,13 591:23 608:9 608:12 617:13 617:16,24 630:14 lines 556:21 link 506:9 532:22 list 513:21 525:23,25 527:18,19 548:17 576:7 576:15 639:2 649:17 701:6 listed 685:5 listen 671:24 listing 518:3 lists 630:17 | little 508:7 518:15 528:24 539:6,11 544:1 545:11 546:24 547:12,17 649:10 669:22 708:23 local 526:12 Locate 528:10 located 549:11 549:12,14,17 Locating 542:20 location 525:4 locations 524:19 524:24 549:5 550:19 621:20 log 506:12 log/socks 527:5 logs 527:2 663:1 long 508:11 524:3 551:25 567:18 580:20 587:21,22 663:16 666:11 671:3 longer 663:17 look 517:22 536:7 537:25 588:6 613:15 630:22 634:15 679:2 686:3,19 692:8 looked 548:23 630:24 looking 509:25 513:15,16 514:21 520:8 532:1,2 534:14 534:17 537:11 538:6 583:14 594:24 605:20 630:3 643:8 675:22 709:15 looks 511:18 lose 658:23 lost 699:25 lot 541:13 547:9 548:21 574:11 577:11 615:11 616:11,20 | 622:15 624:19 624:20 625:7 625:21 627:8 649:22 655:11 655:20 657:17 657:20 661:18 662:11 673:25 lots 508:12 559:7 596:18 love 637:4 lovely 707:13 710:15 lower 642:10 lunch 612:20 652:11,15 <hr/> M M 501:8 711:3 711:20 machine 501:8 machinery 528:9 Madam 551:9 613:2 652:20 696:15 mail 672:21 mailed 589:18 591:5 678:20 main 519:3,10 519:13,20,20 521:13 544:19 553:3 554:21 555:12 561:22 565:25 618:4 620:23 621:1 636:11 671:22 671:24 690:15 maintain 528:13 553:21 705:11 maintained 598:14 659:3 709:18 maintaining 557:21 657:21 maintenance 517:20 526:11 526:13,14,18 527:12 530:11 531:6 533:7 542:24 543:2 | 547:22,25 553:5 555:7,9 555:13 556:1 557:8,15,16 558:9,12,19,21 559:3,13,15 560:25 561:8 562:16,20 563:6,15 564:22 594:9,9 595:14 596:23 613:19,20 614:3 616:12 616:13,16,19 618:6 620:7 622:1 626:10 630:7,8,25 642:19,19,20 642:21 647:22 648:25 654:8 657:2,5,19 658:18 659:9 673:25 680:10 680:12 maintenance-t... 558:13 maintenance/... 654:7 majority 542:23 555:22 560:24 making 708:2 man 564:4 manage 659:18 manageable 647:18 managed 647:13 management 507:2,12 513:19,19 521:20,22 523:7 524:21 525:16 529:1 536:10 565:7 589:3 596:9 614:12 615:19 617:5,13,16 618:21 654:11 654:12 656:7 692:1,5 693:23 694:2 | manager 540:24 604:9 613:19 697:8 700:11 managerial 615:22 managers 617:24 658:6 660:21 managing 543:16 mandatory 597:25 598:7 manner 569:7 manual 521:25 540:22 690:17 March 535:2 571:20 629:5,8 651:13 667:4 693:8 mark 682:25 marked 571:12 590:22 644:10 667:2 676:4 Marshal's 584:11 586:8 586:21 Martin 576:15 master 645:4 material 528:10 538:14 542:21 543:3 materials 528:5 528:7,13 547:15 649:7 matter 500:5 501:1 557:6,7 592:8 601:6 608:17 615:12 618:9 623:23 624:3 664:6 697:19 698:1 698:18 704:12 704:15 matters 506:6 526:25 552:22 561:22 609:10 632:10,19 648:18 657:10 657:10,12,13 Matthew 678:20 |
|---|---|--|--|---|

| | | | | |
|-----------------------|-----------------------|------------------------|-------------------------|------------------------|
| Max 691:17 | meeting 546:16 | memorized | 648:9 679:11 | motion 683:11 |
| McDonald | 571:5,10 574:5 | 529:25 | mischaracteri... | 683:11 707:23 |
| 569:18 629:10 | 574:9 575:13 | mention 608:25 | 582:17 | 708:8,8 710:8 |
| McKenna 624:4 | 575:15 576:20 | mentioned | misread 527:24 | MOU 517:2 |
| 700:19 | 576:22 577:15 | 532:21 554:18 | missing 682:7 | MOUs 515:16 |
| McNally 502:13 | 577:18 578:10 | 556:2 557:1 | mission 553:19 | 516:24,25 |
| 503:5,11 | 578:12,17 | 563:3 573:1 | misunderstan... | 517:3 |
| 535:11 537:9 | 579:9,25 | 592:18 593:24 | 580:5 610:25 | move 515:20 |
| 537:14 542:14 | 580:25 581:3 | 594:12 597:9 | mm 513:25 | 641:17 643:15 |
| 543:10 550:7 | 582:21 584:3 | 610:4 651:20 | modifications | 666:20 671:6 |
| 550:10 551:6,8 | 586:15 587:7,8 | mentions 692:14 | 580:24 | 682:15 |
| 590:16,17,20 | 587:19 588:7 | merely 512:7 | modified 588:10 | moved 655:23 |
| 591:11,17,20 | 588:11 600:2,4 | 522:6 651:8 | Modigliani | 682:3,20 |
| 591:24 592:5 | 600:8,10 601:9 | mesh 663:3 | 504:7 576:11 | moving 591:24 |
| 592:20 594:19 | 602:24 603:5 | message 611:23 | 581:6 583:18 | 639:5 653:13 |
| 595:9 603:25 | 605:25 606:13 | 611:23 679:7 | 601:4 602:20 | 672:8 |
| 605:12 612:9 | 606:16,25 | met 565:16,17 | 635:20 640:7 | mowing 555:15 |
| 612:10 652:10 | 607:2,5 612:4 | 569:18 635:13 | 650:25 651:8 | 558:11 |
| 652:17,18 | 616:18 621:13 | 635:15,17,20 | 669:5 670:22 | MS4 507:7 |
| 677:10 681:19 | 621:16 623:3,6 | 667:17,22 | 675:19 676:18 | 510:8 512:4 |
| 682:5,10,17 | 623:20,23 | 670:25 | 678:6 679:18 | 514:10 515:2 |
| 683:19 685:12 | 629:23 634:5,7 | metal 525:25 | 684:2 696:18 | 535:22,25 |
| 685:21 694:14 | 634:8,18,22,23 | 526:3,6,9 | 696:23,25 | 536:1,3 545:2 |
| 707:6 709:2 | 635:1,3,21,24 | 530:12 549:8 | 699:14 702:6 | 557:16 559:23 |
| mean 533:10 | 636:5,8,13,19 | 549:17 644:25 | 704:11 | 566:22 580:4 |
| 572:18 578:7 | 637:8,12 638:7 | 645:5,10,12,16 | Modigliani's | 615:17,21,22 |
| 579:23 626:15 | 638:13 639:5,9 | 645:18,21,24 | 679:7 | 616:6 619:4,13 |
| 627:17 629:2 | 640:21 641:20 | 646:6,8,8,9,13 | moment 506:10 | 622:2 644:22 |
| 643:9 646:18 | 642:1,2,12 | 646:17,21 | 512:17 534:9 | 645:1 661:22 |
| 651:11 675:17 | 650:24 651:16 | 647:9 674:15 | 675:22 | 674:6,7,19,19 |
| 700:6 703:6,14 | 668:24 669:2,3 | 674:16 680:21 | momentarily | 678:14 680:15 |
| meaning 536:25 | 669:14,16 | 680:25 | 506:13 | 680:16,19 |
| means 533:11 | 670:1,4,13,15 | method 520:5 | monetary 583:4 | 681:1,9 693:21 |
| meant 670:17 | 670:21 675:2 | methods 528:4 | 583:24 584:19 | 694:5,7,9 |
| measure 510:1 | 676:20 678:7 | 627:8 | 586:10 587:3,5 | MS4s 512:3,6 |
| 514:1 | 691:21 695:13 | Michael 509:11 | 592:19 603:1 | 515:17 516:24 |
| measures | 697:23 698:3 | mid 663:16 | 605:11 609:1 | 686:25 687:1,4 |
| 528:16 547:3 | 698:13,22,23 | mid-April | money 555:19 | muck 549:21,21 |
| 548:21 549:9 | 699:2 702:8,11 | 663:15 | 555:21 556:5 | mulched 627:6,6 |
| 626:22 673:21 | 704:6,13 705:4 | middle 590:10 | month 549:25 | multiple 508:11 |
| 675:4 | 705:17 706:2 | mild-mannered | 561:25 598:25 | 558:5 572:22 |
| MEC 618:7 | 706:10 | 650:17 | monthly 561:21 | 585:4 663:19 |
| 647:25 657:4 | meetings 567:2 | millions 544:23 | 598:2 | municipal 512:2 |
| 658:17 660:24 | 572:20 577:11 | mind 586:14 | months 520:20 | 515:8 693:20 |
| meet 578:8 | 616:18 | 648:3 706:20 | 522:9,10,12 | municipalities |
| 579:22 580:21 | members | Minimum 510:1 | 609:6,9 | 539:16 |
| 611:3 638:17 | 607:24 | minor 691:1 | morning 506:22 | |
| 667:19 668:14 | memo 622:18 | 695:19 | 506:23 593:7 | <hr/> |
| 670:18 671:3 | memorialized | minute 531:11 | 648:14 679:18 | N |
| 671:21,22 | 671:11 | minutes 549:25 | 690:14 | <hr/> |
| | | | | N 502:1 711:1 |
| | | | | name 509:22 |

| | | | | |
|--------------------------|------------------------|------------------------|-------------------------|--------------------------|
| 551:19 575:17 | 655:23 656:3 | 620:25 | 669:10,12 | 649:7 677:24 |
| 593:8 606:10 | 656:23 660:1 | November | 678:1 685:12 | 698:16 |
| 613:12 624:5 | 662:11 663:11 | 604:5 620:13 | 688:14,18 | office 519:3,4,10 |
| 653:5 656:5 | 706:5 707:18 | 664:11,15,21 | 696:2 701:3,15 | 519:10,13,14 |
| 693:24 696:24 | 711:4 | number 509:25 | 703:13 704:7 | 519:21 520:12 |
| 699:14 | newly 515:2 | 510:17 511:9 | 705:7 | 520:13 521:12 |
| names 509:10 | nice 529:15 | 511:14,23 | objective 633:12 | 521:13,13 |
| 548:17 | nodding 516:14 | 512:6,8,12 | obligated 580:2 | 526:8 544:18 |
| narrative | non-compliance | 519:20 554:24 | 628:9 | 544:19 551:23 |
| 510:24 | 508:18 | 559:1,5 568:24 | obligation | 552:10,13,21 |
| nationwide | non-expert | 573:16 576:4 | 678:17 687:16 | 553:3 554:7,14 |
| 656:2 | 685:22 | 576:14 595:21 | obligations | 554:21 555:13 |
| Natural 614:11 | non-ferous | 609:17 625:5 | 580:3 619:3,12 | 556:10,11,12 |
| naturally-crea... | 646:13 | 630:10 654:17 | 619:13 | 556:14,20 |
| 546:6 | non-personnel | 662:9,24 | observations | 557:18 558:3 |
| nature 560:17 | 608:5 | numbered | 508:5 599:18 | 559:17 560:20 |
| 658:11 668:10 | normal 661:22 | 510:12 | 622:22 | 561:15,18,19 |
| near 673:3,11 | 673:5 | numbers 511:12 | observe 509:6 | 561:20,22 |
| necessarily | normally 539:12 | 556:4 | 550:18 | 562:3,4 565:23 |
| 643:8 | 616:19 633:18 | Numerals | observed 508:12 | 566:1,5,7,19 |
| necessary 663:7 | 633:21 640:16 | 537:17 | obsolete 526:4,6 | 567:6 568:8,13 |
| need 506:10 | 647:4 662:22 | numerous | obstacle 542:25 | 569:10 572:1,3 |
| 531:13 532:14 | 708:18 | 508:12 527:15 | obvious 650:16 | 574:9 575:20 |
| 559:9 563:8 | Northport 624:1 | 550:16 649:19 | obviously | 576:16 582:5 |
| 564:18 617:1 | 624:3,6 632:3 | nutrient 545:19 | 587:19 622:1 | 584:11 586:8 |
| 628:1 683:18 | 635:16,21 | NY 500:8 501:6 | 636:23 677:19 | 586:21 593:11 |
| 709:9,25 | Notary 501:9 | 502:8,16 | occasion 632:11 | 593:13,14 |
| needed 522:6 | 711:4 | NYR20A288 | occasionally | 594:2,3 597:11 |
| 541:17 578:13 | note 509:9 | 500:9 | 628:15 632:14 | 597:15,19 |
| 578:14 582:6 | 571:19 701:17 | NYS 521:11,24 | 633:15 | 601:21 607:21 |
| 582:10 589:7 | noted 625:20 | 526:12 531:4,5 | occasions | 607:25 608:4,7 |
| 589:10 591:15 | notes 574:16,19 | 538:11 542:23 | 530:17 628:18 | 608:7 609:10 |
| 591:25 623:1,7 | 582:2,3,5 | 575:20 578:1 | 632:24 | 609:22 611:11 |
| 624:24 625:18 | 587:9 601:20 | 580:1,18 638:1 | occur 570:8 | 612:2,3 613:21 |
| 627:13 639:6 | 601:23,23 | 673:2 | 664:10 | 613:22 614:16 |
| 674:12 | 602:12,13 | | occurred 600:23 | 614:19,24 |
| needs 561:12,13 | 603:5 612:4 | O | 623:3 629:24 | 615:1,4,8,11 |
| 627:5 | 661:21 711:6 | O 711:1 | 630:9 670:13 | 617:23 618:4,9 |
| netting 663:4 | notice 573:16 | oath 506:16 | 670:13 | 618:12,15 |
| never 511:10 | 582:23 589:16 | 684:11 | occurrences | 619:18 620:23 |
| 569:25 580:16 | 611:14 622:13 | object 594:19 | 628:22 | 621:1,16 |
| 585:19 610:17 | 622:17 631:14 | 595:9 641:12 | October 560:23 | 627:20 642:18 |
| 611:7,11 | 631:20 632:20 | objection | 663:16 | 653:11,13,14 |
| New 500:6 501:1 | 633:20 668:4 | 563:18 564:1 | off-season 561:5 | 654:2,25 |
| 501:10 502:8 | 675:8 699:25 | 567:19 568:2 | 664:4,8 | 655:21 659:16 |
| 512:3 513:18 | noticeable | 582:14 585:3 | offer 508:17 | 659:18 660:12 |
| 526:8,9 536:9 | 564:14 | 585:25 590:15 | 669:21 675:25 | 667:10 671:22 |
| 551:24,25 | notification | 592:4 607:6 | 677:2 | 671:24 689:13 |
| 553:1 558:6 | 568:23 569:3 | 632:22 641:8 | offered 508:24 | 689:14 690:15 |
| 618:24 653:8,9 | 592:7,10 | 643:9 665:24 | 562:4 565:1 | 690:16 |

| | | | | |
|-------------------------|----------------|------------------------|------------------------|------------------------|
| office's 519:20 | 535:4 536:11 | 656:17 657:13 | 597:23 614:2 | 588:3,10,14,25 |
| officer 519:12 | 536:12,22 | 659:7 663:18 | 615:9,17 616:5 | 589:14 600:19 |
| 519:23 | 537:4,15,21 | 665:1,5,8,21 | 617:13 618:10 | 602:23 605:10 |
| officers 521:14 | 538:4 540:5,6 | 668:23 669:20 | 624:17 654:10 | 605:20,22,23 |
| offices 519:12 | 540:7,8,13,19 | 670:5,15 675:6 | 654:23 655:5 | 605:25 606:7 |
| 519:20,23 | 542:4 544:16 | 675:24 677:14 | 656:19 658:4 | 606:23 608:19 |
| 526:13 553:5 | 544:20 546:11 | 679:20 681:16 | 659:7 | 609:15 611:4 |
| 554:12,20 | 546:15 548:20 | 682:8 683:23 | operator 516:3 | 623:8 624:19 |
| 557:10,12,20 | 550:22 554:8 | 684:25 687:7 | 516:7 536:25 | 629:11,16,23 |
| 558:4,18,25 | 554:15 555:9 | 689:4,8,17,24 | operators 515:7 | 631:13,17,21 |
| 559:4 561:23 | 555:19 562:2 | 690:7,21 | 515:23 516:4 | 632:3 633:7,23 |
| 565:24 566:1 | 562:20 568:8 | 692:14 693:3 | 516:11 537:25 | 634:1,2,6 |
| 575:16 597:13 | 568:22 569:2,7 | 693:17 694:1 | 559:4 | 636:10,14 |
| official 520:15 | 569:22 570:6 | 694:24 695:7 | opinion 643:13 | 637:1 640:13 |
| 635:24 689:17 | 571:9 572:2,20 | 695:18 697:21 | 674:1 684:25 | 642:3,4,10,13 |
| 709:16 | 575:4,17 | 698:7,16 | 685:4,24 695:5 | 643:18 644:7 |
| Officially | 577:17,21 | 699:22 700:8 | opinions 685:18 | 644:22 646:22 |
| 700:12 | 578:24 579:1 | 700:15,20,23 | opportunity | 647:21 648:22 |
| officials 582:12 | 579:15 580:11 | 702:3,4 706:14 | 629:22 701:13 | 649:3,6,18 |
| 584:3 | 582:9 583:14 | 707:4 709:23 | 702:2 | 651:3,8,12 |
| OGS 646:15,19 | 583:16,21 | old 646:3 | opposing 709:1 | 664:25 666:23 |
| 647:9 | 585:15 586:25 | on-site 528:19 | opposite 637:22 | 667:9 668:14 |
| oh 570:19 | 587:7,12 | 657:18 658:3 | options 526:15 | 670:23,23 |
| 617:21,25 | 588:14 590:7 | 664:7 674:16 | 527:8,15,17 | 671:1,3,4,23 |
| 618:22 623:22 | 591:10 592:5 | once 572:24 | 528:25 543:17 | 673:22 677:19 |
| 627:17 628:21 | 595:2,17 596:8 | 582:10 647:15 | orange 555:10 | 680:5,16,22 |
| 632:21 646:11 | 598:4,9,16 | 670:24 678:13 | order 509:21 | 683:11,12 |
| 658:7 663:22 | 599:1,7,11,22 | one-half 536:18 | 515:24 516:17 | 686:19 689:10 |
| 675:1 679:5 | 600:8 601:12 | ones 610:16 | 520:21 521:8 | 697:25 698:5 |
| oil 527:4 538:21 | 601:22 602:11 | 611:9 657:15 | 522:3,10,17 | 698:12,14 |
| 538:25 562:25 | 602:11,16,20 | 663:4 | 525:18 529:5 | 702:7,11,16 |
| 618:3 645:23 | 603:14 604:6 | ongoing 561:13 | 529:12 531:18 | 706:11 708:5,6 |
| 647:2 658:11 | 604:16 607:3 | open 549:20 | 532:7,14,17,19 | 709:6 |
| oil-free 647:7 | 608:3,13,16 | 663:24 | 533:1,17,21 | ordered 521:7 |
| oil-only 526:25 | 610:19 612:1 | opened 655:21 | 534:19 535:3 | 522:13,14,23 |
| oils 527:5 647:1 | 613:17 615:1 | opening 647:4 | 535:13,15,22 | 538:12 541:6 |
| oily 549:21 | 617:6 618:1 | 691:15 | 546:18,23 | 546:21 600:14 |
| 647:1 | 619:22 622:6 | operate 516:10 | 569:21 570:21 | 630:13 638:5 |
| oily/greasy | 625:2 627:20 | operates 516:7 | 571:5,14 | 674:8 |
| 526:22 | 628:24 630:5 | operating 608:6 | 572:10,17 | orders 610:22 |
| okay 506:14,20 | 631:12 632:1 | operational | 573:8,18,24 | 612:21 633:16 |
| 507:9,11,23 | 633:18 634:4,9 | 626:10 | 574:6 578:9,9 | 665:12 702:25 |
| 508:23 509:1 | 635:19 636:1 | operations | 578:20,22,23 | 703:9,12 |
| 514:4,23 518:7 | 638:6 642:15 | 523:10,17 | 579:2,2,11,20 | ordinary 676:24 |
| 520:3,23 521:6 | 644:4,9,20 | 524:6 529:20 | 579:23 580:3,6 | ORG 700:12 |
| 525:1,5,17,22 | 645:8 647:19 | 529:23 539:25 | 580:15,19 | organization |
| 528:3,24 | 648:24 649:3,5 | 554:5 555:6,9 | 581:11,21 | 653:23,25 |
| 529:11,14 | 651:15,18 | 555:13 557:25 | 582:18,22,25 | 655:2 |
| 530:6,9,18 | 652:6 654:14 | 558:16 560:16 | 585:11,20 | organizational |
| 531:8 532:20 | 654:20,25 | 565:21 594:11 | 586:12,19 | 554:2 556:13 |

| | | | | |
|---|---|--|---|---|
| 514:10,11,21 535:22 536:2,3 536:25 538:8 540:11 557:16 559:24 566:22 580:4 591:1 610:6,8,8,10 610:12,13 615:17,21,23 616:7 619:4 644:22 678:14 678:18 689:19 706:7 permits 568:20 568:20 619:13 person 576:7 581:24 583:7 600:11 605:5 621:7 676:20 694:4,8 697:18 personal 508:4 534:6,7 563:22 588:1 599:22 personally 509:6 510:25 511:2 530:16 550:18 588:23 personnel 608:3 perspective 642:9 643:6 666:10 pet 539:1 petroleum 562:25 625:6 625:13 633:7 657:24 phase 656:8,8 Phil 588:8,15 600:19 642:4,6 phone 576:4 592:11,13,16 671:11 photo 538:20,22 photograph 595:5,6,18,19 596:2,7 photographed 549:21 photographs 549:23 | photos 538:17 538:21 543:5 548:24 549:12 550:16,19 649:19 picked 610:2 646:7 picture 596:3 pictures 549:7 625:4,4,5 pile 526:22 527:1,4 645:13 646:6,8,25 651:22 680:21 piled 646:18 piles 525:6,12 526:9 527:6,10 527:16 646:24 647:3,18 PIO 519:12 place 528:17 530:1 541:25 542:2 548:23 549:1 575:15 647:10,12 656:18 657:4 687:7 placed 518:4 placement 653:23 places 512:7 559:9,10 placing 526:25 plan 507:13 513:19 536:10 537:5 541:25 542:1,1 582:6 591:24 615:19 615:19 627:19 636:19,22 683:25 planes 699:17 planning 554:5 597:23 655:7 plans 507:20,21 507:22 523:7 523:19 541:24 542:5,7 plant 552:8 pleadings | 683:19,21 please 506:19 513:21 514:4 514:19 515:19 516:16 517:9 517:12,23 518:13 520:8 520:10 521:1 521:11 526:20 527:19 528:2 530:4,25 531:3 531:16,22 536:11 540:10 542:10 550:25 551:8,10,19 552:25 556:24 564:10 593:3 613:3,8,11 615:7 652:20 653:4 656:22 670:12 671:18 673:20 675:22 678:22 696:16 696:23 699:10 702:22 703:24 plow 674:3 plowing 555:15 561:8 plows 558:10 point 530:1 581:20 585:9 587:7,20,25 588:7 589:12 590:4 598:16 615:24 629:15 636:20 645:5 666:22 668:23 675:8 678:23 681:8 706:4 pointing 703:25 points 528:16 poisoning 624:11 635:13 policy 552:15 557:19 680:23 687:12 polite 581:15 pollutant 528:19 pollutants 527:22 528:9 | 528:22 542:18 549:16 polluted 657:22 pollution 507:20 523:7 527:18 529:1 531:19 532:10,11 548:21 563:17 564:24 615:19 616:23 647:23 pond 546:6,8 ponded 546:1 ponding 528:12 portion 591:13 591:22 592:1,3 620:3 636:14 677:5 portions 509:3 posed 584:2 position 551:22 569:14 593:10 608:24 653:5 692:15,17,25 693:18 694:3 699:3,22 positive 640:24 possession 667:9 possibility 704:20 possible 511:7 518:12 603:6 603:10,12 609:19 618:3 633:9 644:19 651:7 678:21 695:3 post-audit 649:24 post-graduate 655:10 posted 532:23 poster 538:11,12 538:16,18 539:1 posters 518:4 538:15 posts 646:3 potential 527:22 542:18 578:16 584:5,11 | 585:13 586:4,9 602:5 610:8 627:1 potentially 522:15 potholes 558:13 659:9 pound 641:5 PowerPoint 530:7 532:12 533:6,7 647:24 practical 528:8 542:23 664:6 practice 526:7 526:10 542:22 599:8 661:22 691:9 practices 523:8 527:23 596:9 628:3 preceded 530:23 precedes 533:14 predominantly 554:4 555:14 560:23 prefer 709:2 preferred 542:21 preliminary 506:5 670:16 691:11,17 preparation 533:18 622:20 693:1 prepare 516:25 517:3 533:19 538:14,18 541:13 627:23 prepared 532:16 533:16 533:24,24 534:2 548:12 548:16 627:14 693:11 preparing 548:14 presence 600:2 present 502:19 512:22 518:23 575:13 599:16 |
|---|---|--|---|---|

| | | | | |
|-------------------------|-----------------------|------------------------|-------------------------|-----------------------|
| 613:18 620:5 | 597:25 598:9 | 669:20 672:6 | 660:19,19 | 615:15 616:20 |
| 624:8,9 625:18 | 599:4 605:25 | 707:12 711:6 | 661:2,15,19 | 617:19 618:15 |
| 635:20 665:2 | 610:4,11 | proceeds 586:8 | 663:7 664:15 | 619:7 641:22 |
| 669:13,16 | 613:20 622:13 | process 521:22 | projects 521:24 | 658:9,18 |
| 684:16 697:23 | 623:20 629:23 | 522:14 539:7 | 531:6 552:15 | provided 541:9 |
| 699:19 | 633:24 649:3 | 569:8,11 | 554:19 555:23 | 563:2,4,6 |
| presentation | 653:13 669:12 | 570:15 584:12 | 555:24 557:4,5 | 565:15,17 |
| 530:6,10 | 688:20 690:8 | 600:11 636:12 | 566:12 567:13 | 566:20 567:1 |
| 532:12 533:6,7 | 690:19 693:15 | 646:17 665:2 | 618:21 619:8 | 568:23 570:10 |
| 533:12 | priority 541:6 | 665:22 671:15 | 622:1 625:24 | 592:18 593:17 |
| presented | 557:5 | 671:18 673:5 | 660:16,21 | 597:12 598:11 |
| 530:13,17 | private 632:7 | 700:25 | 663:18,19,19 | 598:20 604:11 |
| 547:15 650:22 | probably 621:4 | processing | 663:23 664:4,8 | 622:13 658:3 |
| pressured 548:2 | 628:23 630:22 | 518:17 | promoted | 658:13 664:14 |
| presumably | 637:9 663:16 | produce 535:19 | 699:19 | 687:12 693:10 |
| 520:24 651:2 | problem 545:7 | 535:21 564:3 | promotion | provides 546:3 |
| pretty 621:24 | 597:2 661:21 | product 521:21 | 643:4 | 586:9 597:11 |
| 622:15 628:23 | 661:24 688:23 | products 563:1 | prompted 702:8 | 597:15 |
| 647:14 700:4 | 701:22 | 627:7 657:25 | prone 528:12 | providing |
| 709:10 | problems | professional | proper 539:19 | 543:17 619:11 |
| prevent 528:4 | 624:24 | 562:13,14 | 657:24 690:10 | 709:6 |
| 528:17 | procedure | 580:7 581:15 | properly 509:13 | provision |
| preventative | 519:24 520:3 | professionally | 512:19 | 537:22 546:21 |
| 528:16 | 522:2,4,6,8,11 | 580:8 | property 647:15 | 574:3 582:21 |
| prevented | 522:11,16,25 | professionals | proposal 568:21 | 585:10 674:8 |
| 527:21 | 596:16,20 | 695:4 | Proposed 675:9 | 702:19 703:1,3 |
| prevention | 600:13 687:5 | program 513:19 | protect 535:24 | 703:10 |
| 507:20 527:19 | 689:18 690:10 | 515:3,15 | protected | provisions |
| 531:24 532:10 | procedures | 516:16 517:7 | 674:14 | 515:25 521:7 |
| 532:11 548:21 | 515:11,12 | 517:11 531:23 | protecting | 522:13,14,23 |
| 615:19 616:24 | 516:18,20 | 536:10 545:2,3 | 549:14 | 535:14 538:13 |
| 647:24 | 518:16 520:14 | 554:6 562:18 | protection 500:2 | 541:7 568:5 |
| prevention/go... | 520:24 529:11 | 597:23 598:5 | 502:2,6 523:8 | 570:21 573:6 |
| 531:19 | 543:16 549:1,4 | 613:19 654:6 | 703:8 | 574:7 578:9,18 |
| previous 511:25 | 557:20 560:4,5 | 654:10 659:19 | protective 549:9 | 600:14 619:2 |
| 545:18 584:5 | 604:8 627:10 | 660:13 678:17 | protocol 689:17 | 630:14,25 |
| 623:23 669:18 | 645:9 685:10 | 687:17 692:19 | prove 512:18 | 638:5,16 |
| 677:8 | 686:21,24 | 693:23 694:5,7 | proved 525:12 | 649:11,20 |
| previously | 687:1,7,18 | 694:9,11 | provide 507:21 | 667:13,17 |
| 533:22 538:6 | 689:11,15,19 | programs 533:2 | 510:23 511:7,8 | 670:16,17,18 |
| 605:20 645:23 | 689:20,21,25 | 547:13,14 | 511:10 512:21 | 670:19,24 |
| primarily 512:2 | 690:11 | 657:3 | 531:19 552:15 | 671:4,22 672:2 |
| 642:18 | proceed 531:16 | progress 541:20 | 552:19 557:7 | 674:1 680:17 |
| primary 633:12 | 612:20,23 | 589:16 590:1 | 557:19 560:10 | proximity |
| prior 529:11 | proceeding | 671:15 672:2 | 561:19,21,24 | 524:14,23 |
| 532:18 535:18 | 598:18 603:19 | 673:8,17 | 564:21 565:9 | public 501:9 |
| 539:7 540:17 | 666:1 | project 521:18 | 566:11 567:4,6 | 517:16,17,19 |
| 541:2,25 | proceedings | 557:8 567:12 | 568:5,11,15 | 517:21 518:5 |
| 548:23 569:22 | 584:9 585:7 | 568:20 627:21 | 588:2 598:5,22 | 518:17 519:9 |
| 570:4 578:22 | 586:1 632:23 | 655:20 656:6 | 598:24 615:13 | 519:11,12,13 |

| | | | | |
|---|---|--|--|---|
| 519:16,19,23 520:6,14,15 521:14,16 538:9,14 539:7 539:9,16,22 687:19 689:11 689:12,16 711:4 publically 662:10 published 615:20 punctured 543:4 purchase 647:7 purports 672:12 676:14 purpose 558:8 636:11 659:23 663:3 698:13 purposes 545:23 559:16 661:11 pursuant 567:13 579:19 602:22 603:8 659:25 pursued 602:3 pursuing 601:5 602:21 pursuit 602:5 put 512:7 525:20 550:4 579:11 587:4 608:23 609:4 609:11 647:4,8 657:1 678:13 684:17 703:11 705:20 707:8 putting 532:21 | 568:2 583:5,6 583:6,12,19,22 584:2,7,14,14 584:16 585:5 585:13 587:1 594:23 595:16 602:24 618:1,5 639:7 640:1,5 640:21 655:3 666:9 669:8,8 670:8,10 671:2 698:9 703:6,14 703:24 704:10 704:19 705:9 questioned 547:19 questions 534:13 543:20 543:22 550:6,7 562:12 574:6 580:5,10,11 592:2 593:9,25 603:21 605:13 607:14,15 612:8,9,10,13 613:16 634:21 636:21 648:7 648:16 670:5,6 673:4 678:22 679:22 680:3 694:12 699:16 701:11 703:10 703:16,17 706:21 710:7 quick 506:10 quicker 609:5 708:23 quickly 647:13 647:14 quite 510:20 512:14 550:2 609:24 617:22 670:22 quote 705:21 quotes 526:13 526:14 540:11 quoting 582:23 | radiators 645:21 rags 528:14 rail 646:3,4 rails 558:14 rain 528:21 543:4 rainfall 513:25 536:17 537:1,3 raise 550:7 636:13 639:7 710:7 raised 589:8 703:10,15 704:6,12,15 random 621:23 622:3 646:6 ranking 607:1 rare 640:18 RCE 521:17 RCRA 547:7 reach 607:3 reached 668:20 reaching 607:11 reaction 640:22 read 507:7 513:21 514:19 514:25 515:5 517:13 520:10 521:10 525:23 526:20 527:19 529:3 531:3 536:14,15 537:16 542:15 573:25 636:15 651:12,15 677:24 679:9 708:9 readily 508:21 ready 506:1 612:22,23 641:17 really 509:16 534:20 544:25 548:6 585:16 607:4 615:6 621:22 623:9 623:15 625:12 639:22 641:4 644:18 645:15 | 671:20 684:3 705:9 707:16 707:17 710:16 reason 707:23 710:10 reasonable 628:10 663:7 705:3 reasons 572:15 rebuttal 684:3,4 685:17 688:17 694:20 696:4 701:14,20,21 707:2 708:21 708:22 rebutting 685:21 recall 517:9 523:11 536:19 539:1 550:23 569:12 571:8 573:12 576:21 577:8,11 583:15,25 584:2,4,18 587:2,6,15,23 591:3 592:6 601:8,11 602:4 602:9 603:3,9 603:12 604:16 620:9 621:17 623:9 624:5,10 630:23 634:24 636:17,18 638:20 650:11 652:3 675:16 687:21 698:8 698:10 699:5 703:22,25 704:11 recalled 651:6,7 receipt 518:16 629:14 687:18 receive 565:12 569:2 592:10 604:7 619:18 689:21 received 539:21 540:23 563:16 563:23 564:23 | 571:24 573:23 576:2 586:19 591:2,4,8,18 592:6 599:14 605:7,11 611:19 616:5 629:20 633:22 677:12,14 receiving 549:12 591:3 recess 550:25 551:2,4 592:25 593:2 652:13 652:14 recognize 530:7 534:24 571:1 629:12 635:14 636:4 675:13 676:5 678:15 recollection 508:25 538:2 575:12 639:8 639:14 640:2 698:7 recommended 538:14 608:22 609:3 reconnaissance 509:5 510:15 510:18 512:19 513:3,7 record 501:8 516:13 551:20 571:20 588:5 628:4 641:9 676:23 681:21 683:13,15,15 683:16,20,22 685:13 696:24 700:24 707:8 707:20,22 709:22 recordkeeping 623:19 661:15 661:18 records 521:19 531:24 598:9 598:12,13 649:6 661:7,15 679:8 |
| Q | | | | |
| qualified 506:24 643:12 quality 522:15 545:16 546:3 656:8 quarter 652:12 quarterly 589:2 672:2 question 509:25 511:15 567:9 | R | | | |
| | R 502:1 711:1 | | | |

| | | | | |
|-------------------------|------------------------|------------------------|------------------------|-------------------------|
| Recovery 547:8 | 566:3,5 569:4 | 661:18 | 709:15 | requests 598:21 |
| RECROSS-E... | 569:23 576:8 | relates 597:18 | rental 526:17 | require 507:20 |
| 543:12 550:14 | 576:11 604:1,3 | relating 543:14 | repair 645:19 | 535:25 536:1,4 |
| 605:16 | 604:11 618:7 | 632:25 685:10 | repetitive | 536:25 543:7 |
| recycled 646:12 | 620:5,12,14 | 691:20 693:18 | 641:15 665:25 | 543:15 609:15 |
| red 564:7 | 621:11,14,21 | relation 577:9 | replaceable | required 516:1 |
| redirect 535:10 | 622:6,6,23 | 615:7,16 | 645:25 | 523:13 536:6 |
| 603:24 681:12 | 624:8,9 625:2 | 637:16,21 | replaced 645:22 | 538:8 597:10 |
| 683:24 684:1 | 630:8 649:25 | 639:24 673:21 | 646:5 | 598:3 609:22 |
| 696:9 | 664:20,20,20 | Relations | replied 673:1 | 610:10 626:23 |
| reduce 609:12 | 690:23 691:13 | 520:13 521:13 | report 510:8 | 627:4 643:8,18 |
| refer 540:10 | 692:12 693:15 | 554:7 689:15 | 540:1 541:20 | 644:22 648:25 |
| 587:9 634:9 | 695:10,23 | relationship | 556:15 565:24 | 673:23 689:19 |
| 644:9 659:3 | 697:11 700:25 | 517:1 706:5 | 565:25 595:1 | requirement |
| 687:9 | 703:7 | relax 564:10 | 608:23 627:13 | 517:16 645:11 |
| reference | regional 519:12 | relaxed 548:1 | 627:16,23 | 663:9 |
| 667:25 | 519:20,23 | release 612:16 | 660:17,20,22 | requirements |
| referring 537:15 | 521:14,16 | 612:17 | 672:18 673:8 | 515:10 536:15 |
| 540:20 651:2 | 522:6 526:10 | relevance | 673:13,17,17 | 559:23 562:22 |
| refers 540:21 | 553:4 554:20 | 686:14 688:11 | 691:12,12 | 567:25 568:6,9 |
| reflect 516:13 | 557:10,12,20 | 690:7 694:2 | 692:12,14,21 | 578:8 580:21 |
| refresh 575:12 | 558:3,4,18,25 | 703:19 | 693:7,11 | 619:19 625:23 |
| regard 517:6 | 561:23 563:5 | relevant 597:16 | reported 501:8 | 628:12 642:2 |
| 564:24 585:10 | 565:24,25 | 666:5 703:18 | Reporter 501:9 | 642:12 644:6 |
| 601:25 608:19 | 566:2,4 567:3 | relied 669:25 | 505:2 551:9 | 649:13 656:20 |
| 687:13 709:11 | 588:22 621:16 | 708:1 | 613:2 614:21 | 660:9 661:22 |
| regarding 509:4 | 660:22 671:21 | rely 659:23 | 652:20 696:15 | 662:19 |
| 515:15,21 | 671:23 690:16 | 708:2 | 709:17,22 | requires 536:3 |
| 516:16 518:5 | 697:15 709:17 | remainder | 711:3,20 | 668:16 |
| 525:6 530:11 | regions 513:5 | 506:16 591:14 | reporting 501:4 | requiring 619:3 |
| 536:20 537:16 | 545:5 552:16 | 684:11 | 510:14 | REs 617:18 |
| 544:3 593:10 | 559:5 563:4 | remaining 555:5 | reports 556:16 | reserve 701:10 |
| 597:3 599:18 | 566:25 647:22 | remediated | 570:11 589:16 | resetting 558:14 |
| 599:23 600:1 | 660:21 667:22 | 625:19 | 590:1 649:15 | reside 594:9 |
| 606:19,22 | regular 563:7 | remember | 650:21 671:16 | residencies |
| 611:23 634:1,2 | 565:16 619:19 | 570:18 572:5 | 672:2,4 700:13 | 558:4,6,25 |
| 641:13 649:22 | 661:7 | 574:8 578:3 | represent 605:6 | 559:19,21 |
| 684:22 685:1,4 | regulated 694:6 | 590:9 602:16 | representations | 616:14 617:14 |
| 685:8,18,20 | regulations | 603:10 625:8 | 670:1 | 622:12 654:8 |
| 686:16 687:12 | 515:9 | 637:24 638:15 | Representative | 657:18 674:2,5 |
| 687:15,19 | regulator | 639:21,22,23 | 502:19,20 | 674:10,18 |
| 688:2,13 | 508:16,17 | 639:25 640:3,4 | representatives | 680:18 681:1 |
| 690:22 703:20 | regulatory | 640:4,11,24 | 577:10 581:5 | residency 558:5 |
| region 500:3 | 599:13 605:4 | 642:6 644:18 | represents | 558:8,15 |
| 502:6 507:23 | reinspects | 674:22 686:20 | 531:5,5 | 559:17,25 |
| 508:1,2,8 | 509:18 | 688:5 704:3,5 | request 531:18 | 616:13,15,16 |
| 513:3,7 531:4 | reissued 651:15 | 704:5,15,17 | 541:20 548:13 | 646:18 |
| 533:23 545:4 | relate 597:17 | removal 561:3 | 589:5 635:1 | resident 547:21 |
| 548:14 563:6 | 626:20 | remove 528:5 | 679:14 | 563:10 565:4,6 |
| 565:4,14,15 | related 568:16 | rendering | requested 573:9 | 565:9,12,16 |

| | | | | |
|---|---|--|---|---|
| 617:17 658:6 658:14 residue 526:23 resolved 610:17 resource 545:24 547:7 617:24 resources 535:24 589:6,7 589:9 614:11 658:9 respect 563:22 565:13 568:15 569:15 593:11 594:6 596:15 599:2 602:2,5 626:3 630:7 685:7,8,19 686:15 687:16 694:9 respond 583:21 586:25 640:8 708:20,25 responded 583:23 587:2 640:22 671:3 Respondent 505:3 681:22 708:19 Respondent's 509:2 512:17 574:22 590:22 591:20 604:19 612:25 634:10 644:12 676:7 678:3 681:22 RESPONDE... 502:11 Respondents 684:17 701:18 707:10 responding 520:14 535:12 689:15 response 516:17 518:16 520:9 521:7,11 529:4 531:9,17 532:6 532:13,25 533:17 537:21 540:9,19 541:1 | 542:4 548:5,12 548:14 593:24 598:21 610:22 640:10 651:5 668:16,17 680:5 686:18 689:9,10 698:9 698:10,11 responsibilities 552:24 560:3 563:17 564:23 586:23 597:19 615:16 616:6 619:10 661:3 responsibility 557:12,15,18 559:22 566:21 630:16,21 642:11,11 647:19 664:3 responsible 508:16 524:20 557:20 559:25 566:2 617:14 660:10 663:8 694:5 rest 518:3 681:20 701:18 resting 681:19 restrict 615:4 result 525:17 538:12 546:15 546:20 573:18 582:25 587:4 611:7 631:17 651:19,22 680:21 results 512:21 623:14 retaining 528:18 retakes 684:7 retirements 700:6 review 572:10 578:1 605:24 629:22 630:2,6 630:20 631:21 638:1 649:22 673:3 678:21 702:10 708:7 | reviewed 572:25 649:15 686:23 reviewing 579:10 630:16 631:2 710:6 revise 645:9 revised 706:11 rid 647:13,14,17 rig 559:4 right 507:14,24 508:12,21 514:12 516:18 518:11,21 520:18,21 521:7 529:1,7 529:9 534:22 542:11 546:14 548:8 556:8 557:25 564:17 571:9,11,14 572:8 574:14 575:18 576:18 581:22 612:7 625:25 644:11 647:16 651:2 675:6 678:8 680:23 683:18 684:3 694:22 695:11 697:21 700:2 704:6 705:23,24 right-of-way 686:25 687:2,4 Right-To-Know 656:4 river 545:12,18 Road 500:7 502:15 635:5 roads 618:17 role 519:1 607:4 630:5 653:9 671:8,14 roles 586:23 roll-off 647:8,11 Roman 537:17 roofed 542:24 roofs 542:21 room 501:5 576:23,25 583:7 635:6 | roughly 520:20 routinely 648:18 rules 526:7 run 663:14 run-off 514:15 518:18 521:15 527:4,5,9,16 528:4 542:18 548:22 549:9 628:25 647:6,6 687:20 running 626:8 runs 654:7 Russell 501:9 711:3,20 rust 527:3 RX 509:9 <hr/> S <hr/> S 502:1 safeguards 663:6 safety 614:4 616:18,18,19 626:16 655:7 salt 539:25 559:18 sandy 524:18 Saporita 502:4 503:4,18,23 504:9 506:4,21 514:18 531:10 531:14,25 532:2 534:9,12 534:22 535:8 535:17 536:13 536:15 537:11 537:16 539:6 541:23 543:13 543:19 550:11 550:12,15,21 567:19 568:1 590:15 591:16 591:19,23 592:4 648:9,13 648:15 652:4 677:4 678:2 679:25 681:11 682:2,11,13,18 682:23 683:2,5 | 683:9,18 696:13,22 699:7 701:3,10 701:15,17 706:21 707:3 707:16 708:16 709:25 710:5 710:13 satisfactory 538:2 satisfied 517:6 satisfy 539:4 saw 523:1 649:16 saying 523:11 525:1 596:19 640:24 655:5 says 510:12 531:2 533:9 573:16 575:23 576:11 577:22 578:1,3 586:9 589:24 637:25 639:2 673:2 679:6 690:19 693:23 scan 672:19 schedule 541:9 561:10 578:6,8 580:20,22,24 581:1 608:25 638:6,8,17 642:2 scheduled 561:11 563:9 634:23 school-like 548:3 science 552:14 557:3 614:9 653:16,20,24 654:1,9 655:9 sciences 552:9 Scientist 653:6 653:21 scope 595:10 681:9 696:3 701:4 703:14 Scott 576:16 637:9 677:16 |
|---|---|--|---|---|

| | | | | |
|-------------------------|-------------------------|------------------------|--------------------------|-------------------------|
| 677:20 | 522:19,24 | sentence 520:10 | 566:17 656:2 | similar 511:17 |
| scrap 525:25 | 523:1 525:15 | 526:1 527:20 | shorthand 501:8 | 511:17 517:2 |
| 526:3,6,9,12 | 530:15 555:14 | 689:12 | shortly 543:5 | 523:25 529:14 |
| 526:16,21 | 558:10 559:23 | separate 579:10 | shots 509:3 | 541:14 584:8 |
| 527:1 528:8 | 573:21 575:5 | 593:16 608:9 | show 575:8 | 633:6,10 |
| 530:11 543:3 | 576:12 577:12 | 647:2 654:3 | 579:4 595:25 | 660:24 669:14 |
| 549:8,17 | 584:7,12 606:3 | separately | 604:17 672:5 | similarly 707:14 |
| 644:25 645:5 | 632:5 644:24 | 526:24 | showed 523:20 | simply 603:8 |
| 645:10,12,16 | 659:3 668:2 | September | 549:7 | 695:15 707:11 |
| 645:18 646:6 | 672:15 678:24 | 521:5 522:8,19 | showing 510:6 | simultaneous |
| 646:17,21 | 689:18 701:25 | 522:25 614:15 | 550:17 604:19 | 541:15 708:15 |
| 647:8 651:21 | 702:5,20 | sequence 708:14 | 629:6 634:13 | simultaneously |
| 674:15,16 | seeded 627:5 | 708:16 709:2 | 667:2 676:4 | 708:23 |
| 680:20,25 | seeing 578:21 | serve 565:6 | sic 527:22 | sir 593:7 678:24 |
| screen 509:3 | 625:8 644:19 | served 616:16 | 605:20 691:25 | sister 632:15 |
| 532:10,17 | seek 651:10 | 665:12 666:24 | side 654:6 | sit 506:19 577:7 |
| 571:14 575:5 | 699:4 | 702:16 | sides 647:5 | 637:16,18 |
| 702:15 | seemingly | services 526:8 | sign 502:21,23 | site 514:15 |
| screened 510:13 | 641:11 | 554:6,21 608:5 | 576:7 646:2,3 | 515:7,12,23 |
| scroll 516:15 | seen 540:1 586:4 | 615:5 655:1,19 | 672:4 684:10 | 516:8,11 |
| 530:25 532:14 | 611:9,11 625:4 | session 693:19 | sign-in 575:11 | 521:15 523:14 |
| season 560:20 | 631:23 632:1,4 | 695:11 | 576:10 598:14 | 524:25 536:25 |
| 663:12,14,17 | 632:7 644:16 | sessions 533:14 | 598:17 634:15 | 537:24 540:24 |
| 663:20 664:12 | 662:10 702:24 | set 547:15 | 705:15,20 | 547:8 549:22 |
| seasonal 560:17 | segregated | 548:10 708:12 | sign-off 600:22 | 596:11 599:23 |
| 561:7,9 | 526:23 647:1 | 709:13,16 | 600:25 700:13 | 622:1 687:19 |
| seasons 663:25 | select 523:21 | 710:1 | sign-up 597:10 | site-specific |
| seat 577:5 | selected 523:9 | setting 548:3 | 598:1,7,10 | 507:13,19,20 |
| seated 577:9 | self-assessment | 564:16 | 659:2 | 507:21 523:7 |
| 613:8 639:23 | 507:13 680:13 | settle 600:10 | signature | 523:19 541:23 |
| second 542:12 | 680:17 | settlement | 573:15 | 542:1,5,7 |
| 620:13 694:14 | self-assessments | 600:23 | signed 535:4 | SiteManager |
| section 513:22 | 680:9 | setup 512:2 | 565:2 573:11 | 521:20 |
| 537:15 576:12 | self-reported | 574:5 598:23 | 573:12 588:9 | sites 508:11 |
| 582:24 604:21 | 611:5,17 | seven 513:24 | 588:15 589:21 | 547:10 621:23 |
| 621:8 631:16 | semi-annual | 536:17 | 590:1 598:12 | 621:24 624:10 |
| 635:23 697:2 | 567:2 | sewers 563:1 | 599:5,8,12 | 627:11 657:21 |
| 699:21 700:1 | send 587:13 | sheds 559:19 | 606:6,7 634:18 | sitting 637:24 |
| 700:11 703:7 | 589:1 672:22 | sheen 538:21 | 642:6,7 646:22 | situation 511:25 |
| 704:22 705:4 | 708:5 | sheet 575:11 | 693:14 697:18 | 548:4 563:10 |
| 705:13,22 | senior 578:11,11 | 576:10 598:14 | 705:20 | 627:9 629:2 |
| sections 521:22 | 635:24 637:7 | 634:15 705:15 | significant | 672:25 |
| sediment 507:2 | sense 679:14 | 705:20 | 563:19 567:12 | situations |
| 528:5 542:16 | 708:24 | sheets 598:17 | 622:17 | 628:15 |
| 542:18 626:8 | sensitive 662:10 | 659:2 | significantly | six 554:12 616:1 |
| 627:8 628:3 | sent 574:12 | Shengxin 631:9 | 561:16 | 701:23 |
| 649:12 662:12 | 588:12 612:2 | 677:17,18 | signs 597:21 | size 544:1 |
| 662:24 663:1 | 642:4 677:13 | shops 558:19,21 | 646:3 | 647:18 |
| 674:14 | 678:9 679:3,3 | 645:18 647:7 | silt 627:4 628:15 | skip 515:4 |
| see 509:22 518:1 | 679:12 693:12 | short 543:1 | 662:25 | 574:17 576:17 |

| | | | | |
|------------------------|--------------------------|-------------------------|------------------------|-------------------------|
| slide 531:2 | sorts 628:22 | specified 662:23 | 612:5 623:4 | 651:24 652:2 |
| slightly 554:25 | sought 633:13 | specifying 664:3 | 648:25 654:13 | 681:3 692:18 |
| 555:1 671:9 | sound 518:11 | specs 568:17 | 657:2 660:13 | stated 546:25 |
| SLMS 617:4 | sources 523:2 | speculate 705:8 | 671:21,22,23 | 673:1 689:13 |
| Slow 614:21 | space 512:1 | spelled 642:13 | 671:24 672:23 | statement 557:4 |
| slows 560:21 | 542:25 | spend 547:9 | 677:20 679:10 | 579:7 603:7 |
| small 534:18 | spaces 510:22 | spends 555:20 | 679:12 697:4 | 679:9 688:13 |
| 541:12 555:12 | 511:5,13 | spent 609:25 | stain 625:12,12 | 691:5,16 |
| 558:12,12 | SPDES 500:9 | spirit 638:21 | staining 625:6 | statements |
| smaller 512:3 | 540:11 661:19 | spite 580:11 | stand 551:2 | 625:17 630:11 |
| 616:15 | speak 509:11 | 628:12,13 | 592:24 652:13 | 690:22 695:10 |
| Smith's 614:8 | 561:14 565:14 | split 555:5 | 684:7 | states 500:1 |
| snapshot 549:23 | 597:12 599:22 | spoke 508:7 | standard 567:15 | 545:14 678:12 |
| snow 543:5 | 604:24 705:5 | 518:20 649:10 | 567:22 568:10 | 703:8 |
| 561:2 | 707:9 | spoken 535:6 | 568:14 618:23 | stating 651:8 |
| snowier 524:11 | speaking 593:18 | 602:4 607:9 | 619:12 636:17 | 686:21 |
| snowplows | 596:13 | spot 508:18 | 636:18 660:3 | status 519:15 |
| 555:11 659:8 | spec 568:10 | 596:23 | 691:9 703:1 | steel 646:12,12 |
| so-called 625:6 | 619:1,2 | sprain 614:21 | 709:3 | 646:13 |
| software 521:20 | special 552:15 | spreadsheet | start 614:13 | stenographer |
| soil 524:14,22 | 557:4 | 578:4 | 667:16 688:24 | 603:4 |
| 542:8 546:2,3 | specialist 519:3 | spreadsheets | starting 514:13 | stenographic |
| 546:3 552:9 | 552:12 613:14 | 509:2,3 | 525:9 527:19 | 711:6 |
| 627:5 662:14 | 643:3,4,7 | spring 530:15 | 531:22 | steps 578:15 |
| soils 524:18,18 | 653:11 | 534:4 616:17 | starts 571:22 | 600:12 636:10 |
| somebody | speciality | 616:18 | 629:9 631:14 | 639:3 |
| 586:25 618:3 | 558:17 | staff 508:12 | 637:13 672:12 | stick 548:5 |
| 639:9 646:4 | specialized | 512:19 515:8 | state 500:6 | stint 656:3 |
| 658:10 668:18 | 559:21 617:15 | 515:24 516:4,5 | 501:2,10 512:4 | stipulate 666:13 |
| 700:16 705:12 | specific 553:19 | 522:7,21 | 513:18 518:4 | 669:15,21 |
| someone's | 568:20 598:1 | 530:11,14,17 | 524:19,25 | 672:7 |
| 539:17 | 598:17 602:4 | 531:20 533:8 | 526:7,8,9 | stipulated |
| soon 678:21 | 608:6 627:9 | 533:11 537:24 | 536:9 551:19 | 666:20 |
| sorry 510:2 | 630:24 638:15 | 543:2 544:2 | 551:24,25 | stipulations |
| 514:5 517:24 | 657:10,11 | 547:19,21 | 553:2,5,7,10 | 505:7 682:14 |
| 531:1 545:5 | 661:1 678:22 | 548:8 555:8 | 553:21,22,22 | 682:21,21 |
| 575:1 596:21 | specifically | 563:7,11 566:3 | 555:24,25 | 683:1,4,7 |
| 623:22 650:25 | 532:17 545:4 | 569:12 572:13 | 556:7 570:3 | 709:21 |
| 667:7 669:6 | 546:25 562:2 | 572:20 578:5 | 594:10 617:4 | stockpile 525:16 |
| 680:14 685:3 | 563:13 583:3 | 579:18 581:4 | 618:24 623:13 | 680:25 |
| 692:4 699:25 | 601:9 602:10 | 581:24 583:8 | 653:8,9 656:24 | stockpiled |
| sort 562:17 | 602:17 630:23 | 586:6,20 | 656:24 660:1 | 542:20 |
| 565:19 581:25 | 631:14 637:17 | 588:18,22 | 662:2,12,14 | stockpiles 528:7 |
| 614:5 616:4 | 703:5 704:2,17 | 589:5,12 | 663:11 674:20 | 528:10 542:19 |
| 617:1,9,20 | specifications | 600:14 601:19 | 691:10 696:23 | 543:1 549:7 |
| 619:19 620:23 | 567:16,22 | 604:15 607:10 | 701:1 706:5 | 550:17 674:11 |
| 621:13,18 | 568:15 618:24 | 607:24 608:1 | 711:4,5,7 | stockpiling |
| 635:16 645:4 | 619:12 660:4 | 608:23 609:4 | State-wide | 674:10,13 |
| 658:13 659:5 | specificity 511:1 | 609:11,16,23 | 526:15 552:16 | 680:20 |
| 662:23 | specifics 549:5 | 610:3,18 611:1 | 560:5 645:2 | stomp 641:5 |

| | | | | |
|-------------------------|------------------------|------------------------|------------------------|-----------------------|
| stone 663:2 | 559:1 | superiors 612:2 | surplus 526:7 | 602:12,13 |
| stood 641:3 | Subcontractor | supervise | surprise 518:10 | 612:20 615:24 |
| stop 680:12 | 540:11 | 607:11 697:4,7 | 677:22 | 617:9 626:23 |
| stopped 611:3 | subject 526:7 | supervised | surprised | 658:21 662:5 |
| storage 526:17 | 557:6 563:2 | 621:7 | 572:18 605:7 | 692:8 |
| 527:9 542:24 | 574:13 615:12 | supervision | 605:10 | taken 517:20 |
| 543:3 559:19 | 618:8 | 565:10 617:20 | surrebuttal | 547:2 550:19 |
| 633:7 | submission | 655:20 658:3 | 706:19 707:5 | 551:5 593:2 |
| store 526:10 | 515:11 517:8 | supervisor | SUSAN 500:17 | 601:20 610:1 |
| stored 526:23 | 520:18 671:15 | 604:9 660:20 | Susquehanna | 630:18 632:14 |
| 528:7 647:2 | 673:15 675:7 | 677:18 | 545:11,12 | 652:15 673:21 |
| 657:18 674:16 | 686:18 | supervisors | sustained | talk 517:16 |
| storm 506:25 | submissions | 660:18,22 | 567:21 582:19 | 518:15 525:5 |
| 507:2,11 | 517:10 541:4 | 661:2 697:10 | 585:8 641:7 | 650:23 661:17 |
| 513:18 514:10 | submit 537:21 | 697:13 | 643:14 701:15 | talked 543:25 |
| 514:15 515:13 | 672:4 708:7 | supervisory | 704:8 | 545:11 547:12 |
| 518:18 519:5 | submittal 538:1 | 661:20 | swales 528:20 | 677:11 |
| 520:6 521:15 | 673:2 689:9 | supplement | swear 512:9 | talking 570:18 |
| 524:20 527:16 | submittals | 533:9,16 | 551:10 613:3 | 585:5 598:2 |
| 527:18,21 | 541:12,14,15 | support 654:9 | 652:20 696:16 | 607:6 657:8 |
| 528:11,15,15 | 672:17 | 655:5,6,6 | sweep 528:4 | 667:15 677:10 |
| 528:22,25 | submitted 509:4 | 660:25 | SWIP 627:18 | 688:15 |
| 532:11 536:9 | 518:7 520:4 | supports 654:5 | SWMP 693:23 | talks 578:6 |
| 538:25 539:13 | 522:3,8 523:3 | suppose 549:6 | SWMPP 615:19 | 638:6 |
| 539:23 543:16 | 529:4 531:8,17 | supposed | sworn 551:13 | tanks 657:19 |
| 548:22 557:15 | 532:6,13 | 627:22 628:4 | 613:6 652:24 | tarp 543:4 |
| 557:22 563:1 | 537:23,23 | 646:25 661:7 | 696:19 | tarp-covered |
| 595:7 596:4,14 | 538:1 570:11 | 670:18 | SWPPP 515:11 | 543:3 |
| 596:20 615:18 | 673:18 689:8 | sure 511:16 | system 518:21 | tarping 525:12 |
| 616:23 621:8 | 693:7 | 515:22 529:10 | 519:9,16 | tarps 528:10 |
| 626:8 628:24 | subsections | 529:13 533:13 | 528:23 553:21 | 542:21 543:1 |
| 647:23 661:17 | 568:17 | 544:5,8 547:9 | 561:24 617:5 | task 630:23 |
| 687:19 692:1,4 | subsequent | 547:11 562:10 | 654:25 662:2 | tasked 630:1 |
| 692:18 693:23 | 511:3 606:16 | 585:12 592:24 | 676:25 | 631:1 642:20 |
| 694:2,4 | substances | 596:1 603:19 | systems 656:18 | tasks 588:19 |
| strategies | 564:24 | 617:21 621:22 | 656:22 | team 687:5 |
| 526:19,20 | sufficient | 621:24 622:15 | | 700:14 |
| stressful 564:11 | 528:13 559:14 | 626:7 627:4 | T | teams 621:18 |
| structure | suggest 546:17 | 628:2,21 | T 711:1,1 | technically |
| 554:13 556:13 | 603:7 | 630:23 632:7 | table 577:3,7 | 556:17 663:24 |
| 614:1 633:8 | summarized | 635:2 636:3,22 | 581:4 637:22 | techniques |
| 697:11 | 689:11 690:13 | 638:14 642:20 | 641:5 | 662:23 |
| structures | 691:11 | 643:24 644:24 | tailgate 617:21 | technology |
| 626:16 | summary 552:3 | 646:23 647:5 | take 506:6,10 | 506:9 614:10 |
| studies 552:8 | 675:21 690:11 | 648:3,8 658:5 | 522:12 531:10 | tell 539:11 |
| stuff 649:22 | 690:12 | 661:24 662:12 | 537:13 546:19 | 544:13 549:11 |
| 657:17,23 | summer 709:8 | 671:23 672:6 | 564:18 573:7 | 556:24 561:17 |
| 659:10 674:4 | sun 624:11 | 674:13 675:1 | 575:15 576:25 | 563:13 564:21 |
| sub 514:13 | 635:13 | surface 549:15 | 577:23 580:21 | 584:25 585:1 |
| sub-residencies | SUNY 655:9 | 549:18 | 581:20 598:10 | 589:12 613:11 |

| | | | | |
|---|--|---|---|---|
| 653:4 661:10 695:24 696:6 708:6 telling 689:1 temporarily 596:24 627:6 temporary 513:23 536:16 ten 549:25 577:1 tend 547:25 term 516:2 543:1 566:15 terminology 600:5 601:13 688:19 terms 553:8 555:19 557:14 573:17 579:1 579:18 582:24 588:11,24 589:13 631:15 638:24 645:16 646:20 674:13 Terry 679:17 test 617:9 658:21 testified 515:14 517:19 518:19 523:6 525:11 529:7 593:10 594:20 595:12 597:3,6 642:24 648:17 677:5 685:15 687:15 688:2 702:11 704:4 testifies 551:14 613:7 652:25 696:20 testify 507:16 591:12,14 641:10 666:14 677:12 684:9 694:24 testifying 590:24 591:17 591:21 666:2 688:25 705:9 testimony 508:23 525:5 | 536:19 543:25 547:16 548:20 574:18 592:1 595:11 622:4 669:13 677:8 684:17,21 685:7,11,14,17 685:22,22 686:9,16 688:20 689:6 690:8,14,21 691:23 694:20 695:7,9 701:4 703:19 704:9 704:23 708:9 testing 655:19 655:25 tests 562:10 text 513:20 538:18 611:23 thank 512:16 513:10 514:23 515:14 518:15 523:6 532:4 533:4 537:14 543:7,19 550:21,22 564:20 590:6 594:15 595:24 605:23 612:11 612:14 648:5 648:24 650:5 652:5,6 673:2 678:12 679:20 681:11,14 690:21 696:8 696:11 700:23 706:17,23 707:11,15,16 707:19 710:14 thanks 637:5 643:4 645:3 thereof 711:9 thing 529:3 614:5 626:16 635:16 655:13 656:9 657:20 674:7 679:16 680:20 things 508:8,12 | 529:7 535:19 548:7 554:16 558:14 561:1 578:12 579:6 580:14,19 582:6,9 601:14 608:21,24 616:21,22 622:25 623:1,7 625:20 629:3 630:15,17 631:3 636:8 638:7 642:25 643:7,17,21,23 644:4 645:12 645:17,20 646:6,24 648:4 650:15 652:2 657:22 671:25 674:17,21,22 674:24 680:24 694:21 695:8 707:25 think 506:1 514:11 515:16 527:24,24 534:14 538:5,7 538:8 547:18 564:6 571:10 600:4 609:2,6 619:6 620:4 621:23 622:15 622:16 625:21 627:24 630:12 630:12 631:16 632:19 635:12 637:3,9 638:22 643:5,11 644:10 661:17 663:4 664:22 670:2 673:24 675:13 682:20 683:10 687:4 695:20 703:5 703:23 705:13 710:4,5 thinking 548:2 584:23 third 542:10 557:3 634:15 | thirty 679:11 thought 528:1 601:14 638:16 682:17 thousand 544:6 threat 582:15 585:11,17 threaten 585:2,5 662:15 threatened 582:12 threats 581:18 638:19 three 508:11 510:22 511:5 511:13 512:1,7 557:1,5 576:2 620:3 622:5 631:5 641:10 647:5 THURSDAY 500:14 tie 637:4 time 512:10 513:4 519:2,17 519:25 520:2 522:5,16,23 523:4,22 539:22 541:13 541:16 543:8 547:9 548:17 549:24,25 550:19 551:4 564:18 569:17 571:3 572:6,9 573:2,10 579:25 583:14 584:24 588:9 591:6 592:3,6 593:1 599:24 600:4,17 604:13 606:13 606:19 607:4 609:7,12,25 611:12 612:5 613:18 614:18 614:23 615:24 621:8 624:12 628:10 629:10 629:15 631:6,7 | 634:4 635:18 637:11 639:20 642:17 645:6 649:21 652:1 652:14 660:19 668:15 670:19 675:8 676:1 677:18,21 678:15 687:8,9 687:14 689:20 689:21,25 691:4,8,9 692:1,5 698:22 698:23 699:19 706:5 708:7,25 709:1,7,9 710:3 times 560:25 586:4 701:24 timing 580:17 580:18 title 575:20 576:2 604:16 613:12 653:19 699:18 705:21 titled 521:11 titles 660:15 today 535:17 585:7 593:9 603:20 632:24 665:17 684:9 691:23 695:7 707:20,25 told 515:24 517:3 604:22 610:25 629:20 675:17 top 517:12 518:9 518:13 537:20 576:6 596:4 663:5 674:22 topic 536:20 580:22 598:23 598:24 topics 552:17,18 557:21 568:18 597:17,17 topography 524:2,3,5 torn 543:4 |
|---|--|---|---|---|

| | | | | |
|------------------------|-------------------------|-------------------------|------------------------|-------------------------|
| total 539:21 | 658:24 659:1,4 | true 566:25 | 570:11 668:24 | unpaved 626:7 |
| touch 673:4 | 659:5 | 588:6 591:7 | unaware 524:21 | unrelated |
| track 628:19 | trainings 548:11 | 627:20 645:4 | unclear 641:11 | 632:24,25 |
| 685:10 687:2 | 598:10 648:19 | 711:7 | uncontained | updated 568:10 |
| 687:13 694:23 | 648:25 649:8 | truly 549:23 | 550:17 | updates 589:2 |
| tracked 528:6 | transcript 505:2 | truth 689:1 | uncontrolled | upfront 521:3 |
| tracking 521:23 | 708:4,9,10 | try 548:1 647:9 | 550:17 | 585:1,2 |
| tractors 558:11 | 710:6 | 709:6 | undated 690:20 | upstairs 679:18 |
| TRACYELL... | transfer 657:20 | trying 548:3 | under-drains | Upstate 656:3 |
| 502:19 503:2 | transfers 656:9 | 572:21 633:2 | 528:20 | urbanized 512:4 |
| traffic 614:3 | translators | 666:10 674:12 | underlying | use 528:3 580:12 |
| train 597:20 | 710:14 | Tuesday 517:15 | 698:17 | 582:15 585:4 |
| 656:18 695:25 | transportation | 678:9 679:10 | undermine | 617:3 627:7 |
| trained 516:9 | 500:6 501:2 | turn 509:1,19 | 626:15 | 647:10 662:18 |
| 537:25 562:24 | 502:12 523:17 | 512:16 513:10 | underneath | USEPA 531:2 |
| training 516:5 | 526:13 529:20 | 514:4 521:1 | 527:1 662:14 | 576:11 |
| 531:19,24 | 529:22 544:2,4 | 618:8 | understand | usually 659:22 |
| 532:10,21,22 | 544:14 545:2 | turned 610:23 | 506:17 507:12 | Utica 656:6 |
| 533:2,14,15 | 553:2,9,18,20 | twelve 562:1 | 530:20 553:16 | |
| 534:4 537:16 | 553:25 554:16 | twenty 679:11 | 563:25 578:14 | V |
| 547:12,14,20 | 558:24 570:3 | two 539:21 | 583:11,19 | value 646:10 |
| 547:21,23,25 | 577:14 580:14 | 541:12 553:23 | 584:1,15,23 | varied 580:16 |
| 552:4,6 560:9 | 593:18,21 | 573:14 577:10 | 585:13 596:17 | varies 554:3 |
| 560:10,13 | 607:21 613:24 | 581:4,9 605:9 | 603:2 635:23 | 561:14,16 |
| 561:11,15,17 | 614:14 632:16 | 609:23 616:14 | 636:8 639:7 | variety 616:21 |
| 561:19,21,25 | 654:15 656:25 | 620:11,15 | 642:23 655:3 | 645:17 |
| 562:4,5,8,17 | 662:5 666:25 | 634:12 648:9 | 658:10 688:18 | various 524:15 |
| 562:20 563:2,3 | 681:6 697:24 | 655:21 656:8 | 689:4 690:18 | 524:18,23 |
| 563:4,6,16,24 | 699:15 701:1 | 669:23 684:1 | 694:20 700:24 | 552:19 553:6 |
| 564:3,23 565:1 | 706:6 | type 508:21 | 704:18 | 568:18 |
| 565:3,13,15,17 | traveling 518:5 | 539:8 584:5 | understanding | Vegetation |
| 566:20 567:1,6 | 538:9 | 600:22 627:13 | 523:12 556:7 | 663:3 |
| 597:3,7,10,11 | treated 674:11 | 663:3 | 602:25 603:2 | vehicle 559:14 |
| 597:12,14,15 | treatment | types 524:14,22 | 605:2 651:11 | 596:22 645:19 |
| 597:22 598:1,2 | 545:22 546:3 | 663:6 674:17 | understands | 645:22,24 |
| 598:3,3,5,11 | tremendous | 674:21 | 645:15 | vehicles 559:15 |
| 598:21,23,25 | 625:14 | typical 672:17 | understood | 594:9 596:17 |
| 599:1,4,5,9,12 | trouble 623:13 | typically 549:15 | 546:16 583:13 | veracity 686:16 |
| 599:14 604:7 | 704:25 | 605:3 616:10 | 695:3 710:13 | 688:12,16,19 |
| 604:12,15 | troubleshoot | 618:5 660:18 | undertake 675:4 | 689:2 694:25 |
| 616:5,11,20,25 | 552:19 | 664:13 | unfair 585:15 | verbal 675:19 |
| 616:25 617:7,8 | truck 595:7 | U | uniform 580:1 | verbally 675:17 |
| 617:12,21 | 596:13,20 | Uh-huh 514:8 | 645:11 | verified 509:15 |
| 619:19,24 | truck/snowplow | 516:12 576:13 | unique 656:24 | verify 509:17 |
| 620:1 647:24 | 596:4 | 659:11 672:11 | 656:24 | 522:6 538:1 |
| 648:17,23,23 | trucks 555:11 | 680:11 702:21 | United 500:1 | 592:1 |
| 655:12 656:4 | 555:15 559:9 | ultimate 535:23 | 545:14 703:8 | version 670:3 |
| 657:3,8,9,14 | 593:25 594:1,2 | 549:13 | universe 710:11 | vests 555:10 |
| 657:16 658:2 | 594:6,8 595:13 | ultimately | University | VI 515:5 |
| 658:13,16,20 | 674:3,3 | | 614:11 | video 532:21,22 |

| | | | | |
|--|--|---|--|--|
| 533:9,11,16 647:25 view 517:21 550:18 639:20 viewed 595:18 VII(A)(IV)(a)... 537:19 VIII(A)IV(a)(... 537:18 violation 573:19 583:1 631:18 632:20 633:20 668:1 violations 584:6 586:5 610:6,8 610:22 629:1 633:9 640:17 649:19 678:18 684:22 685:5,9 691:1,21 695:19 698:17 violative 611:18 visits 531:5 622:5,23 Voir 592:2 | wanted 515:16 563:11 579:6 584:12 586:17 586:22,22 600:9 611:2 636:9,23 643:22 667:22 678:12 706:6 wants 707:8 warn 574:16 622:19 warning 641:18 washouts 626:18 wasn't 520:1 548:16 549:4 563:9 570:19 579:13 580:6,9 635:18 644:22 657:6 681:5 690:19 694:23 704:8 705:15 waste 539:1 657:21 watched 648:1 watches 533:11 water 506:25 507:2,11 513:18 514:10 514:15 515:13 518:18 519:5 520:6 521:15 522:15 524:14 524:20,23 527:16,18,21 528:15,18,22 528:25 532:11 535:24 536:9 539:13,23 543:16 545:14 545:16 546:2,3 546:4,11 548:22 549:19 557:15,22 559:23 564:8 573:18 582:24 594:13 595:15 615:18 616:23 621:8 626:8 628:24 631:16 | 647:23 661:17 662:11 687:19 692:1,5,18 693:23 694:2,4 waters 549:13 waterways 662:13 way 511:8 519:16 548:8 553:12 562:17 581:12 584:13 584:13 585:16 599:6 606:11 630:1 641:9 646:16,20 650:17 664:17 674:15 710:10 wears 645:25 weather 510:14 524:9,13 web 532:18 website 520:6 539:13 WebX-type 561:24 week 678:21 weekly 627:22 weeks 708:4 weight 564:7 Welcome 684:8 went 564:4 576:22 581:20 617:8 621:17 622:18 623:16 624:6,10 636:7 642:7 644:6 645:1 651:18 656:1 659:4 680:6 weren't 529:8 548:25 570:6 585:12 609:18 621:25 657:22 668:14 680:17 Westbury 655:19 whatsoever 598:3 wide 616:21 willingness | 675:3 Winans 502:14 503:10,17,22 504:5,10 537:8 544:9 550:24 551:15,18 563:25 564:13 568:3 571:18 574:22 575:1 590:3,9,13 595:20,24 600:6 607:6 612:17,21,23 612:25 613:10 613:16 633:2 641:17 644:13 648:5 652:5 653:3 666:7,18 667:7 669:19 670:7,11 671:7 675:24 676:8 676:10 677:2,8 679:21 681:13 681:16 688:14 688:22 694:18 696:8 699:9,13 699:14 701:5,9 701:25 702:5 706:17 707:10 709:3 Winans's 593:25 winters 663:15 wintertime 560:22 wish 506:6 683:23 707:1,5 withdraw 704:10 withdrawn 599:2 withhold 546:19 witness 503:2,8 503:15,20 504:2,7 506:18 506:20 510:6 516:14 551:3,7 551:10,13 563:21 564:9 564:15,20 | 567:20 590:4 590:10,21 591:14 603:22 612:18 613:3,6 613:17 641:18 648:8 652:7,16 652:21,24 666:2,9,15 677:4 681:15 684:6,12 685:17 688:15 694:13 696:4 696:12,13,16 696:19 701:20 701:21 703:18 706:19,24 Witness's 701:4 703:19 witnesses 531:13 544:10 641:14 651:7 652:8 669:18 669:24 681:17 683:23 684:1,4 688:21 704:4 706:25 Wolf 500:7 502:15 635:5 wondering 683:9 word 520:9 527:25 580:12 582:15 585:4 602:16 603:3 word-for-word 601:11 words 507:18 525:19 529:10 529:13 584:18 602:17 603:17 640:3,4,11 690:25 work 520:1 544:18 552:4 554:10 556:21 563:15 573:5 574:10 585:23 588:1,4 612:21 614:17 615:10 616:3 626:23 |
| W | | | | |
| wag 581:14 wait 542:11 623:22 waiting 506:8 689:18 695:25 waive 698:17 704:23 705:1,2 want 509:1,19 512:16 513:10 514:23 515:18 517:16 518:15 520:7 525:5 529:3 564:11 573:13 579:5 581:2 613:15 614:21 615:24 624:22 626:7 633:8 662:12 666:8 669:7,19 671:8 676:10 679:9 682:15 685:12 705:21 710:2 | | | | |

| | | | | |
|--|--|---|---|--|
| 627:11 631:5,8 632:5,9,11 653:14,23 654:21,22 655:1,10,14,17 656:5 660:25 661:1,5,16 663:2,20 668:5 670:20 671:20 678:13 697:8 700:10,12 705:6 | 687:17 690:11 708:11 wrong 518:20 628:8 | 518:10,14 520:17 563:6 565:15 577:22 604:1,3 681:22 681:22 683:1,7 686:20 689:9 | 516:15 675:10 686:4,7,12,15 687:6 16 516:15 574:15,16,21 574:23 575:5 604:19 634:10 | 656:17 657:14 658:3 660:6 664:21,22 701:2 2013 570:15 620:8 664:22 665:9 692:22 692:23 693:8,9 693:14 |
| workable 526:19 | X | 1,065 567:18 1/12/18 505:7 1:17 652:15 10 682:3 10:00 551:2 10:01 551:5 10:29 678:10 10:53 593:1 100 568:17 10007 502:8 11 538:18 552:16 553:4 558:4 630:14 682:9 | 16TH 502:7 17 692:22 18 522:9,10,12 609:6 188 513:11 536:11 19 515:19 516:15 579:3 582:13,13 686:4,12,15 687:6 | 2014 520:17 535:2 543:2 571:6,21 581:4 582:21 584:3 586:15 587:20 588:8 597:25 598:9 599:4 600:2 606:1 623:21 624:13 629:5,8,24 633:25 639:9 651:13 665:13 667:4 668:25 670:14 675:3 689:9 697:24 699:23 702:8 702:12 704:3 704:12 |
| worked 551:25 552:10 563:5 563:15 575:21 600:9,19 613:22 624:12 631:7,10,11 633:19 655:18 655:20,24 656:2,5 671:18 671:19 674:11 | Y | 11:00 592:25 11:01 593:2 11:16 679:10 11:30 612:19 116 507:9 12 683:5,8 12,500 633:8,9 12.5 513:25 12:20 652:14 12205 502:16 12207 501:6 12232 500:8 13 553:16,16 581:3 582:21 584:3 586:15 587:20 588:7 600:2 606:1 629:24 633:24 639:9 668:25 670:13 675:2 697:24 699:23 702:8,12 704:3 704:11 | 1991 655:18 1994 656:11,15 | 2015 517:15 518:10,14 521:5 522:9,20 522:25 530:15 686:20 2016 587:18 666:22 675:7 675:10 678:9 679:10 2018 500:14 683:5,8 21 606:5 608:1 667:24 678:9 679:10 702:18 22 693:14 24-hour 514:1 24/7 658:5 25th 692:22 26 525:10 269 513:13 514:12 27 525:15 542:10,14 |
| workable 526:19 | yard 539:18,18 596:23 year 510:19 511:25 512:10 516:5 548:11 615:20 616:13 663:19,21 | 10007 502:8 11 538:18 552:16 553:4 558:4 630:14 682:9 | 2 | |
| worked 551:25 552:10 563:5 563:15 575:21 600:9,19 613:22 624:12 631:7,10,11 633:19 655:18 655:20,24 656:2,5 671:18 671:19 674:11 | year-round 561:13 years 511:3 552:2 562:1 576:2 583:17 584:1 602:14 605:9 608:2 609:18,19 616:1 655:21 662:9 700:5 | 116 507:9 12 683:5,8 12,500 633:8,9 12.5 513:25 12:20 652:14 12205 502:16 12207 501:6 12232 500:8 13 553:16,16 581:3 582:21 584:3 586:15 587:20 588:7 600:2 606:1 629:24 633:24 639:9 668:25 670:13 675:2 697:24 699:23 702:8,12 704:3 704:11 | 2 500:3 502:6 509:2,25 510:12 512:17 521:2,10 540:18 576:8 576:11 613:14 653:6,11,21 681:22 690:3,9 693:19 697:11 700:25 703:8 | |
| workers 547:25 659:9 | yesterday 506:2 506:17,24 509:17 515:14 517:19 518:19 523:6 536:19 | 13th 634:8 676:21 678:7 14 595:5,19 596:2 147 520:8 540:4 688:7,8 15 515:19 | 2 500:3 502:6 509:2,25 510:12 512:17 521:2,10 540:18 576:8 576:11 613:14 653:6,11,21 681:22 690:3,9 693:19 697:11 700:25 703:8 | |
| working 520:12 520:23 522:13 548:16 578:15 605:9 609:24 614:13 628:14 632:18 633:6 633:11 642:18 642:20 647:9 649:21 659:25 667:17 671:21 677:19,20 689:14 | YOCOM 502:23 York 500:6 501:2,10 502:8 512:3 513:18 526:8,9 536:9 551:24,25 553:1 558:7 618:24 653:8,9 655:23 656:3 656:24 660:1 662:11 663:11 706:5 707:18 711:4 | 15 515:19 | 2 500:3 502:6 509:2,25 510:12 512:17 521:2,10 540:18 576:8 576:11 613:14 653:6,11,21 681:22 690:3,9 693:19 697:11 700:25 703:8 | |
| works 519:10 539:16 | Z | | 2,200 555:5 2,500 555:5 2:38 500:15 710:19 20 668:16,17 2003 604:5 2006 614:15 2010 507:7 2012 510:8 513:19 536:10 560:3 562:21 564:22 567:7 570:4,15 615:25 616:1,4 617:7 619:15 620:4,11,13 627:10 646:16 | |
| world 703:14,15 wouldn't 609:19 641:24 671:10 701:22 705:3 | 0 | | 2 500:3 502:6 509:2,25 510:12 512:17 521:2,10 540:18 576:8 576:11 613:14 653:6,11,21 681:22 690:3,9 693:19 697:11 700:25 703:8 | |
| write 581:25 601:16,18 611:21 709:5 | 1 | | 2 500:3 502:6 509:2,25 510:12 512:17 521:2,10 540:18 576:8 576:11 613:14 653:6,11,21 681:22 690:3,9 693:19 697:11 700:25 703:8 | |
| writing 670:25 written 519:24 520:3 536:22 | 1 505:7 517:15 | | 2 500:3 502:6 509:2,25 510:12 512:17 521:2,10 540:18 576:8 576:11 613:14 653:6,11,21 681:22 690:3,9 693:19 697:11 700:25 703:8 | |

| | | | |
|-------------------------|------------------------|------------------------|-------------------------|
| 27th 692:23 | 459 515:4 | 573:16 578:19 | 513:5 569:4,23 |
| 28 532:15 536:7 | 462 693:4,5,19 | 582:13 631:14 | 582:13 609:9 |
| 29 681:23 682:9 | 48 520:8 540:4 | 667:25 | 620:12 664:20 |
| 290 502:7 | 687:23,24 | 6,000 564:3 | 682:9 690:23 |
| <hr/> | 688:7 | 6/21/16 505:4 | 691:13 693:8 |
| 3 | <hr/> | 60 675:13 | 695:10,23 |
| 3 509:2,9 510:1 | 5 | 60-plus 553:6 | 9,000 654:19 |
| 512:17 681:22 | 5 500:14 508:2 | 558:25 | 9:48 551:4 |
| 681:23 | 509:21,24 | 603 503:11 | 98 514:5,17 |
| 3,000 544:7 | 513:5 535:2 | 605 503:12 | 99 514:5,6 537:4 |
| 30 509:20,24 | 571:21 620:5 | 607 503:13 | 537:5,9 |
| 510:4,7 513:11 | 621:11,14,21 | 613 503:17 | 999 510:17,18 |
| 514:5,7,17,20 | 622:6,6,23 | 648 503:18 | 511:4,19 512:2 |
| 521:5 522:20 | 624:8,9 625:2 | 65 505:4 590:22 | 512:14 |
| 522:25 536:7 | 629:8 630:8 | 591:20 676:5,7 | |
| 537:6 | 649:25 664:21 | 678:3 | |
| 309(A)(3) | 667:4 681:23 | 653 503:22 | |
| 582:25 631:17 | 692:12 693:15 | 67 681:25 | |
| 31 530:6 681:24 | 5-minute 550:25 | 678 505:4 | |
| 326 514:20 | 592:22 | 679 503:23 | |
| 33-1/2 552:2 | 5,000 544:7 | 68 644:11,12,14 | |
| 338-page 672:10 | 5,000-plus | 683 505:7 | |
| 34 681:24 | 558:24 | 684 504:4 | |
| 35 530:4,25 | 50 500:7 502:15 | 687 510:4 | |
| 594:16 595:1 | 531:22 532:3 | 694 504:5 | |
| 36 608:1 681:24 | 635:5 681:24 | 696 504:9 | |
| 37,500 573:20 | 506 503:4 | 699 504:10 | |
| 583:2 631:19 | 51 517:23 518:2 | | |
| 636:15 668:1 | 538:7 | <hr/> | |
| 384 510:5 | 518 502:9,17 | 7 | |
| 39 511:15,17 | 52 517:22 525:9 | 7 531:22 532:2 | |
| 692:9,10 | 538:4 542:10 | 681:23 682:8 | |
| <hr/> | 681:25 | 70 681:25 | |
| 4 | 535 503:5 | 724 594:16 | |
| 4 509:21,24 | 543 503:4,6 | 595:22 | |
| 651:13 681:23 | 550 503:4 | 73 682:1 | |
| 681:23 692:9 | 551 503:10 | 742 595:22 | |
| 4-page 634:11 | 57 521:1 540:18 | <hr/> | |
| 4/18 578:1 638:1 | 681:25 690:3,4 | 8 | |
| 40 534:15 | 58 514:14,21 | 8 508:1 513:3,7 | |
| 571:13,17,19 | 515:18 516:15 | 620:14 654:19 | |
| 573:14 605:19 | 686:4,5 | 664:20 | |
| 629:6 667:3,6 | 587-7300 502:9 | 8-1/2 538:18 | |
| 702:18 | 59 537:8 672:10 | 8,000 554:25 | |
| 405 510:4,4,7 | 681:25 | 555:1 557:24 | |
| 420 511:16 | 590 503:11 | 659:4 | |
| 43 681:24 | 593 503:12 | 8:30 500:15 | |
| 445 501:5 | <hr/> | 88 604:5 | |
| 45 681:24 | 6 | <hr/> | |
| 457-2411 502:17 | 6 501:5 515:5 | 9 | |
| | | 9 507:23 508:8 | |