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Informal Hearing  
September 15, 2021

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In Re: Hillsboro Energy, LLC, et al.

STATE OF ILLINOIS  
MONTGOMERY COUNTY

IN RE:

HILLSBORO ENERGY, LLC

Application for an incidental boundary revision to  
Permit No. 399 for Deer Run Mine

INFORMAL HEARING

REPORT OF PROCEEDINGS before Hearing Officer  
SCOTT SIEVERS, on the 15th day of September, 2021, at the  
Montgomery County Historic Courthouse, No. 1 Courthouse  
Square, Hillsboro, Illinois.

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A P P E A R A N C E S

For Illinois Dpt. of  
Natural Resources:

Amy Wolff Oakes, Esq.  
Attorney for Office of  
Mines and Minerals

Jeffrey S. Steiner, Northern  
District Supervisor, Land  
Reclamation Division, Office of  
Mines and Minerals

Cathy Demeroukas, Land  
Reclamation Specialist, Land  
Reclamation Division, Office  
of Mines and Minerals

Jim Schafer, Permit Coordinator  
Land Reclamation Division  
Office of Mines and Minerals

For Hillsboro Energy:

Clayton Cross, Engineering  
Manager at Deer Run Mine

1 HEARING OFFICER: Good evening. It is  
2 5:30 p.m., so I'm going to call this public hearing to  
3 order.

4 My name is Scott Sievers. I'm with the Office  
5 of Legal Counsel and the Illinois Department of Natural  
6 Resources. I am the hearing officer for tonight's  
7 public hearing for the Hillsboro Energy, LLC  
8 application for an incidental boundary revision to  
9 permit No. 399 for Deer Run Mine.

10 These proceedings are being held in accordance  
11 with 62 Illinois Administrative Code 1773.13, 62  
12 Illinois Administrative Code 1773.14, and 62 Illinois  
13 Administrative Code 1774.15.

14 The purpose of this public hearing is so that  
15 interested persons have an opportunity to present views  
16 and comments regarding the pending application. All  
17 comments will be taken into consideration by the  
18 Department in reviewing the pending application.

19 If you have not already signed up to speak at  
20 this public hearing and you wish to do so, please sign  
21 the sign-in sheet now and indicate that you wish to  
22 speak.

23 Now, can I get a showing by hands how many  
24 people want to speak tonight?

25 (Thereupon, the audience indicated.)

1 HEARING OFFICER: I count four. Would  
2 that be correct?

3 Representatives for the mine are here, and I now  
4 would ask that they please step forward. You've got a  
5 microphone here at the podium. Step forward and state  
6 your name and identify your position with the  
7 Department -- with the mine, I'm sorry.

8 MR. CROSS: My name is Clayton Cross, and  
9 I am the engineering manager at Hillsboro Energy Deer  
10 Run Mine.

11 HEARING OFFICER: Thank you.

12 Members of the IDNR, Illinois Department of  
13 Natural Resources, Office of Mines and Minerals, Land  
14 Reclamation Division are also present, and I now would  
15 ask that they also step forward and please introduce  
16 themselves.

17 MS. OAKES: I'm Amy Wolff Oakes. I'm the  
18 attorney for the Office of Mines and Mineral in  
19 general. I'd like to welcome everybody tonight. Thank  
20 you.

21 MR. STEINER: My name is Jeff Steiner.  
22 I'm the northern district supervisor for the Land  
23 Reclamation Division.

24 MS. DEMEROUKAS: My name is Cathy  
25 Demeroukas, and I am a mine inspector with the Land

1 Reclamation Division.

2 MR. SCHAFFER: My name is Jim Schafer. I'm  
3 the permit coordinator with the Department.

4 HEARING OFFICER: Thank you.

5 Please note that while the Department may not  
6 respond orally to a question or comment this evening,  
7 anyone speaking at this public hearing or who provides  
8 written comments to the Department during the comment  
9 period will receive written notification of the  
10 Department's final permit decision, pursuant to 62  
11 Illinois Administrative Code 1773.19(a)(3). All  
12 comments will be addressed in Appendix A of the  
13 Department's final permit decision.

14 The Department has hired a court reporter to  
15 provide a complete transcript of tonight's hearing.  
16 Please be mindful when speaking so that you can  
17 provide -- so the court reporter can provide accurate  
18 transcription. A microphone is provided at the podium.

19 While people may have strong views regarding  
20 this subject, profanity, harassing, or inappropriate  
21 comments will not be tolerated; and any individual  
22 disrupting this hearing will be escorted from the  
23 hearing.

24 At the close of this hearing, the Department  
25 will collect any written comments or statements, copies

1 of maps, and any other documents you wish to provide  
2 for the record.

3           Considering we've had, I believe, four people  
4 indicate that they wish to speak, I'd like to give each  
5 person at this time ten minutes to speak. And you have  
6 the sign-in sheet here, I believe.

7           MS. OAKES: And prior to the first  
8 speaker, I will let you know that DNR will not be  
9 responding orally tonight; but as our hearing officer  
10 indicated, our comments will be addressed in the  
11 Appendix A.

12           HEARING OFFICER: Would one of the  
13 speakers like to come forward and address this hearing?

14           MS. DRESSEN: Do you want us to come up to  
15 the podium?

16           HEARING OFFICER: If you could, please,  
17 come up to the podium here and speak in the microphone.  
18 Please state your name.

19           MS. DRESSEN: Would you like us to take  
20 our masks off when we're speaking or keep it on?

21           HEARING OFFICER: You can do either. I  
22 say that for the record because there's no one within  
23 six feet of you when you're speaking at the podium.

24           MS. DRESSEN: Okay. I will then, just  
25 while I'm speaking.

1           My name is Karyl Dressen. It's K-A-R-Y-L  
2 D-R-E-S-S-E-N. And I live in a farm outside of  
3 Coffeen.

4           I submitted comments previously on this request  
5 from Hillsboro Energy for the 2.74-acre incidental  
6 boundary revision to Permit 399. I questioned at that  
7 time whether to request a public hearing, since the  
8 process on this IBR is proceeding completely backwards.  
9 Even though this public hearing is being held too late  
10 to comment on proposed work, I hope that some questions  
11 may be answered.

12           The public notice was published in the local  
13 journal news on July 29th, 2021, with a comment period  
14 of 14 days, but the work on the site had already  
15 started before the date the public notice stated that  
16 the mine submitted the application to IDNR, which was  
17 June 8th. In fact, it commenced over a month prior, as  
18 I have photos dated May 6th, 2021, that show dirt work  
19 had been done and drilling rigs were already in place  
20 at that time. The work with the drilling rigs was done  
21 and the rigs were gone by the publication of the public  
22 notice on July 29th.

23           This was very confusing. The public notice  
24 stated that copies of the application were on file at  
25 the IDNR Office in Springfield. When I called to



1 request an appointment to view the application, Jim  
2 Schafer posted the application on the IDNR website to  
3 make it more accessible. I want to thank him for that.

4 The permit application contained the apparent  
5 answer as to how the mine was able to commence with the  
6 proposed mining operations before a permit application  
7 was even submitted. The cover letter from Clayton  
8 Cross in the application states that IDNR granted  
9 emergency approval to begin on May 5th, 2021.

10 What was the justification for the emergency  
11 approval?

12 An article in S&P Global reported that Foresight  
13 Energy, LP reported elevated carbon monoxide readings  
14 April 30th at its Deer Run Coal Mine and evacuated  
15 miners. A spokesperson with the U.S. Mine Safety &  
16 Health Administration confirmed. Operations at the  
17 mine remain down, as a cause of the incident is being  
18 investigated, the spokesperson said in a May 5th  
19 e-mail.

20 Since the mine was evacuated on April 30th, no  
21 miners should have been underground. Are there certain  
22 criteria that must be met to qualify as an emergency?

23 How much information was required of the mine  
24 about the proposed operations prior to the emergency  
25 approval by IDNR?

1           Who grants this authorization?

2           Does surface work such as drilling bore holes  
3 done under emergency approval require the prior consent  
4 of the landowner involved?

5           What does an emergency authorization give the  
6 mine the right to do?

7           How frequently are these emergency  
8 authorizations requested and granted?

9           Does the public have the right to access this  
10 emergency approval?

11           I have not found anything on the IDNR website  
12 pertaining to this process.

13           The letter from Clayton Cross included in the  
14 application to IDNR also stated that this submittal is  
15 to satisfy the requirements that a formal IBR  
16 application detailing all required information,  
17 pursuant to 62 Illinois Administrative Code 1774.13.

18           So, the application sounds like it was just a  
19 formality, as approval for the mining operations was  
20 already granted. Still, the application was not  
21 submitted until over a month after work had started.

22           Is there a specified time that this must be  
23 submitted?

24           What about the length of time for publication of  
25 the public notice, which was not in the paper until

1 July 29th?

2 I have further comments and questions as to the  
3 application for the IBR. Under Section 1.4 for  
4 violation history, the questions were left unanswered.  
5 Is this section not required for an IBR application?

6 Under Section 2.3.5.1 for describing the  
7 measures to be used to ensure that the interest of the  
8 affected public and landowners will be protected, the  
9 applicant states that the access road off Route 185 is  
10 within the existing road construction area, and speeds  
11 are already reduced.

12 I drive Route 185 into Hillsboro regularly. I  
13 was stopped in traffic more than once for concrete  
14 trucks to back into this construction area. But, yes,  
15 due to the approximately 7 feet of subsidence to this  
16 area of the highway, due to the longwall mining  
17 underneath it, the speed limit was reduced to 35 miles  
18 per hour in late February and shortly thereafter to  
19 20 miles per hour. It remains at 20 miles per hour due  
20 to poor the condition of the highway due to the mining  
21 identified on the road sign as "Severe Pavement  
22 Distress."

23 Is there any time table for when the highway  
24 will be repaired?

25 Under Section 2.3.7, the applicant states they

1 do not purpose any surface mining operations within  
2 300 feet from any occupied dwelling. The irony is that  
3 the farmhouse directly across the highway was occupied  
4 by a family and only recently vacated due to the  
5 longwall mining subsidence from the current panel.

6 Under Section 5.3.2, the applicant stated that  
7 no culverts were purposed within the permit area. A  
8 culvert was installed for access to the site from  
9 Route 185.

10 Was this culvert then outside of the permit  
11 area, possibly on state right-of-way?

12 Does the mine have to have IDOT's approval for  
13 work, such as culverts or ditching, adjacent to a state  
14 highway?

15 Under Section 9.2.1.1, the applicant states that  
16 the area will be restored to pre-mining conditions. I  
17 submit the farm ground that has been subjected to the  
18 heavy equipment compaction and the construction in this  
19 permit area, as well as farm ground that has been  
20 subsided by longwall mining cannot be restored to how  
21 it was previously.

22 I feel that the public should receive notice  
23 when work is granted under emergency approval and  
24 should also be notified of the nature of the emergency.  
25 The time frame was too long between the apparent

1 emergency approval by IDNR on May 5th, the permit  
2 application submittal on June 8th, and the public  
3 notice on July 29th.

4           Such is a lack of transparency with what is  
5 occurring at the mine. So many things are wrong with  
6 the longwall method of mining. At the top of the list  
7 is a destruction of homes, farmsteads and flat fertile  
8 farm ground. Landowners who do not have their  
9 subsidence rights seem to have no rights in preventing  
10 the longwall mining damage to their private property.

11           And I understand that no questions will be  
12 answered tonight then; is that right?

13           HEARING OFFICER: Yes, that's right.

14           MS. DRESSEN: Okay. That was my prepared  
15 statement. If I may, I've got just another question on  
16 some of -- and I can do that after others have spoken.

17           HEARING OFFICER: Yes. Why don't we move  
18 on to the other speakers?

19           MS. DRESSEN: That's fine.

20           HEARING OFFICER: You've been given your  
21 ten minutes. We'll move on to the next person to have  
22 their ten minutes. And when all of the speakers have  
23 finished their initial addresses, then we can move on  
24 to additional comments if later.

25           MS. DRESSEN: Thank you.

1 HEARING OFFICER: Thank you, Ms. Dressen.

2 Who else would like to speak at this time? Can  
3 you please state your name?

4 MR. SCHRAUT: Larry Schraut,  
5 S-C-H-R-A-U-T. I live at 7199 Buckeye Trail,  
6 Hillsboro.

7 I'm probably the one that has been mainly  
8 affected, except the landowner that owned the land that  
9 they drilled on. I own the property adjacent to it,  
10 and this was a nice level area until they longwall  
11 mined it. And now, from where their location is,  
12 there's a seven-foot slope.

13 And I've got some pictures that I'll put in the  
14 exhibit. The first two pictures show the drilling  
15 sites -- their site.

16 Picture 3 showed the slope from the drilling  
17 site caused by longwall mining, which altered the water  
18 drainage.

19 Picture 4 shows a white post that is my property  
20 line adjacent to the site.

21 Picture 5 shows discolored substance on top of  
22 soil on my property coming from the drilling site after  
23 a recent rain event.

24 Picture 6 shows a gully and soil erosion on my  
25 land because the change in drainage flow coming from

1 the drilling site.

2 Picture 7 shows flooding caused by the longwall  
3 mining drainage changes next to the drilling site.

4 Picture 8 shows a picture of my land where all  
5 their drainage goes because of the longwall mining, and  
6 it's outlined in red.

7 So I want to put this into exhibits. It's kind  
8 of self-explanatory with the information.

9 HEARING OFFICER: Sir, are the photographs  
10 marked as to photos 1, 2 --

11 MR. SCHRAUT: Yes, they're in the corner.

12 HEARING OFFICER: Very good. Thank you.  
13 I appreciate that.

14 MR. SCHRAUT: Some of the questions I've  
15 got to ask: When they approved this emergency  
16 revision, did anybody from IDNR come out and inspect  
17 the site?

18 Then, after it was approved or they started  
19 drilling, how many times did IDNR inspect the site  
20 after the drilling started?

21 Another question is: We alter the water flow by  
22 longwall mining because of the 7-foot slopes that it  
23 creates. Why can the mine change water drainage flow  
24 when me or other individuals cannot do that?

25 And another question is: I haven't seen anyone

1 from IDNR. They may have been somewhere there, but  
2 I've never talked to one since May. And a lot of  
3 stuff's gone on since May as far as the site, but I've  
4 not talked to a person since in May.

5 And some of the farms and the drainage control,  
6 I don't think were performed as, you know -- after  
7 they -- they may put them in at the beginning for the  
8 silt fence or whatever, but I don't think they were  
9 maintained, because I wouldn't have had that gully in  
10 my field showing in one of those pictures if it had  
11 been.

12 So, that's pretty well what I've got. I've got  
13 a lot other issues, but it's not on this subject of the  
14 drilling site. I'd like to discuss that with some of  
15 IDNR at some time. Thank you.

16 HEARING OFFICER: Thank you for your  
17 comments.

18 And who would like to speak next? Please state  
19 your name for the court reporter.

20 MS. BLUMENSHINE: Thank you, yes. My name  
21 is Joyce, J-O-Y-C-E, last name is Blumenshine,  
22 B-L-U-M-E-N-S-H-I-N-E. My address is 2419 East  
23 Reservoir in Peoria. And I'm here tonight because I'm  
24 very concerned about what is happening to our prime  
25 farmland, to our essential head water streams and



1 waterways, and to the people who work so hard daily to  
2 feed us, and the communities that they love.

3 And so, I have a couple of questions. And I do  
4 apologize, Mr. Hearing Officer. I have some allergies,  
5 so I'm a little hoarse, and I did not hear your name  
6 when we started.

7 HEARING OFFICER: It's Scott Sievers.

8 MS. BLUMENSHINE: Scott Peters?

9 HEARING OFFICER: Sievers, actually.  
10 Sievers, with an S.

11 MS. BLUMENSHINE: Thank you, Scott. And  
12 are you an attorney with IDNR?

13 HEARING OFFICER: I am, yes.

14 MS. BLUMENSHINE: Thank you. I'm so  
15 sorry. I just like to know what's happening.

16 So, a couple questions, and my first question --  
17 although I do realize that we were told that IDNR is  
18 not answering questions -- I have an ad from the  
19 Hillsboro paper for this hearing -- and I don't know if  
20 the mine puts these in or IDNR -- but it has at the  
21 top, "Public notice: Informal Conference - Hillsboro  
22 Energy." And in the text of it, it says it is a public  
23 hearing.

24 And I just want to ask -- and I don't know if  
25 this be answered. But the first question for the

1 record is: The fact that there's no responses from the  
2 agency -- I've been at these for over a period of time,  
3 as many of the staff here. And I just wonder why this,  
4 what I see as a radical change in policy?

5 Previously, when Mr. Fowler was here and even  
6 when Mr. Santiago was the head of Land Reclamation,  
7 there was an effort to respond to the public at these  
8 hearings, knowing that people travel or take time out  
9 of their work or their fields.

10 So I would like to know why this complete  
11 shutdown of IDNR responses? And I do respect if that  
12 puts IDNR staff under strain. I'm sure it wasn't your  
13 choice. Maybe it was your choice. But I do want to  
14 thank the staff. They put in long days. We really  
15 depend on the dedicated public servants in Springfield  
16 and the local offices from the IDNR. We respect that  
17 they have a tough job. We need them to do their job.  
18 We need -- and that's why we're here, because we're  
19 concerned that regulation is being forced, that the  
20 land be protected, and a good future is left.

21 So, here I go. My first comments as a concerned  
22 citizen regards something that happened some time ago,  
23 and that was March 24th of 2014. In the Circuit Court  
24 for the Seventh Judicial Circuit in Sangamon County,  
25 there was a resolution of a court case, and there was

1 an agreed order called the Banner Rules.

2 And, Mr. Hearing Officer, please be patient.

3 Maybe you're all well-versed in the Banner Rules, but I  
4 have some questions, because it was quite some time  
5 ago.

6 So, in these Banner Rules that were the result  
7 of a contested strip mine IDNR permit that went over  
8 numerous years, and that permit was defeated. It was  
9 on prime river floodplain in between two state IDNR  
10 areas in an internationally significant migrating  
11 habitat area with Osprey and many other endangered  
12 species. But, anyway, that's not the topic tonight.

13 So, anyway, on topic for this hearing, Banner  
14 Rule in the Circuit Court Order from 2014, No. 1, if I  
15 can get to the right page here, states as follows:  
16 That the IDNR Mining Act or the Mining Act Section  
17 2.04(a) provides at the time of submission of a permit  
18 application, the applicant shall, one, place a public  
19 notice of the application in a local paper; and, two,  
20 file the application for a public inspection; and that  
21 in this Agreed Order, it says: The Department agrees  
22 to treat the applicant's timely provision of the  
23 mandatory statutory notice and filing as a prerequisite  
24 of the permit application.

25 So my understanding was, in 2014, the Court

1 ordered IDNR, when they received a permit from the mine  
2 to not only have the mine put that on public notice,  
3 but to also make that first application available.

4           If that had happened, as an earlier commenter  
5 mentioned, then instead of at the end of July, when the  
6 public saw this notice, in June, the public would have  
7 seen a notice. And I do respect the fact that many  
8 applications maybe need to be tweaked or finessed or  
9 lack information and are incomplete; and so IDNR works  
10 with mines to get the full information and does not  
11 currently post the permits or have them on public  
12 notice until they've passed the IDNR internal review.

13           That seems very practical, but the fact is  
14 there's a court order outstanding from 2014 that says  
15 the public should at least have the right of knowing  
16 when a permit is happening.

17           So I just wonder why that continues not to  
18 happen in this case, this regarded what we don't really  
19 know what was happening underground? We think there  
20 was a fire. And so, when the mine filed the permit, it  
21 was June. We think when the work was done, it was in  
22 May. The work is already over.

23           We do appreciate the opportunity to give our  
24 comments, because that chance even to see IDNR staff or  
25 to be heard is -- as was mentioned is kind of hard.

1 So, okay, that's my first comment.

2 Part 2 of the Banner Rules, Section 205 of the  
3 Mining Act provides: A permit application shall be  
4 accompanied by a fee based on the number of surface  
5 acres of land to be affected by the proposed operation,  
6 and the Department will propose an amendment to the  
7 rule at 62 Illinois Administrative Code 1777.17(b),  
8 which currently does not require any such fees to be  
9 paid until the permit application is approved.

10 So, again, even though this is just a couple  
11 acres, the mine, by the Banner Rules, would have paid  
12 at least something toward the IDNR cost, because there  
13 are very real costs, as we citizens well know, to the  
14 time and efforts and all the work that goes into permit  
15 reviews. And so, even if it was a little bit of money  
16 maybe, you know, it should be paid ahead of time,  
17 rather than -- you know, from the public view, maybe  
18 that's pressure -- not to say that that really does add  
19 pressure -- but the IDNR will never get any fees unless  
20 the permits are approved. So that was No. 2.

21 No. 3 from the Banner Rules, it says: Section  
22 2.04(d) of the Mining Act provides: Any person having  
23 an interest which is or may be adversely affected or  
24 any person who is an officer of the government -- it  
25 goes on about who may file written objections and may

1 request an informal conference with the Department.

2 And they also go on about an informational  
3 non-adversarial hearing. And it says that the persons  
4 who may request an informal conference -- which this is  
5 either informal conference or a public hearing  
6 depending from the public notice or both -- it  
7 authorizes the mining -- the Department to promulgate  
8 procedural rules regarding notice and testimony.

9 And in here, the key thing I'm getting to  
10 regarding this hearing tonight is that it says that the  
11 mine should have a representative, who Mr. Cross is  
12 here. That is wonderful. But it also says that the  
13 mining representative should be prepared to answer  
14 questions related to the permit.

15 And so, you know, it would be very helpful,  
16 since citizens don't know what's going and there's no  
17 coverage in the newspaper and public agencies provide  
18 no information, there's nothing available to the public  
19 and they live here or are concerned about here, it  
20 would be nice if the mining representative could answer  
21 questions.

22 So that is regarding Banner Rules. That would  
23 be very helpful to know if and when those Banner Rules  
24 might be actually put in effect. I know IDNR has  
25 promulgated other rules in the interim.

1           So, the concern about the bore holes, which is  
2 clearly mentioned in the permit application, that the  
3 activity in this permit area was -- I'm sorry -- five,  
4 six-inch utility bore holes. And in the application,  
5 on page 99 of 115, it says they are 440 feet deep.

6           One of my questions is, out of my ignorance --  
7 I'm sorry -- do the bore holes go right down into the  
8 open cavity of the mine tunnel? Do they go down into  
9 an area that has been subsided and is now collapsed?

10           That's my ignorance. I do apologize, but I just  
11 am curious, because as a citizen, I just wonder --

12           HEARING OFFICER: Ms. Blumenshine, thank  
13 you. Ms. Blumenshine, your ten minutes is concluded.

14           MS. BLUMENSHINE: Yes, sir.

15           HEARING OFFICER: So if there's time at  
16 the end of this hearing for additional comments, we'll  
17 hear those comments then, but now we'll move on to the  
18 next speaker.

19           MS. BLUMENSHINE: Certainly. Thank you.

20           HEARING OFFICER: Sir, can you please  
21 state your name?

22           MR. SCHROEDER: My name is William  
23 Schroeder, S-C-H-R-O-E-D-E-R. I live at 11204 North  
24 Sixth Avenue in Hillsboro 62049.

25           I really -- mostly, what I'm about to do is

1 questions and comments. The number one comment is:  
2 How much input does the director of the IDNR have in  
3 the affairs of Office of Mines and Minerals?

4 And are they -- is she briefed or the director  
5 briefed about these types of permit applications and  
6 the consequences thereof?

7 Since it's somewhat of a political job -- not  
8 only somewhat, it is -- there's definitely politics  
9 involved with her position; and I'm just wondering if  
10 she is at this time aware of what type of operations  
11 are going on? And is she briefed on the outcome of  
12 these things?

13 The other thing about the -- given the fact that  
14 the IDNR seems to be conflicted in a lot of their  
15 positions in the wildlife and the biology end of it,  
16 I'm wondering is the IDNR OMM -- are you fully staffed  
17 at this time? Is your budget being conflicted by the  
18 budget cuts at the IDNR that the rest of the agencies  
19 seem to be experiencing?

20 Two: You know, given the fact that you're not  
21 answering questions at a public hearing, which is what  
22 we were given to understand that would enlighten us as  
23 to what is going on here, how much time can we expect  
24 your answers to come worth on? I mean, is this going  
25 to be two months? Three months? I mean, if the permit



1 took that much long to get it applied and now it's  
2 coming in later, are we going to get these answers in  
3 somewhat of the same time frame?

4           Given the fact that what's going on now, needs  
5 to be answered now. It seems a little bit out of sorts  
6 that we should have to wait any period of time to have  
7 the questions that we are asking answered. That's  
8 really a concern.

9           There's no enlightenment to the public -- to the  
10 community at large as to what's occurring. And it  
11 definitely affects not only our county finances, but  
12 the lives of the people who are traveling through the  
13 area and whose is imminently affected by this.

14           So, I would think the proper procedure would be  
15 at least to somewhat assure the people that you are  
16 working on it, because right now, it doesn't seem like  
17 the thing is being addressed in the proper manner.

18           But, like I say, specifically, I would like to  
19 know how much input the director of the IDNR has as to  
20 the proceedings that are going on in the Office of  
21 Mines and Minerals?

22           I appreciate your time. Thank you.

23                   HEARING OFFICER: Thank you for your  
24 comments.

25                   MR. SCHROEDER: You have enough time for

1 Ms. Blumenshine, right?

2 HEARING OFFICER: Are there any other  
3 speakers that wish to address at this time? Would  
4 anybody else like to speak at the time?

5 (No audible response.)

6 HEARING OFFICER: Okay. Hearing none,  
7 would Ms. Blumenshine like to further address?

8 MS. BLUMENSHINE: Thank you, Mr. Hearing  
9 officer. Joyce Blumenshine again, and I think you have  
10 it.

11 Just a few more things, please. I don't mean to  
12 take so long, and I just ha -- so I have -- I'm asking  
13 about, you know, the bore holes that were the  
14 purpose -- the way the permit read for this boundary  
15 revision, and, you know, what -- they're supposed to be  
16 capped. Okay. But if they're open for use or  
17 something else, I'm just wondering what might come out  
18 of those? Is there anything of concern for the  
19 community?

20 As was mentioned earlier, there are a couple  
21 residences across the road. People drive frequently on  
22 that part of 185, and they're driving slowly because of  
23 the subsidence.

24 So, what goes out of those bore holes, if  
25 anything does; and then what goes in?

1           It said in the permit application that inner  
2 substances would be injected, or perhaps there would be  
3 some other sampling done. And I just -- I'm really  
4 wondering what kind of sampling is going to be done?  
5 What substances might be injected from the application?

6           There were several other pages blank in the  
7 application, and one was Table 1.5.3, on page 14 of  
8 115. It says: Regarding -- it's a list of  
9 uncontrolled interests within the proposed boundary.  
10 And this was referred to -- my understanding is this  
11 would be the people that own the land.

12           So I wondered why that was blank? Because on  
13 another page, it gave the landowner, but there was no  
14 information that I could find anywhere in the  
15 application, which was, you know, sent in June. The  
16 work was done in May. There was nothing on that  
17 application that I could find that the mine had  
18 verifiable existing rights, if I understand that  
19 correctly. That means they have permission to actually  
20 go on that property by the property owner and do things  
21 on the surface.

22           So it seems like a really important point. I  
23 just wondered how they could file that and not provide  
24 that information?

25           Drainage control is mentioned on page 65 of 115.

1 That's part 5 of the application. The mine  
2 specifically wrote in a drainage exemption is requested  
3 as the disturbed area is small. It says: The majority  
4 of the surface will be covered with limestone  
5 aggregate, while undisturbed areas will be seeded.

6 We've heard other comments tonight that there  
7 has been disturbance drainage problems. I got into  
8 town just in time to drive down 185, past the area, and  
9 there's standing water in that permit area. I hope  
10 it's, you know, not around the bore holes. I really  
11 don't know, but there's standing water there. And if  
12 there's standing water there and continuing problems,  
13 it seems like maybe IDNR needs to go back and look if  
14 maybe they do need to have some kind of drainage  
15 control. And I don't know how that's assessed once the  
16 permit is approved.

17 That raises my other questions: Does IDNR come  
18 out on site to verify the information in the permit  
19 application?

20 In the permit application, on page 113 of 115,  
21 there's a visual map. I will hand that in for  
22 clarity's sake. It shows the permit area, and directly  
23 across the road as mentioned, there's some residences.  
24 I don't know. Are those how many feet? The mine put a  
25 certain number of feet in their application. Yeah. I

1 don't know how close that is.

2 They also have in their application on page 114  
3 of 115 the diagram of where their drill holes are.  
4 Three of those drill holes are, you know, closer to the  
5 road; and, thereby, closer to the houses across the  
6 road.

7 So, if there's things coming out of those bore  
8 holes, I mean, do those people deserve to know what's  
9 happening there, or maybe the people in town?

10 I mean, are there any provisions that the mine  
11 is required to inform either public safety officials,  
12 public health officials, emergency responders, the  
13 hospital?

14 Does the mine have to inform anybody in the area  
15 in an official capacity what is happening? Because,  
16 certainly, there's a complete, it seems, lack of  
17 information for the public about what's going on.

18 And that -- that raises kind of another point.  
19 Is this mine safe? You know, rumor was there was  
20 another underground combustion event or atmospheric  
21 condition that required evacuation as was mentioned by  
22 Mine Safety & Health Administration. That sounds  
23 pretty serious, if the people were made to get out of  
24 the mine and quit working.

25 So, whatever is going underground, if that

1 affects the surface, does anyone in the community get  
2 that information in a timely manner?

3 And how can the public know what's going on?

4 And is that continuing to go on, or is it over  
5 with? I mean, I don't really know.

6 The permit also says that if the mine is in  
7 temporary cessation, which it had been before and  
8 reopened in 2019. And before the fire that closed it  
9 in 2019, I think there were one or two -- I may be off  
10 on that, but there were several other events on  
11 problems.

12 And I will be done in just a moment. I'm almost  
13 done.

14 So, the question is: If this is repeated  
15 incidents of underground problems, as a layperson, is  
16 this mine safe?

17 How is this being monitored by the State?

18 What does it mean for the safety of miners?

19 And how long should this mine continue going if  
20 they cannot be managed in a way that prevents these  
21 situations?

22 As a non-miner, I don't know how these things  
23 work. So maybe these are just common occurrences. It  
24 seems like there's a lot of other mines that don't have  
25 these things happen that often. I don't know what the

1 situation is here that causes it, but it concerns me;  
2 and I raise that tonight.

3 And the last thing is that in the application,  
4 there's no bonding for the 2.74 acres. Granted, it's a  
5 small acreage, and there's going to be six bore holes  
6 maybe. That doesn't cost much to have them cut off  
7 five inches below the ground, which is what the permit  
8 said, and filled with cement and different things so  
9 they're left to be safe.

10 But the word is as -- this company was already  
11 once in bankruptcy shed millions, if not more, dollars  
12 of debt. What if that happens again that they don't  
13 come out of bankruptcy?

14 What if the State is left with all the cleanup  
15 of this area and all these different bore holes?

16 And then also other areas that have no bonding,  
17 like the 7,700-some acre significant revision 2 for  
18 more underground mining?

19 So the bore holes, it says, would be temporarily  
20 sealed if the mine's in temporary cessation. I don't  
21 know if that happened for the several years, it was  
22 temporarily closed before.

23 But if it's temporarily closed again, I would  
24 like to know, does IDNR inspect that and make sure that  
25 those things happen for the safety of the public and

1 for the future of the area?

2 And I will turn in these items as exhibits. And  
3 thank you for bearing with me, Hearing Officer, sir,  
4 and the staff here. Let me just take one quick look.  
5 I wouldn't want to miss anything.

6 Oh, yes. The last question, I guess: This was  
7 labeled an incidental boundary revision, but I didn't  
8 see a number for it. And I get confused because  
9 there's so many. So I don't know if this is No. 10 or  
10 what number, but it would be helpful to know. If I  
11 missed it in the application or somewhere else, I do  
12 apologize.

13 Okay. Thank you very much. I'll get these  
14 exhibits to -- thank you.

15 HEARING OFFICER: Thank you for your  
16 comments.

17 Does anybody else wish to speak at this time?

18 For the record, could you please restate your  
19 name?

20 MR. SCHRAUT: Larry Schraut.

21 HEARING OFFICER: Thank you.

22 MR. SCHRAUT: This is kind of off the  
23 subject of the revision here, but I would think it  
24 would be a lot more helpful if the IDNR, when they come  
25 out, would talk to farmers or people being affected by



1 this situation, rather than kind of ignoring us.  
2 That's the way I feel; that we're having the damages  
3 done, and they're supposed to be overseeing it. And  
4 they want to see --

5           They tell me in this permit, "Oh, the longwall  
6 mining will be uniform." I've got pictures where it's  
7 a foot different, and it's got -- they take a bulldozer  
8 and push the stuff together on my topsoil. So, I  
9 guess, if you don't come out and look at it, then you  
10 can say, "Well, I didn't know about that."

11           But I think they need to be out and looking at  
12 what's happening at this mine more than what they are.

13           Thank you.

14           HEARING OFFICER: Thank you.

15           Do we have additional speakers that would like  
16 to speak at this time?

17           And, again, for the record, please state your  
18 name.

19           MS. DRESSEN: Karyl Dressen. I apologize.  
20 I think I'm too short for the microphone, so I hope you  
21 can hear.

22           HEARING OFFICER: We'll note that for the  
23 record.

24           MS. DRESSEN: There we go. I was reading  
25 through the application again today, and I had some

1 questions. Under Section 1.5, which is the property  
2 ownership, it was -- there was a reference to an  
3 operator memorandum No. 2011-01 in that. I guess I had  
4 nothing better to do, so I did pull that up and read it  
5 this afternoon; and I've got some questions on that.

6           It was memorandum from Scott Fowler on  
7 February 14, 2011, concerning uncontrolled properties  
8 in permit applications. And as I mentioned previously,  
9 I've got some concerns about landowner rights with some  
10 of these incidental boundary revisions, such as this  
11 one.

12           And in that memorandum, it says: Historically,  
13 except for certain rare instances, applicants have been  
14 required to document that they possess the right to  
15 enter and begin surface coal lining and reclamation  
16 operations in the proposed permit area prior to permit  
17 issuance.

18           Further down, it appears that two administrative  
19 rules, 62 Illinois Administrative Code 1778.15(a) and  
20 1773.17(b) were kind of combined. And it says: Taking  
21 these two rules together, the Department has concluded  
22 that prior to issuance, the Department must determine  
23 if an application contains a description of the  
24 documents upon which the applicant bases his or her  
25 legal right to enter and begin surface coal mining and

1 reclamation operations in the permit area. But the  
2 Department may direct in the permit that any areas for  
3 which the right to enter is not demonstrated  
4 uncontrolled properties cannot be affected until such  
5 right is demonstrated. In other words, a permit can be  
6 issued containing uncontrolled properties, but the  
7 Department can condition the permit to preclude any  
8 mining-related disturbance on the uncontrolled  
9 properties until the right to enter and begin surface  
10 coal mining and reclamation operations is demonstrated.

11 Further down, it says: In no way will the  
12 issuance of a conditional permit authorize access to  
13 the subject property if the permittee and landowner do  
14 not come to agreement.

15 So, I'm wondering because, again, some of the  
16 timing seems a little bit backwards on some of this.  
17 Apparently, the emergency approval was given on  
18 May 5th, but on Table 1.5.1, Property Ownership Within  
19 Permit Area, the owners are listed under the name,  
20 which is Arlen and Patricia Kasten, but under type of  
21 holder, it says: Legal - agreement dated May 6th,  
22 2021, which, again, is a day after apparently the  
23 approval was granted.

24 So, my question is: Is this because they  
25 were -- can grant authorization before the mine has

1 permission to enter that area? Is it because of this  
2 memorandum? Or does the emergency authorization affect  
3 this?

4           Again, I could find nothing on the IDNR website  
5 explaining what this emergency authorization is. If  
6 the mine has another fire, and they want to drill bore  
7 holes or for injecting of nitrogen, is that an  
8 emergency? And do they need permission if it's on  
9 private property beforehand to do this? Or can they  
10 just go ahead and do it?

11           Those are some of my concerns. And I'm -- I'm  
12 grateful that you're having the hearing, but I'm  
13 disappointed that the answers aren't being given to us  
14 tonight.

15           So that was another one of my questions: How  
16 this was affected, and if it was -- if emergency  
17 authorization, in fact, allowed them to have the  
18 approval before apparently they had reached an  
19 agreement?

20           Thank you again for the hearing.

21           HEARING OFFICER: Thank you.

22           Does anybody else wish to speak at this time?

23           (No audible response.)

24           HEARING OFFICER: This hearing is set to  
25 run from 5:30 to 7:30 --

1 MR. SCHROEDER: One more question.

2 MS. DRESSEN: Just real quickly.

3 HEARING OFFICER: Can you speak at the  
4 podium here?

5 MS. DRESSEN: Well, it's just a real quick  
6 one.

7 HEARING OFFICER: Could you identify  
8 yourself for the record?

9 MS. DRESSEN: Karyl Dressen. Will we  
10 receive any answers to these questions in the  
11 transcript or the written comments that we receive? Or  
12 are the questions not going to be answered at all?

13 HEARING OFFICER: At the conclusion of  
14 this hearing, I'll read a bit of language that will  
15 address that.

16 MS. DRESSEN: Okay.

17 HEARING OFFICER: For clarity, I  
18 previously read this passage, and I'll just read it  
19 again now. I said: Please note while the Department  
20 may not respond orally to a question or comment --

21 AUDIENCE MEMBER: Can you speak in the  
22 mic. a little more?

23 HEARING OFFICER: Apparently, the  
24 microphone does not work. That's why.

25 AUDIENCE MEMBER: Then take your mask off,

1 because we can't hear you back here.

2 HEARING OFFICER: Please note while the  
3 Department may not respond orally to a question or  
4 comment this evening, anyone speaking at this public  
5 hearing or who provides written comments to the  
6 Department during the comment period will receive  
7 written notification of the Department's final permit  
8 decision, pursuant to 62 Illinois Administrative Code  
9 1773.19(a)(3). All comments will be addressed in  
10 Appendix A of the Department's final permit decision.

11 We'll continue to keep this hearing open until  
12 the conclusion at 7:30.

13 MS. BLUMENSHINE: Mr. Hearing Officer?

14 HEARING OFFICER: Because we've got a  
15 court reporter here taking down a written transcript,  
16 we just need to have you identify yourself again.

17 MS. BLUMENSHINE: Thank you. I'm so  
18 sorry. Joyce Blumenshine.

19 After what you just read, a question came to me,  
20 and I just really need to ask. So since, A, the work  
21 is already done at the site; B, it's now some months  
22 later. Obviously, work's done, but can IDNR then  
23 maybe, like, require the mine to do something about the  
24 drainage? I mean, what can IDNR require the mine to do  
25 if there are things in the public comments or that IDNR

1 discovers or decides that need to be done? Can they  
2 now add different things in that the mine would need to  
3 do, because it's -- time has elapsed?

4 So thank you very much.

5 HEARING OFFICER: Thank you.

6 Does anybody else wish to speak at this time?

7 (No audible response.)

8 (Thereupon, a short recess was taken.)

9 MS. OAKES: Would you entertain a motion  
10 to close the record pending any more available speakers  
11 and advising that we stay until the time of 7:30?

12 HEARING OFFICER: Yes, I would entertain  
13 that.

14 Does anybody have any objection to that?

15 AUDIENCE MEMBER: No.

16 MS. OAKES: Thank you.

17 HEARING OFFICER: Sure.

18 So, at this point then, if there are no other  
19 commenters wishing to speak, I will adjourn this public  
20 hearing. Please drop off any written comments or  
21 statements, maps, and other documents you wish to be  
22 part of the public hearing record to me now.

23 No additional individuals have arrived and wish  
24 to speak since the last time anything was taken on the  
25 record.

1           The Department shall receive and consider  
2 additional written comments regarding the incidental  
3 boundary revision application until September 27th,  
4 2021, either postmarked on this date or received via  
5 e-mail by 11:59 p.m., on September 27th, 2021. That  
6 e-mail address is DNR.MMLRD@Illinois.gov. The mailing  
7 address is Office of Mines and Minerals, Land  
8 Reclamation Division, One Natural Resources Way,  
9 Springfield, Illinois 62702.

10           All comments made and collected at tonight's  
11 hearing, along with any written comments received by  
12 the Department by September 27th, 2021, shall be  
13 considered by the Department in rendering a decision  
14 regarding the pending application.

15           Anyone speaking at this public hearing or anyone  
16 who has or does provide written comments to the  
17 Department during the comment period will have their  
18 comments addressed in Appendix A of the Department's  
19 final permit decision.

20           In accordance with 62 Illinois Administrative  
21 Code 1773.19(a)(3), the Department shall mail written  
22 notification of its final permit decision to each  
23 person who files comments or objections to the permit  
24 application and to each party to this public hearing.

25           I want to thank all of you for your



1 participation. This public hearing is adjourned.

2 (Thereupon, a recess was taken.)

3 HEARING OFFICER: I guess we can go ahead  
4 and formally close the hearing now. It's 7:30 p.m.,  
5 and I guess that will close the record in this case.

6 (Thereupon, the hearing is concluded at  
7 7:30 p.m.)

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1 State of Illinois  
2 County of Clinton SS.

3 I, Lynn M. Winkeler, a Certified Court Reporter  
4 within and for the States of Missouri and Illinois, do  
5 certify that I was present at the Montgomery County  
6 Historic Courthouse, No. 1 Courthouse Square, in the  
7 city of Hillsboro, State of Illinois, on the 15th day  
8 of September, A.D., 2021; that thereafter, a hearing  
9 was held commencing at 5:30 in the evening of that day,  
10 that all proceedings which then transpired were  
11 contemporaneously reduced to shorthand by me, and later  
12 transcribed into typewriting, and that the foregoing 41  
13 pages are a true and accurate transcript of the record  
14 of proceedings made by me on that day.

15 In Witness Whereof, I have hereto set my hand and  
16 seal this 22nd day of September, 2021.

17  
18   
19 Lynn M. Winkeler  
CCR #952, CSR #084-004312

20 Certified Court Reporter within  
21 and for the State of Missouri

22  
23  
24  
25

<b>A</b>	<p><b>alter</b> 14:21  <b>altered</b> 13:17  <b>amendment</b> 20:6  <b>Amy</b> 2:2 4:17  <b>answer</b> 8:5 21:13 21:20  <b>answered</b> 7:11 12:12 16:25 24:5,7 36:12  <b>answering</b> 16:18 23:21  <b>answers</b> 23:24 24:2 35:13 36:10  <b>anybody</b> 14:16 25:4 28:14 31:17 35:22 38:6,14  <b>anyway</b> 18:12,13  <b>apologize</b> 16:4 22:10 31:12 32:19  <b>apparent</b> 8:4 11:25  <b>apparently</b> 34:17 34:22 35:18 36:23  <b>appears</b> 33:18  <b>Appendix</b> 5:12 6:11 37:10 39:18  <b>applicant</b> 10:9,25 11:6,15 18:18 33:24  <b>applicant's</b> 18:22  <b>applicants</b> 33:13  <b>application</b> 1:5 3:8,16,18 7:16 7:24 8:1,2,4,6,8 9:14,16,18,20 10:3,5 12:2 18:18,19,20,24 19:3 20:3,9 22:2 22:4 26:1,5,7,15 26:17 27:1,19 27:20,25 28:2 30:3 31:11 32:25 33:23 39:3,14,24  <b>applications</b> 19:8 23:5 33:8  <b>applied</b> 24:1  <b>appointment</b> 8:1  <b>appreciate</b> 14:13 19:23 24:22  <b>approval</b> 8:9,11 8:25 9:3,10,19 11:12,23 12:1</p>	<p>34:17,23 35:18  <b>approved</b> 14:15 14:18 20:9,20 27:16  <b>approximately</b> 10:15  <b>April</b> 8:14,20  <b>area</b> 10:10,14,16 11:7,11,16,19 13:10 18:11 22:3,9 24:13 27:3,8,9,22 28:14 30:15 31:1 33:16 34:1 34:19 35:1  <b>areas</b> 18:10 27:5 30:16 34:2  <b>Arlen</b> 34:20  <b>arrived</b> 38:23  <b>article</b> 8:12  <b>asking</b> 24:7 25:12  <b>assessed</b> 27:15  <b>assure</b> 24:15  <b>atmospheric</b> 28:20  <b>attorney</b> 2:3 4:18 16:12  <b>audible</b> 25:5 35:23 38:7  <b>audience</b> 3:25 36:21,25 38:15  <b>authorization</b> 9:1 9:5 34:25 35:2,5 35:17  <b>authorizations</b> 9:8  <b>authorize</b> 34:12  <b>authorizes</b> 21:7  <b>available</b> 19:3 21:18 38:10  <b>Avenue</b> 22:24  <b>aware</b> 23:10</p>	<p><b>bearing</b> 31:3  <b>beginning</b> 15:7  <b>believe</b> 6:3,6  <b>better</b> 33:4  <b>biology</b> 23:15  <b>bit</b> 20:15 24:5 34:16 36:14  <b>blank</b> 26:6,12  <b>Blumenshine</b> 15:20,21 16:8 16:11,14 22:12 22:13,14,19 25:1,7,8,9 37:13 37:17,18  <b>bonding</b> 30:4,16  <b>bore</b> 9:2 22:1,4,7 25:13,24 27:10 28:7 30:5,15,19 35:6  <b>boundary</b> 1:5 3:8 7:6 25:14 26:9 31:7 33:10 39:3  <b>briefed</b> 23:4,5,11  <b>Buckeye</b> 13:5  <b>budget</b> 23:17,18  <b>bulldozer</b> 32:7</p>	<p>18:14  <b>citizen</b> 17:22 22:11  <b>citizens</b> 20:13 21:16  <b>city</b> 41:7  <b>clarity</b> 36:17  <b>clarity's</b> 27:22  <b>Clayton</b> 2:12 4:8 8:7 9:13  <b>cleanup</b> 30:14  <b>clearly</b> 22:2  <b>Clinton</b> 41:2  <b>close</b> 5:24 28:1 38:10 40:4,5  <b>closed</b> 29:8 30:22 30:23  <b>closer</b> 28:4,5  <b>coal</b> 8:14 33:15,25 34:10  <b>Code</b> 3:11,12,13 5:11 9:17 20:7 33:19 37:8 39:21  <b>Coffeen</b> 7:3  <b>collapsed</b> 22:9  <b>collect</b> 5:25  <b>collected</b> 39:10  <b>combined</b> 33:20  <b>combustion</b> 28:20  <b>come</b> 6:13,14,17 14:16 23:24 25:17 27:17 30:13 31:24 32:9 34:14  <b>coming</b> 13:22,25 24:2 28:7  <b>commence</b> 8:5  <b>commenced</b> 7:17  <b>commencing</b> 41:9  <b>comment</b> 5:6,8 7:10,13 20:1 23:1 36:20 37:4 37:6 39:17  <b>commenter</b> 19:4  <b>commenters</b> 38:19  <b>comments</b> 3:16 3:17 5:8,12,21 5:25 6:10 7:4 10:2 12:24 15:17 17:21 19:24 22:16,17 23:1 24:24 27:6 31:16 36:11 37:5,9,25 38:20</p>
	<p><b>approval</b> 8:9,11 8:25 9:3,10,19 11:12,23 12:1</p>	<p><b>B</b> 37:21  <b>B-L-U-M-E-N-S-...</b> 15:22  <b>back</b> 10:14 27:13 37:1  <b>backwards</b> 7:8 34:16  <b>bankruptcy</b> 30:11 30:13  <b>Banner</b> 18:1,3,6 18:13 20:2,11 20:21 21:22,23  <b>based</b> 20:4  <b>bases</b> 33:24</p>	<p style="text-align: center;"><b>C</b></p> <p><b>C</b> 2:1  <b>call</b> 3:2  <b>called</b> 7:25 18:1  <b>capacity</b> 28:15  <b>capped</b> 25:16  <b>carbon</b> 8:13  <b>case</b> 17:25 19:18 40:5  <b>Cathy</b> 2:7 4:24  <b>cause</b> 8:17  <b>caused</b> 13:17 14:2  <b>causes</b> 30:1  <b>cavity</b> 22:8  <b>CCR</b> 41:19  <b>cement</b> 30:8  <b>certain</b> 8:21 27:25 33:13  <b>certainly</b> 22:19 28:16  <b>Certified</b> 41:3,19  <b>certify</b> 41:5  <b>cessation</b> 29:7 30:20  <b>chance</b> 19:24  <b>change</b> 13:25 14:23 17:4  <b>changes</b> 14:3  <b>choice</b> 17:13,13  <b>Circuit</b> 17:23,24</p>	

39:2,10,11,16 39:18,23 <b>common</b> 29:23 <b>communities</b> 16:2 <b>community</b> 24:10 25:19 29:1 <b>compaction</b> 11:18 <b>company</b> 30:10 <b>complete</b> 5:15 17:10 28:16 <b>completely</b> 7:8 <b>concern</b> 22:1 24:8 25:18 <b>concerned</b> 15:24 17:19,21 21:19 <b>concerning</b> 33:7 <b>concerns</b> 30:1 33:9 35:11 <b>concluded</b> 22:13 33:21 40:6 <b>conclusion</b> 36:13 37:12 <b>concrete</b> 10:13 <b>condition</b> 10:20 28:21 34:7 <b>conditional</b> 34:12 <b>conditions</b> 11:16 <b>conference</b> 16:21 21:1,4,5 <b>confirmed</b> 8:16 <b>conflicted</b> 23:14 23:17 <b>confused</b> 31:8 <b>confusing</b> 7:23 <b>consent</b> 9:3 <b>consequences</b> 23:6 <b>consider</b> 39:1 <b>consideration</b> 3:17 <b>considered</b> 39:13 <b>Considering</b> 6:3 <b>construction</b> 10:10,14 11:18 <b>contained</b> 8:4 <b>containing</b> 34:6 <b>contains</b> 33:23 <b>contemporane...</b> 41:11 <b>contested</b> 18:7 <b>continue</b> 29:19 37:11 <b>continues</b> 19:17 <b>continuing</b> 27:12 29:4 <b>control</b> 15:5 26:25	27:15 <b>coordinator</b> 2:9 5:3 <b>copies</b> 5:25 7:24 <b>corner</b> 14:11 <b>correct</b> 4:2 <b>correctly</b> 26:19 <b>cost</b> 20:12 30:6 <b>costs</b> 20:13 <b>Counsel</b> 3:5 <b>count</b> 4:1 <b>county</b> 1:1,18 17:24 24:11 41:2,5 <b>couple</b> 16:3,16 20:10 25:20 <b>court</b> 5:14,17 15:19 17:23,25 18:14,25 19:14 37:15 41:3,19 <b>Courthouse</b> 1:18 1:18 41:6,6 <b>cover</b> 8:7 <b>coverage</b> 21:17 <b>covered</b> 27:4 <b>creates</b> 14:23 <b>criteria</b> 8:22 <b>Cross</b> 2:12 4:8,8 8:8 9:13 21:11 <b>CSR</b> 41:19 <b>culvert</b> 11:8,10 <b>culverts</b> 11:7,13 <b>curious</b> 22:11 <b>current</b> 11:5 <b>currently</b> 19:11 20:8 <b>cut</b> 30:6 <b>cuts</b> 23:18	4:9 8:14 <b>defeated</b> 18:8 <b>definitely</b> 23:8 24:11 <b>Demeroukas</b> 2:7 4:24,25 <b>demonstrated</b> 34:3,5,10 <b>Department</b> 3:5 3:18 4:7,12 5:3 5:5,8,14,24 18:21 20:6 21:1 21:7 33:21,22 34:2,7 36:19 37:3,6 39:1,12 39:13,17,21 <b>Department's</b> 5:10,13 37:7,10 39:18 <b>depend</b> 17:15 <b>depending</b> 21:6 <b>describing</b> 10:6 <b>description</b> 33:23 <b>deserve</b> 28:8 <b>destruction</b> 12:7 <b>detailing</b> 9:16 <b>determine</b> 33:22 <b>diagram</b> 28:3 <b>different</b> 30:8,15 32:7 38:2 <b>direct</b> 34:2 <b>directly</b> 11:3 27:22 <b>director</b> 23:2,4 24:19 <b>dirt</b> 7:18 <b>disappointed</b> 35:13 <b>discolored</b> 13:21 <b>discovers</b> 38:1 <b>discuss</b> 15:14 <b>disrupting</b> 5:22 <b>Distress</b> 10:22 <b>district</b> 2:5 4:22 <b>disturbance</b> 27:7 34:8 <b>disturbed</b> 27:3 <b>ditching</b> 11:13 <b>Division</b> 2:5,8,10 4:14,23 5:1 39:8 <b>DNR</b> 6:8 <b>DNR.MMLRD@l...</b> 39:6 <b>document</b> 33:14 <b>documents</b> 6:1 33:24 38:21 <b>dollars</b> 30:11 <b>Dpt</b> 2:2	<b>drainage</b> 13:18,25 14:3,5,23 15:5 26:25 27:2,7,14 37:24 <b>Dressen</b> 6:14,19 6:24 7:1 12:14 12:19,25 13:1 32:19,19,24 36:2,5,9,9,16 <b>drill</b> 28:3,4 35:6 <b>drilled</b> 13:9 <b>drilling</b> 7:19,20 9:2 13:14,16,22 14:1,3,19,20 15:14 <b>drive</b> 10:12 25:21 27:8 <b>driving</b> 25:22 <b>drop</b> 38:20 <b>due</b> 10:15,16,19 10:20 11:4 <b>dwelling</b> 11:2	<b>Esq</b> 2:2 <b>essential</b> 15:25 <b>evacuated</b> 8:14 8:20 <b>evacuation</b> 28:21 <b>evening</b> 3:1 5:6 37:4 41:9 <b>event</b> 13:23 28:20 <b>events</b> 29:10 <b>everybody</b> 4:19 <b>exemption</b> 27:2 <b>exhibit</b> 13:14 <b>exhibits</b> 14:7 31:2 31:14 <b>existing</b> 10:10 26:18 <b>expect</b> 23:23 <b>experiencing</b> 23:19 <b>explaining</b> 35:5
	<hr/> <b>D</b> <hr/> <b>D-R-E-S-S-E-N</b> 7:2 <b>daily</b> 16:1 <b>damage</b> 12:10 <b>damages</b> 32:2 <b>date</b> 7:15 39:4 <b>dated</b> 7:18 34:21 <b>day</b> 1:17 34:22 41:7,9,14,16 <b>days</b> 7:14 17:14 <b>debt</b> 30:12 <b>decides</b> 38:1 <b>decision</b> 5:10,13 37:8,10 39:13 39:19,22 <b>dedicated</b> 17:15 <b>deep</b> 22:5 <b>Deer</b> 1:5 2:12 3:9	<hr/> <b>E</b> <hr/> <b>E</b> 2:1,1 <b>e-mail</b> 8:19 39:5,6 <b>earlier</b> 19:4 25:20 <b>East</b> 15:22 <b>effect</b> 21:24 <b>effort</b> 17:7 <b>efforts</b> 20:14 <b>either</b> 6:21 21:5 28:11 39:4 <b>elapsed</b> 38:3 <b>elevated</b> 8:13 <b>emergency</b> 8:9,10 8:22,24 9:3,5,7 9:10 11:23,24 12:1 14:15 28:12 34:17 35:2,5,8,16 <b>endangered</b> 18:11 <b>Energy</b> 1:4 2:12 3:7 4:9 7:5 8:13 16:22 <b>engineering</b> 2:12 4:9 <b>enlighten</b> 23:22 <b>enlightenment</b> 24:9 <b>ensure</b> 10:7 <b>enter</b> 33:15,25 34:3,9 35:1 <b>entertain</b> 38:9,12 <b>equipment</b> 11:18 <b>erosion</b> 13:24 <b>escorted</b> 5:22	<hr/> <b>F</b> <hr/> <b>fact</b> 7:17 17:1 19:7,13 23:13 23:20 24:4 35:17 <b>family</b> 11:4 <b>far</b> 15:3 <b>farm</b> 7:2 11:17,19 12:8 <b>farmers</b> 31:25 <b>farmhouse</b> 11:3 <b>farmland</b> 15:25 <b>farms</b> 15:5 <b>farmsteads</b> 12:7 <b>February</b> 10:18 33:7 <b>fee</b> 20:4 <b>feed</b> 16:2 <b>feel</b> 11:22 32:2 <b>fees</b> 20:8,19 <b>feet</b> 6:23 10:15 11:2 22:5 27:24 27:25 <b>fence</b> 15:8 <b>fertile</b> 12:7 <b>field</b> 15:10 <b>fields</b> 17:9 <b>file</b> 7:24 18:20 20:25 26:23 <b>filed</b> 19:20 <b>files</b> 39:23 <b>filing</b> 18:23 <b>filled</b> 30:8 <b>final</b> 5:10,13 37:7 37:10 39:19,22 <b>finances</b> 24:11 <b>find</b> 26:14,17 35:4	

<p><b>fine</b> 12:19  <b>finessed</b> 19:8  <b>finished</b> 12:23  <b>fire</b> 19:20 29:8 35:6  <b>first</b> 6:7 13:14 16:16,25 17:21 19:3 20:1  <b>five</b> 22:3 30:7  <b>flat</b> 12:7  <b>flooding</b> 14:2  <b>floodplain</b> 18:9  <b>flow</b> 13:25 14:21 14:23  <b>follows</b> 18:15  <b>foot</b> 32:7  <b>forced</b> 17:19  <b>foregoing</b> 41:12  <b>Foresight</b> 8:12  <b>formal</b> 9:15  <b>formality</b> 9:19  <b>formally</b> 40:4  <b>forward</b> 4:4,5,15 6:13  <b>found</b> 9:11  <b>four</b> 4:1 6:3  <b>Fowler</b> 17:5 33:6  <b>frame</b> 11:25 24:3  <b>frequently</b> 9:7 25:21  <b>full</b> 19:10  <b>fully</b> 23:16  <b>further</b> 10:2 25:7 33:18 34:11  <b>future</b> 17:20 31:1</p> <hr/> <p style="text-align: center;"><b>G</b></p> <p><b>general</b> 4:19  <b>getting</b> 21:9  <b>give</b> 6:4 9:5 19:23  <b>given</b> 12:20 23:13 23:20,22 24:4 34:17 35:13  <b>Global</b> 8:12  <b>go</b> 17:21 21:2 22:7,8 26:20 27:13 29:4 32:24 35:10 40:3  <b>goes</b> 14:5 20:14 20:25 25:24,25  <b>going</b> 3:2 21:16 23:11,23,24 24:2,4,20 26:4 28:17,25 29:3 29:19 30:5 36:12  <b>good</b> 3:1 14:12</p>	<p>17:20  <b>government</b> 20:24  <b>grant</b> 34:25  <b>granted</b> 8:8 9:8,20 11:23 30:4 34:23  <b>grants</b> 9:1  <b>grateful</b> 35:12  <b>ground</b> 11:17,19 12:8 30:7  <b>guess</b> 31:6 32:9 33:3 40:3,5  <b>gully</b> 13:24 15:9</p> <hr/> <p style="text-align: center;"><b>H</b></p> <p><b>ha</b> 25:12  <b>habitat</b> 18:11  <b>hand</b> 27:21 41:15  <b>hands</b> 3:23  <b>happen</b> 19:18 29:25 30:25  <b>happened</b> 17:22 19:4 30:21  <b>happening</b> 15:24 16:15 19:16,19 28:9,15 32:12  <b>happens</b> 30:12  <b>harassing</b> 5:20  <b>hard</b> 16:1 19:25  <b>head</b> 15:25 17:6  <b>health</b> 8:16 28:12 28:22  <b>hear</b> 16:5 22:17 32:21 37:1  <b>heard</b> 19:25 27:6  <b>hearing</b> 1:10,16 3:1,2,6,7,14,20 4:1,11 5:4,7,15 5:22,23,24 6:9 6:12,13,16,21 7:7,9 12:13,17 12:20 13:1 14:9 14:12 15:16 16:4,7,9,13,19 16:23 18:2,13 21:3,5,10 22:12 22:15,16,20 23:21 24:23 25:2,6,6,8 31:3 31:15,21 32:14 32:22 35:12,20 35:21,24,24 36:3,7,13,14,17 36:23 37:2,5,11 37:13,14 38:5 38:12,17,20,22 39:11,15,24</p>	<p>40:1,3,4,6 41:8  <b>hearings</b> 17:8  <b>heavy</b> 11:18  <b>held</b> 3:10 7:9 41:9  <b>helpful</b> 21:15,23 31:10,24  <b>hereto</b> 41:15  <b>highway</b> 10:16,20 10:23 11:3,14  <b>Hillsboro</b> 1:4,19 2:12 3:7 4:9 7:5 10:12 13:6 16:19,21 22:24 41:7  <b>hired</b> 5:14  <b>Historic</b> 1:18 41:6  <b>Historically</b> 33:12  <b>history</b> 10:4  <b>hoarse</b> 16:5  <b>holder</b> 34:21  <b>holes</b> 9:2 22:1,4,7 25:13,24 27:10 28:3,4,8 30:5,15 30:19 35:7  <b>homes</b> 12:7  <b>hope</b> 7:10 27:9 32:20  <b>hospital</b> 28:13  <b>hour</b> 10:18,19,19  <b>houses</b> 28:5</p> <hr/> <p style="text-align: center;"><b>I</b></p> <p><b>IBR</b> 7:8 9:15 10:3 10:5  <b>identified</b> 10:21  <b>identified</b> 4:6 36:7 37:16  <b>IDNR</b> 4:12 7:16,25 8:2,8,25 9:11,14 12:1 14:16,19 15:1,15 16:12 16:17,20 17:11 17:12,16 18:7,9 18:16 19:1,9,12 19:24 20:12,19 21:24 23:2,14 23:16,18 24:19 27:13,17 30:24 31:24 35:4 37:22,24,25  <b>IDOT's</b> 11:12  <b>ignorance</b> 22:6,10  <b>ignoring</b> 32:1  <b>Illinois</b> 1:1,19 2:2 3:5,11,12,12 4:12 5:11 9:17 20:7 33:19 37:8 39:9,20 41:1,4,7</p>	<p><b>imminently</b> 24:13  <b>important</b> 26:22  <b>inappropriate</b> 5:20  <b>inches</b> 30:7  <b>incident</b> 8:17  <b>incidental</b> 1:5 3:8 7:5 31:7 33:10 39:2  <b>incidents</b> 29:15  <b>included</b> 9:13  <b>incomplete</b> 19:9  <b>indicate</b> 3:21 6:4  <b>indicated</b> 3:25 6:10  <b>individual</b> 5:21  <b>individuals</b> 14:24 38:23  <b>inform</b> 28:11,14  <b>informal</b> 1:10 16:21 21:1,4,5  <b>information</b> 8:23 9:16 14:8 19:9 19:10 21:18 26:14,24 27:18 28:17 29:2  <b>informational</b> 21:2  <b>initial</b> 12:23  <b>injected</b> 26:2,5  <b>injecting</b> 35:7  <b>inner</b> 26:1  <b>input</b> 23:2 24:19  <b>inspect</b> 14:16,19 30:24  <b>inspection</b> 18:20  <b>inspector</b> 4:25  <b>installed</b> 11:8  <b>instances</b> 33:13  <b>interest</b> 10:7 20:23  <b>interested</b> 3:15  <b>interests</b> 26:9  <b>interim</b> 21:25  <b>internal</b> 19:12  <b>internationally</b> 18:10  <b>introduce</b> 4:15  <b>investigated</b> 8:18  <b>involved</b> 9:4 23:9  <b>irony</b> 11:2  <b>issuance</b> 33:17 33:22 34:12  <b>issued</b> 34:6  <b>issues</b> 15:13  <b>items</b> 31:2</p> <hr/> <p style="text-align: center;"><b>J</b></p>	<p><b>J-O-Y-C-E</b> 15:21  <b>Jeff</b> 4:21  <b>Jeffrey</b> 2:4  <b>Jim</b> 2:9 5:2 8:1  <b>job</b> 17:17,17 23:7  <b>journal</b> 7:13  <b>Joyce</b> 15:21 25:9 37:18  <b>Judicial</b> 17:24  <b>July</b> 7:13,22 10:1 12:3 19:5  <b>June</b> 7:17 12:2 19:6,21 26:15  <b>justification</b> 8:10</p> <hr/> <p style="text-align: center;"><b>K</b></p> <p><b>K-A-R-Y-L</b> 7:1  <b>Karyl</b> 7:1 32:19 36:9  <b>Kasten</b> 34:20  <b>keep</b> 6:20 37:11  <b>key</b> 21:9  <b>kind</b> 14:7 19:25 26:4 27:14 28:18 31:22 32:1 33:20  <b>know</b> 6:8 15:6 16:15,19,24 17:10 19:19 20:13,16,17 21:15,16,23,24 23:20 24:19 25:13,15 26:15 27:10,11,15,24 28:1,4,8,19 29:3 29:5,22,25 30:21,24 31:9 31:10 32:10  <b>knowing</b> 17:8 19:15</p> <hr/> <p style="text-align: center;"><b>L</b></p> <p><b>labeled</b> 31:7  <b>lack</b> 12:4 19:9 28:16  <b>land</b> 2:5,7,7,10 4:13,22,25 13:8 13:25 14:4 17:6 17:20 20:5 26:11 39:7  <b>landowner</b> 9:4 13:8 26:13 33:9 34:13  <b>landowners</b> 10:8 12:8  <b>language</b> 36:14  <b>large</b> 24:10  <b>Larry</b> 13:4 31:20</p>
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late 7:9 10:18	mean 23:24,25 25:11 28:8,10 29:5,18 37:24	32:6 33:25 34:10	27:25 31:8,10	Osprey 18:11
layperson 29:15	means 26:19	mining-related 34:8	numerous 18:8	outcome 23:11
left 10:4 17:20 30:9,14	measures 10:7	minutes 6:5 12:21 12:22 22:13	<hr/> <b>O</b> <hr/>	outlined 14:6
legal 3:5 33:25 34:21	MEMBER 36:21	missed 31:11	Oakes 2:2 4:17,17 6:7 38:9,16	outside 7:2 11:10
length 9:24	Members 4:12	Missouri 41:4,20	objection 38:14	outstanding 19:14
letter 8:7 9:13	memorandum 33:3,6,12 35:2	moment 29:12	objections 20:25 39:23	overseeing 32:3
level 13:10	mentioned 19:5 19:25 22:2 25:20 26:25 27:23 28:21 33:8	money 20:15	Obviously 37:22	owned 13:8
limestone 27:4	met 8:22	monitored 29:17	occupied 11:2,3	owner 26:20
limit 10:17	method 12:6	monoxide 8:13	occurrences 29:23	owners 34:19
line 13:20	mic 36:22	Montgomery 1:1 1:18 41:5	occurring 12:5 24:10	ownership 33:2 34:18
lining 33:15	microphone 4:5 5:18 6:17 32:20 36:24	month 7:17 9:21	Office 2:3,5,8,10 3:4 4:13,18 7:25 23:3 24:20 39:7	<hr/> <b>P</b> <hr/>
list 12:6 26:8	migrating 18:10	months 23:25,25 37:21	officer 1:16 3:1,6 4:1,11 5:4 6:9 6:12,16,21 12:13,17,20 13:1 14:9,12 15:16 16:4,7,9 16:13 18:2 20:24 22:12,15 22:20 24:23 25:2,6,9 31:3,15 31:21 32:14,22 35:21,24 36:3,7 36:13,17,23 37:2,13,14 38:5 38:12,17 40:3	P 2:1,1
listed 34:19	miles 10:17,19,19	motion 38:9	official 1:16 3:1,6 4:1,11 5:4 6:9 6:12,16,21 12:13,17,20 13:1 14:9,12 15:16 16:4,7,9 16:13 18:2 20:24 22:12,15 22:20 24:23 25:2,6,9 31:3,15 31:21 32:14,22 35:21,24 36:3,7 36:13,17,23 37:2,13,14 38:5 38:12,17 40:3	p.m 3:2 39:5 40:4 40:7
little 16:5 20:15 24:5 34:16 36:22	mindful 5:16	move 12:17,21,23 22:17	officers 17:16	page 18:15 22:5 26:7,13,25 27:20 28:2
live 7:2 13:5 21:19 22:23	mine 1:5 2:12 3:9 4:3,7,10,25 7:16 8:5,14,15,17,20 8:23 9:6 11:12 12:5 14:23 16:20 18:7 19:1 19:2,20 20:11 21:11 22:8 26:17 27:1,24 28:10,14,19,22 28:24 29:6,16 29:19 32:12 34:25 35:6 37:23,24 38:2	<hr/> <b>N</b> <hr/>	officials 28:15	pages 26:6 41:13
lives 24:12	mine's 30:20	N 2:1	officials 28:11,12	paid 20:9,11,16
LLC 1:4 3:7	mined 13:11	name 3:4 4:6,8,21 4:24 5:2 6:18 7:1 13:3 15:19 15:20,21 16:5 22:21,22 31:19 32:18 34:19	Oh 31:6 32:5	panel 11:5
local 7:12 17:16 18:19	Mineral 4:18	Natural 2:3 3:5 4:13 39:8	okay 6:24 12:14 20:1 25:6,16 31:13 36:16	paper 9:25 16:19 18:19
location 13:11	Minerals 2:3,6,8 2:10 4:13 23:3 24:21 39:7	nature 11:24	OMM 23:16	part 20:2 25:22 27:1 38:22
long 11:25 17:14 24:1 25:12 29:19	miners 8:15,21 29:18	need 17:17,18 19:8 27:14 32:11 35:8 37:16,20 38:1,2	once 10:13 27:15 30:11	participation 40:1
longwall 10:16 11:5,20 12:6,10 13:10,17 14:2,5 14:22 32:5	mines 2:3,6,8,10 4:13,18 19:10 23:3 24:21 29:24 39:7	never 15:2 20:19	open 22:8 25:16 37:11	party 39:24
look 27:13 31:4 32:9	mining 8:6 9:19 10:16,20 11:1,5 11:20 12:6,10 13:17 14:3,5,22 18:16,16 20:3 20:22 21:7,13 21:20 30:18	news 7:13	operation 20:5	passage 36:18
looking 32:11	maps 6:1 38:21	newspaper 21:17	operations 8:6,16 8:24 9:19 11:1 23:10 33:16 34:1,10	passed 19:12
lot 15:2,13 23:14 29:24 31:24	March 17:23	nice 13:10 21:20	operator 33:3	patient 18:2
love 16:2	marked 14:10	nitrogen 35:7	opportunity 3:15 19:23	Patricia 34:20
LP 8:13	mask 36:25	non-adversarial 21:3	orally 5:6 6:9 36:20 37:3	Pavement 10:21
Lynn 41:3,18	masks 6:20	non-miner 29:22	order 3:3 18:1,14 18:21 19:14	Paving 3:16,18 38:10 39:14
<hr/> <b>M</b> <hr/>		North 22:23	ordered 19:1	pending 3:16,18 38:10 39:14
M 41:3,18		northern 2:4 4:22		people 3:24 5:19 6:3 16:1 17:8 24:12,15 25:21 26:11 28:8,9,23 31:25
mail 39:21		note 5:5 32:22 36:19 37:2		performed 15:6
mailing 39:6		notice 7:12,15,22 7:23 9:25 11:22 12:3 16:21 18:19,23 19:2,6 19:7,12 21:6,8		period 5:9 7:13 17:2 24:6 37:6 39:17
maintained 15:9		notification 5:9 37:7 39:22		permission 26:19 35:1,8
majority 27:3		notified 11:24		permit 1:5 2:9 3:9 5:3,10,13 7:6 8:4,6 11:7,10,19 12:1 18:7,8,17 18:24 19:1,16 19:20 20:3,9,14 21:14 22:2,3 23:5,25 25:14 26:1 27:9,16,18 27:20,22 29:6
managed 29:20		number 20:4 23:1		
manager 2:12 4:9				
mandatory 18:23				
manner 24:17 29:2				
map 27:21				
maps 6:1 38:21				
March 17:23				
marked 14:10				
mask 36:25				
masks 6:20				

30:7 32:5 33:8 33:16,16 34:1,2 34:5,7,12,19 37:7,10 39:19 39:22,23 <b>permits</b> 19:11 20:20 <b>permittee</b> 34:13 <b>person</b> 6:5 12:21 15:4 20:22,24 39:23 <b>persons</b> 3:15 21:3 <b>pertaining</b> 9:12 <b>Peters</b> 16:8 <b>photographs</b> 14:9 <b>photos</b> 7:18 14:10 <b>picture</b> 13:16,19 13:21,24 14:2,4 14:4 <b>pictures</b> 13:13,14 15:10 32:6 <b>place</b> 7:19 18:18 <b>please</b> 3:20 4:4,15 5:5,16 6:16,18 13:3 15:18 18:2 22:20 25:11 31:18 32:17 36:19 37:2 38:20 <b>podium</b> 4:5 5:18 6:15,17,23 36:4 <b>point</b> 26:22 28:18 38:18 <b>policy</b> 17:4 <b>political</b> 23:7 <b>politics</b> 23:8 <b>poor</b> 10:20 <b>position</b> 4:6 23:9 <b>positions</b> 23:15 <b>possess</b> 33:14 <b>possibly</b> 11:11 <b>post</b> 13:19 19:11 <b>posted</b> 8:2 <b>postmarked</b> 39:4 <b>practical</b> 19:13 <b>pre-mining</b> 11:16 <b>preclude</b> 34:7 <b>prepared</b> 12:14 21:13 <b>prerequisite</b> 18:23 <b>present</b> 3:15 4:14 41:5 <b>pressure</b> 20:18,19 <b>pretty</b> 15:12 28:23 <b>preventing</b> 12:9 <b>prevents</b> 29:20 <b>previously</b> 7:4	11:21 17:5 33:8 36:18 <b>prime</b> 15:24 18:9 <b>prior</b> 6:7 7:17 8:24 9:3 33:16,22 <b>private</b> 12:10 35:9 <b>probably</b> 13:7 <b>problems</b> 27:7,12 29:11,15 <b>procedural</b> 21:8 <b>procedure</b> 24:14 <b>proceeding</b> 7:8 <b>proceedings</b> 1:16 3:10 24:20 41:10,14 <b>process</b> 7:8 9:12 <b>profanity</b> 5:20 <b>promulgate</b> 21:7 <b>promulgated</b> 21:25 <b>proper</b> 24:14,17 <b>properties</b> 33:7 34:4,6,9 <b>property</b> 12:10 13:9,19,22 26:20,20 33:1 34:13,18 35:9 <b>propose</b> 20:6 <b>proposed</b> 7:10 8:6,24 20:5 26:9 33:16 <b>protected</b> 10:8 17:20 <b>provide</b> 5:15,17 5:17 6:1 21:17 26:23 39:16 <b>provided</b> 5:18 <b>provides</b> 5:7 18:17 20:3,22 37:5 <b>provision</b> 18:22 <b>provisions</b> 28:10 <b>public</b> 3:2,7,14,20 5:7 7:7,9,12,15 7:21,23 9:9,25 10:8 11:22 12:2 16:21,22 17:7 17:15 18:18,20 19:2,6,6,11,15 20:17 21:5,6,17 21:18 23:21 24:9 28:11,12 28:17 29:3 30:25 37:4,25 38:19,22 39:15 39:24 40:1 <b>publication</b> 7:21 9:24	<b>published</b> 7:12 <b>pull</b> 33:4 <b>purpose</b> 3:14 11:1 25:14 <b>purposed</b> 11:7 <b>pursuant</b> 5:10 9:17 37:8 <b>push</b> 32:8 <b>put</b> 13:13 14:7 15:7 17:14 19:2 21:24 27:24 <b>puts</b> 16:20 17:12	<hr/> <b>Q</b> <hr/> <b>qualify</b> 8:22 <b>question</b> 5:6 12:15 14:21,25 16:16,25 29:14 31:6 34:24 36:1 36:20 37:3,19 <b>questioned</b> 7:6 <b>questions</b> 7:10 10:2,4 12:11 14:14 16:3,16 16:18 18:4 21:14,21 22:6 23:1,21 24:7 27:17 33:1,5 35:15 36:10,12 <b>quick</b> 31:4 36:5 <b>quickly</b> 36:2 <b>quit</b> 28:24 <b>quite</b> 18:4	<hr/> <b>R</b> <hr/> <b>R</b> 2:1 <b>radical</b> 17:4 <b>rain</b> 13:23 <b>raise</b> 30:2 <b>raises</b> 27:17 28:18 <b>rare</b> 33:13 <b>reached</b> 35:18 <b>read</b> 25:14 33:4 36:14,18,18 37:19 <b>reading</b> 32:24 <b>readings</b> 8:13 <b>real</b> 20:13 36:2,5 <b>realize</b> 16:17 <b>really</b> 17:14 19:18 20:18 22:25 24:8 26:3,22 27:10 29:5 37:20 <b>receive</b> 5:9 11:22 36:10,11 37:6 39:1	<b>received</b> 19:1 39:4,11 <b>recess</b> 38:8 40:2 <b>reclamation</b> 2:5,7 2:8,10 4:14,23 5:1 17:6 33:15 34:1,10 39:8 <b>record</b> 6:2,22 17:1 31:18 32:17,23 36:8 38:10,22 38:25 40:5 41:13 <b>red</b> 14:6 <b>reduced</b> 10:11,17 41:11 <b>reference</b> 33:2 <b>referred</b> 26:10 <b>regarded</b> 19:18 <b>regarding</b> 3:16 5:19 21:8,10,22 26:8 39:2,14 <b>regards</b> 17:22 <b>regularly</b> 10:12 <b>regulation</b> 17:19 <b>related</b> 21:14 <b>remain</b> 8:17 <b>remains</b> 10:19 <b>rendering</b> 39:13 <b>reopened</b> 29:8 <b>repaired</b> 10:24 <b>repeated</b> 29:14 <b>REPORT</b> 1:16 <b>reported</b> 8:12,13 <b>reporter</b> 5:14,17 15:19 37:15 41:3,19 <b>representative</b> 21:11,13,20 <b>Representatives</b> 4:3 <b>request</b> 7:4,7 8:1 21:1,4 <b>requested</b> 9:8 27:2 <b>require</b> 9:3 20:8 37:23,24 <b>required</b> 8:23 9:16 10:5 28:11 28:21 33:14 <b>requirements</b> 9:15 <b>Reservoir</b> 15:23 <b>residences</b> 25:21 27:23 <b>resolution</b> 17:25 <b>Resources</b> 2:3 3:6 4:13 39:8 <b>respect</b> 17:11,16	19:7 <b>respond</b> 5:6 17:7 36:20 37:3 <b>responders</b> 28:12 <b>responding</b> 6:9 <b>response</b> 25:5 35:23 38:7 <b>responses</b> 17:1 17:11 <b>rest</b> 23:18 <b>rest</b> 31:18 <b>restored</b> 11:16,20 <b>result</b> 18:6 <b>review</b> 19:12 <b>reviewing</b> 3:18 <b>reviews</b> 20:15 <b>revision</b> 1:5 3:8 7:6 14:16 25:15 30:17 31:7,23 39:3 <b>revisions</b> 33:10 <b>right</b> 9:6,9 12:12 12:13 18:15 19:15 22:7 24:16 25:1 33:14,25 34:3,5 34:9 <b>right-of-way</b> 11:11 <b>rights</b> 12:9,9 26:18 33:9 <b>rigs</b> 7:19,20,21 <b>river</b> 18:9 <b>road</b> 10:9,10,21 25:21 27:23 28:5,6 <b>Route</b> 10:9,12 11:9 <b>rule</b> 18:14 20:7 <b>rules</b> 18:1,3,6 20:2,11,21 21:8 21:22,23,25 33:19,21 <b>rumor</b> 28:19 <b>run</b> 1:5 2:12 3:9 4:10 8:14 35:25
<hr/> <b>S</b> <hr/> <b>S</b> 2:1,4 16:10 <b>S-C-H-R-A-U-T</b> 13:5 <b>S-C-H-R-O-E-D-...</b> 22:23 <b>S&amp;P</b> 8:12 <b>safe</b> 28:19 29:16 30:9 <b>safety</b> 8:15 28:11 28:22 29:18						

30:25 <b>sake</b> 27:22 <b>sampling</b> 26:3,4 <b>Sangamon</b> 17:24 <b>Santiago</b> 17:6 <b>satisfy</b> 9:15 <b>saw</b> 19:6 <b>says</b> 16:22 18:21 19:14 20:21 21:3,10,12 22:5 26:8 27:3 29:6 30:19 33:12,20 34:11,21 <b>Schafer</b> 2:9 5:2,2 8:2 <b>Schraut</b> 13:4,4 14:11,14 31:20 31:20,22 <b>Schroeder</b> 22:22 22:23 24:25 36:1 <b>Scott</b> 1:17 3:4 16:7,8,11 33:6 <b>seal</b> 41:16 <b>sealed</b> 30:20 <b>section</b> 10:3,5,6 10:25 11:6,15 18:16 20:2,21 33:1 <b>see</b> 17:4 19:24 31:8 32:4 <b>seeded</b> 27:5 <b>seen</b> 14:25 19:7 <b>self-explanatory</b> 14:8 <b>sent</b> 26:15 <b>September</b> 1:17 39:3,5,12 41:8 41:16 <b>serious</b> 28:23 <b>servants</b> 17:15 <b>set</b> 35:24 41:15 <b>seven-foot</b> 13:12 <b>Seventh</b> 17:24 <b>Severe</b> 10:21 <b>shed</b> 30:11 <b>sheet</b> 3:21 6:6 <b>short</b> 32:20 38:8 <b>shorthand</b> 41:11 <b>shortly</b> 10:18 <b>show</b> 7:18 13:14 <b>showed</b> 13:16 <b>showing</b> 3:23 15:10 <b>shows</b> 13:19,21 13:24 14:2,4 27:22 <b>shutdown</b> 17:11	<b>Sievers</b> 1:17 3:4 16:7,9,10 <b>sign</b> 3:20 10:21 <b>sign-in</b> 3:21 6:6 <b>signed</b> 3:19 <b>significant</b> 18:10 30:17 <b>silt</b> 15:8 <b>sir</b> 14:9 22:14,20 31:3 <b>site</b> 7:14 11:8 13:15,17,20,22 14:1,3,17,19 15:3,14 27:18 37:21 <b>sites</b> 13:15 <b>situation</b> 30:1 32:1 <b>situations</b> 29:21 <b>six</b> 6:23 30:5 <b>six-inch</b> 22:4 <b>Sixth</b> 22:24 <b>slope</b> 13:12,16 <b>slopes</b> 14:22 <b>slowly</b> 25:22 <b>small</b> 27:3 30:5 <b>soil</b> 13:22,24 <b>somewhat</b> 23:7,8 24:3,15 <b>sorry</b> 4:7 16:15 22:3,7 37:18 <b>sorts</b> 24:5 <b>sounds</b> 9:18 28:22 <b>speaker</b> 3:19,22,24 6:4,5,17 13:2 15:18 25:4 31:17 32:16 35:22 36:3,21 38:6,19,24 <b>speaker</b> 6:8 22:18 <b>speakers</b> 6:13 12:18,22 25:3 32:15 38:10 <b>speaking</b> 5:7,16 6:20,23,25 37:4 39:15 <b>Specialist</b> 2:7 <b>species</b> 18:12 <b>specifically</b> 24:18 27:2 <b>specified</b> 9:22 <b>speed</b> 10:17 <b>speeds</b> 10:10 <b>spoken</b> 12:16 <b>spokesperson</b> 8:15,18 <b>Springfield</b> 7:25	17:15 39:9 <b>Square</b> 1:19 41:6 <b>SS</b> 41:1 <b>staff</b> 17:3,12,14 19:24 31:4 <b>staffed</b> 23:16 <b>standing</b> 27:9,11 27:12 <b>started</b> 7:15 9:21 14:18,20 16:6 <b>state</b> 1:1 4:5 6:18 11:11,13 13:3 15:18 18:9 22:21 29:17 30:14 32:17 41:1,7,20 <b>stated</b> 7:15,24 9:14 11:6 <b>statement</b> 12:15 <b>statements</b> 5:25 38:21 <b>states</b> 8:8 10:9,25 11:15 18:15 41:4 <b>statutory</b> 18:23 <b>stay</b> 38:11 <b>Steiner</b> 2:4 4:21 4:21 <b>step</b> 4:4,5,15 <b>stopped</b> 10:13 <b>strain</b> 17:12 <b>streams</b> 15:25 <b>strip</b> 18:7 <b>strong</b> 5:19 <b>stuff</b> 32:8 <b>stuff's</b> 15:3 <b>subject</b> 5:20 15:13 31:23 34:13 <b>subjected</b> 11:17 <b>submission</b> 18:17 <b>submit</b> 11:17 <b>submittal</b> 9:14 12:2 <b>submitted</b> 7:4,16 8:7 9:21,23 <b>subsided</b> 11:20 22:9 <b>subsidence</b> 10:15 11:5 12:9 25:23 <b>substance</b> 13:21 <b>substances</b> 26:2 26:5 <b>supervisor</b> 2:5 4:22 <b>supposed</b> 25:15 32:3 <b>sure</b> 17:12 30:24	38:17 <b>surface</b> 9:2 11:1 20:4 26:21 27:4 29:1 33:15,25 34:9 <hr/> <b>T</b> <hr/> <b>table</b> 10:23 26:7 34:18 <b>take</b> 6:19 17:8 25:12 31:4 32:7 36:25 <b>taken</b> 3:17 38:8 38:24 40:2 <b>talk</b> 31:25 <b>talked</b> 15:2,4 <b>tell</b> 32:5 <b>temporarily</b> 30:19 30:22,23 <b>temporary</b> 29:7 30:20 <b>ten</b> 6:5 12:21,22 22:13 <b>testimony</b> 21:8 <b>text</b> 16:22 <b>thank</b> 4:11,19 5:4 8:3 12:25 13:1 14:12 15:15,16 15:20 16:11,14 17:14 22:12,19 24:22,23 25:8 31:3,13,14,15 31:21 32:13,14 35:20,21 37:17 38:4,5,16 39:25 <b>thereof</b> 23:6 <b>thing</b> 21:9 23:13 24:17 30:3 <b>things</b> 12:5 23:12 25:11 26:20 28:7 29:22,25 30:8,25 37:25 38:2 <b>think</b> 15:6,8 19:19 19:21 24:14 25:9 29:9 31:23 32:11,20 <b>Three</b> 23:25 28:4 <b>time</b> 6:5 7:7,20 9:22,24 10:23 11:25 13:2 15:15 17:2,8,22 18:4,17 20:14 20:16 22:15 23:10,17,23 24:3,6,22,25 25:3,4 27:8 31:17 32:16	35:22 38:3,6,11 38:24 <b>timely</b> 18:22 29:2 <b>times</b> 14:19 <b>timing</b> 34:16 <b>today</b> 32:25 <b>told</b> 16:17 <b>tolerated</b> 5:21 <b>tonight</b> 3:24 4:19 6:9 12:12 15:23 18:12 21:10 27:6 30:2 35:14 <b>tonight's</b> 3:6 5:15 39:10 <b>top</b> 12:6 13:21 16:21 <b>topic</b> 18:12,13 <b>topsoil</b> 32:8 <b>tough</b> 17:17 <b>town</b> 27:8 28:9 <b>traffic</b> 10:13 <b>Trail</b> 13:5 <b>transcribed</b> 41:12 <b>transcript</b> 5:15 36:11 37:15 41:13 <b>transcription</b> 5:18 <b>transparency</b> 12:4 <b>transpired</b> 41:10 <b>travel</b> 17:8 <b>traveling</b> 24:12 <b>treat</b> 18:22 <b>trucks</b> 10:14 <b>true</b> 41:13 <b>tunnel</b> 22:8 <b>turn</b> 31:2 <b>tweaked</b> 19:8 <b>two</b> 13:14 18:9,19 23:20,25 29:9 33:18,21 <b>type</b> 23:10 34:20 <b>types</b> 23:5 <b>typewriting</b> 41:12 <hr/> <b>U</b> <hr/> <b>U.S</b> 8:15 <b>unanswered</b> 10:4 <b>uncontrolled</b> 26:9 33:7 34:4,6,8 <b>underground</b> 8:21 19:19 28:20,25 29:15 30:18 <b>underneath</b> 10:17 <b>understand</b> 12:11 23:22 26:18 <b>understanding</b>
---	---	---	--	--



18:25 26:10 <b>undisturbed</b> 27:5 <b>uniform</b> 32:6 <b>use</b> 25:16 <b>utility</b> 22:4	23:16 25:17 26:4 34:15 <b>word</b> 30:10 <b>words</b> 34:5 <b>work</b> 7:10,14,18 7:20 9:2,21 11:13,23 16:1 17:9 19:21,22 20:14 26:16 29:23 36:24 37:20 <b>work's</b> 37:22 <b>working</b> 24:16 28:24 <b>works</b> 19:9 <b>worth</b> 23:24 <b>wouldn't</b> 15:9 31:5 <b>written</b> 5:8,9,25 20:25 36:11 37:5,7,15 38:20 39:2,11,16,21 <b>wrong</b> 12:5 <b>wrote</b> 27:2	<b>1774.15</b> 3:13 <b>1777.17(b)</b> 20:7 <b>1778.15(a)</b> 33:19 <b>185</b> 10:9,12 11:9 25:22 27:8	<b>62702</b> 39:9 <b>65</b> 26:25 <b>6th</b> 7:18 34:21
<b>V</b>		<b>2</b>	<b>7</b>
<b>vacated</b> 11:4 <b>verifiable</b> 26:18 <b>verify</b> 27:18 <b>view</b> 8:1 20:17 <b>views</b> 3:15 5:19 <b>violation</b> 10:4 <b>visual</b> 27:21		<b>2</b> 14:10 20:2,20 30:17 <b>2.04(a)</b> 18:17 <b>2.04(d)</b> 20:22 <b>2.3.5.1</b> 10:6 <b>2.3.7</b> 10:25 <b>2.74</b> 30:4 <b>2.74-acre</b> 7:5 <b>20</b> 10:19,19 <b>2011</b> 33:7 <b>2011-01</b> 33:3 <b>2014</b> 17:23 18:14 18:25 19:14 <b>2019</b> 29:8,9 <b>2021</b> 1:17 7:13,18 8:9 34:22 39:4,5 39:12 41:8,16 <b>205</b> 20:2 <b>22nd</b> 41:16 <b>2419</b> 15:22 <b>24th</b> 17:23 <b>27th</b> 39:3,5,12 <b>29th</b> 7:13,22 10:1 12:3	7 10:15 14:2 <b>7-foot</b> 14:22 <b>7,700-some</b> 30:17 <b>7:30</b> 35:25 37:12 38:11 40:4,7 <b>7199</b> 13:5
<b>W</b>	<b>X</b>	<b>3</b>	<b>8</b>
<b>wait</b> 24:6 <b>want</b> 3:24 6:14 8:3 14:7 16:24 17:13 31:5 32:4 35:6 39:25 <b>wasn't</b> 17:12 <b>water</b> 13:17 14:21 14:23 15:25 27:9,11,12 <b>waterways</b> 16:1 <b>way</b> 25:14 29:20 32:2 34:11 39:8 <b>we'll</b> 12:21 22:16 22:17 32:22 37:11 <b>we're</b> 6:20 17:18 17:18 32:2 <b>we've</b> 6:3 27:6 37:14 <b>website</b> 8:2 9:11 35:4 <b>welcome</b> 4:19 <b>well-versed</b> 18:3 <b>went</b> 18:7 <b>Whereof</b> 41:15 <b>white</b> 13:19 <b>wildlife</b> 23:15 <b>William</b> 22:22 <b>Winkeler</b> 41:3,18 <b>wish</b> 3:20,21 6:1,4 25:3 31:17 35:22 38:6,21 38:23 <b>wishing</b> 38:19 <b>Witness</b> 41:15 <b>Wolff</b> 2:2 4:17 <b>wonder</b> 17:3 19:17 22:11 <b>wondered</b> 26:12 26:23 <b>wonderful</b> 21:12 <b>wondering</b> 23:9	<b>Y</b>	<b>2011</b> 33:7 <b>2011-01</b> 33:3 <b>2014</b> 17:23 18:14 18:25 19:14 <b>2019</b> 29:8,9 <b>2021</b> 1:17 7:13,18 8:9 34:22 39:4,5 39:12 41:8,16 <b>205</b> 20:2 <b>22nd</b> 41:16 <b>2419</b> 15:22 <b>24th</b> 17:23 <b>27th</b> 39:3,5,12 <b>29th</b> 7:13,22 10:1 12:3	8 14:4 <b>8th</b> 7:17 12:2
	<b>Z</b>	<b>4</b>	<b>9</b>
	<b>0</b>	<b>3</b> 13:16 20:21 <b>300</b> 11:2 <b>30th</b> 8:14,20 <b>35</b> 10:17 <b>399</b> 1:5 3:9 7:6	<b>9.2.1.1</b> 11:15 <b>952</b> 41:19 <b>99</b> 22:5
	<b>1</b>	<b>5</b>	
	<b>1</b> 1:18 14:10 18:14 41:6 <b>1.4</b> 10:3 <b>1.5</b> 33:1 <b>1.5.1</b> 34:18 <b>1.5.3</b> 26:7 <b>10</b> 31:9 <b>11:59</b> 39:5 <b>11204</b> 22:23 <b>113</b> 27:20 <b>114</b> 28:2 <b>115</b> 22:5 26:8,25 27:20 28:3 <b>14</b> 7:14 26:7 33:7 <b>15th</b> 1:17 41:7 <b>1773.13</b> 3:11 <b>1773.14</b> 3:12 <b>1773.17(b)</b> 33:20 <b>1773.19(a)(3)</b> 5:11 37:9 39:21 <b>1774.13</b> 9:17	<b>4</b> 13:19 <b>41</b> 41:12 <b>440</b> 22:5	
		<b>6</b>	
		<b>5</b> 13:21 27:1 <b>5.3.2</b> 11:6 <b>5:30</b> 3:2 35:25 41:9 <b>5th</b> 8:9,18 12:1 34:18	
		<b>6</b> 13:24 <b>62</b> 3:11,11,12 5:10 9:17 20:7 33:19 37:8 39:20 <b>62049</b> 22:24	