

1 BEFORE THE PUBLIC SERVICE COMMISSION
2 OF STATE OF MISSOURI

3
4 IN THE MATTER OF THE PETITION FOR AN INTERIM RECEIVER
5 AND FOR AN ORDER DIRECTING THE GENERAL COUNSEL
6 TO PETITION THE CIRCUIT COURT FOR THE APPOINTMENT
7 OF A RECEIVER FOR MISTY WATER WORKS,

8 File No. WO-2024-0036

9
10 JOHN T. CLARK, Presiding
11 Senior Regulatory Law Judge

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13
14 EVIDENTIARY HEARING
15 Volume III
16 Pages 1 - 100

17
18 OCTOBER 26th, 2023

19
20 (Starting time of the Hearing: 8:30 a.m.)
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I N D E X

PAGE:

STAFF WITNESS:

CURTIS GATELEY

Direct Examination by Ms. Kerr.....	7
Cross Examination by Mr. Blevins.....	15
Examination by Judge Clark.....	20
Examination by Ms. Aslin.....	40

COMPLAINANT'S EVIDENCE:

LEON TRAVIS BLEVINS

Statement by Mr. Blevins.....	50
Cross Examination by Ms. Kerr.....	76
Examination by Judge Clark.....	86

Certificate of Court Reporter.....	100
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EXHIBIT INDEX

STAFF EXHIBIT:	Identify:	Offered:	Received:
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Exhibit 8	Operations Agreements..	76	78	79
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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

IN THE MATTER OF THE PETITION)
FOR AN INTERIM RECEIVER AND FOR)
AN ORDER DIRECTING THE GENERAL)
COUNSEL TO PETITION THE CIRCUIT) File No. WO-2024-0036
COURT FOR THE APPOINTMENT OF A)
RECEIVER FOR MISTY WATER WORKS.)

BE IT REMEMBERED that the proceedings herein reported
were held on OCTOBER 26th, 2023, between the hours of eight
o'clock in the forenoon and six o'clock in the evening of that
day, via WebEx before Paula D. Hefner, a Certified Shorthand
Reporter, Certified Court Reporter, Registered Merit Reporter,
Certified Real-Time Reporter, and a Notary Public within and for
the State of Missouri, in a certain cause now pending Before the
Public Service Commission, State of Missouri, and the following
proceedings were had:

A P P E A R A N C E S

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MAIDA COLEMAN, Commissioner
JASON HOLSMAN, Commissioner
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1 JUDGE CLARK: Good morning. Today is October
2 26th, 2023 and the current time is 8:30 a.m.

3 The Commission has set aside this time today for Day 2
4 of an evidentiary hearing in the matter of the Petition for an
5 interim receiver and for an Order directing the General Counsel
6 to Petition the Circuit Court for the appointment of a Receiver
7 for Misty Water Works, and that is File No. WO-2024-0036.

8 My name is John Clark; I'm the Regulatory Law Judge
9 presiding over today's proceeding.

10 Also present today will be some of the Commissioners.
11 The Commission is composed of five Commissioners, Chairman Scott
12 Rupp and Commissioners Maida Coleman, Jason Holsman, Glen
13 Kolkmeier and Kayla Hahn. And I know that currently we have
14 Commissioner Coleman who is going to be attending today via
15 WebEx and is currently listening. And we will have other
16 Commissioners who may come in person or may choose to
17 participate via WebEx.

18 At this time I'm going to ask counsel for the parties
19 to enter their appearance for the record starting with Mr.
20 Blevins.

21 Mr. Blevins, you're representing Misty Water Works,
22 yourself, and your wife.

23 Is that correct?

24 And you can move the microphone closer to you.

25 MR. BLEVINS: Okay. I am representing myself.

1 The Misty Water Works is a d/b/a term that's, if that's --

2 JUDGE CLARK: You've explained that before and I
3 imagine I'll have some questions for that, for you about that.
4 But, you're representing yourself. You are not represented by
5 an attorney.

6 Is that correct?

7 MR. BLEVINS: I didn't hear the last part.

8 JUDGE CLARK: You are representing yourself? You
9 are not represented by an attorney. That's correct?

10 MR. BLEVINS: That is correct.

11 JUDGE CLARK: Okay.

12 MS. KERR: On behalf of the Staff of the
13 Commission Carolyn Kerr and Casi Aslin.

14 JUDGE CLARK: Ms. Kerr, Ms. Aslin, thank you very
15 much.

16 And is there anyone here from the Office of the Public
17 Counsel? I hear no one.

18 With that in mind we're going to pick up where we left
19 off yesterday.

20 I am going to say are there any preliminary matters
21 that need to be taken care of at this time?

22 MS. KERR: I don't believe so.

23 JUDGE CLARK: I know that Staff had at one point
24 had an Exhibit 8. According to my notes that hasn't been
25 offered yet. I don't know if that's something Staff is

1 cognizant of or not.

2 MS. KERR: Yes. I think I was going to try to
3 get that in, excuse me, later with Mr. Blevins. This is
4 something that he signed.

5 JUDGE CLARK: Okay. That's fine. I wasn't
6 trying to tell you how to do it. I was just reminding you that
7 that was out there.

8 MS. KERR: Thank you.

9 JUDGE CLARK: Okay. At this time Staff may call
10 their next witness.

11 MS. KERR: I would call Curtis Gateley.

12 JUDGE CLARK: Mr. Gateley, would you please take
13 the stand. Would you raise your right hand to be sworn?
14

15

16

17

18 CURTIS GATELEY,
19 being sworn on his oath by Judge Clark saith:

20

DIRECT EXAMINATION

21

QUESTIONS BY MS. KERR:

22

JUDGE CLARK: Please be seated.

23

Staff, you may question your witness.

24

MS. KERR: Thank you.

25

Q. Good morning.

26

A. Good morning.

27

Q. Can you please spell your name for the record?

1 **A. Curtis Gateley. C-u-r-t-i-s. G-a-t-e-l-e-y.**

2 Q. And by whom are you employed and what's your position?

3 **A. Public Service Commission. I'm the Manager of the**
4 **Water, Sewer, and Steam Department.**

5 Q. And just generally what are your job duties and
6 responsibilities?

7 **A. It's pretty broad. I oversee staff who review and**
8 **provide recommendations on applications before the Commission,**
9 **and I also oversee folks who do investigations and inspections.**

10 Q. Are you Adam Stamps' supervisor?

11 **A. Yes.**

12 Q. And are you familiar with Mr. Blevins?

13 **A. Yes.**

14 Q. Are you familiar with this investigation regarding Mr.
15 Blevins' business?

16 **A. Yes.**

17 Q. Okay. And what's been your involvement with that,
18 with this investigation just generally?

19 **A. I was part of the initial contact from DNR when they**
20 **presented their concerns about the situation and then worked**
21 **with Adam in his investigation, and I also did some of the site**
22 **visits myself with Adam.**

23 Q. Okay. So you said you did some of the site visits.
24 Do you remember seeing any of the well sites?

25 **A. I did see some of the sites. I did not attempt to**

1 enter any of the well houses, that sort of thing. It was more
2 of a just laying eyes on the facilities as part of the same trip
3 when we initially met with Mr. Blevins.

4 Q. Okay. All right. So you don't know any of the
5 specific -- or you don't remember any of the specifics or
6 anything?

7 A. I don't remember, for example, which street names that
8 the wells were on that I visited.

9 Q. Okay. That's fine.

10 Do you remember talking to Mr. Blevins?

11 A. Yes.

12 Q. And can you just describe how -- what did you talk to
13 Mr. Blevins about?

14 A. We met with Mr. Blevins to discuss and explain why we
15 were looking into his business.

16 The process with the Public Service Commission -- most
17 folks don't know what we do. So I can't assume that someone
18 who, when I'm not dealing with a professional that they've hired
19 who is familiar with our stuff I was going to sit down and
20 explain the situation. And we had a discussion for oh, I
21 believe it was less than an hour. But, about the complaints we
22 had received, the concerns we had, what we were investigating,
23 and ultimately what it might take if Mr. Blevins wanted to
24 become -- get a certificate from the Commission to operate
25 legally.

1 Q. Did he seem cooperative with you?

2 A. Reasonably so, yes.

3 Q. Did he seem to understand what you were there for?

4 A. As much as someone can in a first meeting like that,
5 yes. We went over several subjects, and I wouldn't expect a lay
6 person to immediately understand all of it, but yes.

7 Q. How often did you personally meet with him?

8 A. I only personally met with Mr. Blevins once as a one
9 on one meeting.

10 He attended the public information session that we
11 had, but I don't recall if we had another discussion separately
12 at that one.

13 Q. Okay. So was that basically your involvement with Mr.
14 Blevins?

15 A. Directly, yes.

16 Q. Okay. And with regard to PSC -- as a supervisor what
17 is the, what are you looking for, what was your concern with Mr.
18 Blevins with the complaints that you were receiving with the
19 investigation?

20 A. The complaints that we had received from customers and
21 the details we had been provided from the Department of Natural
22 Resources my concern No. 1 was the safety of those customers.
23 We had folks who couldn't drink their water or if they were they
24 were putting their lives in danger.

25 And being familiar with other situations also in

1 Pulaski County where substandard wells had been constructed to
2 intentionally try to dodge regulation from DNR and PSC we had a
3 lot of concern about the integrity of those wells, if the rest
4 of them were safe.

5 Customers were most frustrated with the -- what they
6 viewed as double dealing by Mr. Blevins because they had
7 contracts for water supply at a certain rate and those
8 contracts, the terms of which were changed on them without
9 notice. That showed to us that not only was Mr. Blevins, you
10 know, offering himself out as a public utility and charging for
11 service but also doing so in an unsafe manner.

12 Q. Okay. And is that a concern for the PSC?

13 A. Absolutely.

14 Q. And how so?

15 A. The PSC exists to protect customers who are subject to
16 a monopoly like this one, and to make sure that they are paying
17 just and reasonable rates and have safe and adequate service.
18 And when companies try to operate without, operate outside the
19 law, those protections don't exist.

20 Q. And is it your opinion that Mr. -- and Mr. Blevins'
21 operation is not regulated?

22 A. Not currently regulated by the PSC, correct.

23 Q. Okay. And so it's -- so what are the concerns with
24 regard to the customers then if it's not regulated?

25 A. The lack of oversight and the lack of rules on how you

1 set your rates.

2 And then in this situation there are wells that
3 otherwise would be regulated by the PSC and, therefore, subject
4 to scrutiny and compliance with environmental regulations that
5 otherwise those customers have no such protections.

6 Q. And you talked about adequate service. What does that
7 mean?

8 A. It's a broad term. Adequacy is not just -- the first
9 thing folks think of probably is outages or a lack of water
10 pressure. Pressure is actually a safety issue. A customer
11 might consider it adequacy, but for us it's a safety issue
12 because the pressure rules exist to make sure that no
13 contaminants can leak into a distribution service.

14 For us certainly the concerns with outages, a lack of
15 maintenance, preventative maintenance to have, to reduce outages
16 to the degree possible, compliance with our rules on how you
17 bill, how you have customer contacts, actually return phone
18 calls. A lot of the customers told me that they would call and
19 have the number they were told to call and it was a full
20 voicemail and couldn't reach anyone.

21 Mr. Blevins has experienced his own personal
22 challenges. But, there has to be someone else, some kind of
23 backup, somebody that a customer can reach with a problem. A
24 customer needs to be able to request that their service be
25 turned off if they have a service line issue in their own yard.

1 They need to be able to get hold of a company for the basic
2 utility services that everyone expects. And customers were
3 telling us that they weren't receiving that kind of service.

4 The situation at one of Mr. Blevins' wells were on the
5 lot what appeared to be campers or RVs was parked and there was
6 no provision for sewage. There is no situation where sewage
7 should be straight piped. But, in this case you had customers
8 calling and complaining to us about an entity that was allowed
9 to dump sewage beside a well. That -- it's not yet a safety
10 issue, but that's a demonstration of a lack of adequate service
11 that would prevent safety issues.

12 There are probably more examples that I haven't gone
13 into, but that's some of them.

14 Q. Okay. And is all that incorporated into the memo, in
15 the memorandum that was filed with the Petition which is Exhibit
16 6?

17 A. I believe that was done prior to some of the more
18 recent information that customers had complained to us about
19 that we had not separately tried to re-document.

20 But, yes; most of that is in that memo.

21 Q. Okay. And so the PSC -- so the PSC filed this
22 Petition for a receivership. What would -- does that go into
23 the bases for that or what was the basis?

24 A. Receivership is our most extreme option.

25 The situation with Mr. Blevins in my opinion is one

1 where folks are currently not receiving safe and adequate
2 service and he has demonstrated either an inability or a lack of
3 desire to bring facilities into compliance; either one of those
4 situations endangers customers.

5 That wouldn't even get into the types of rates they're
6 paying and such. I don't know what number under our rules they
7 would end up paying. But, right now there's no review of it at
8 all.

9 So those situations -- in our view there doesn't
10 appear to be a situation where Mr. Blevins could simply get a
11 certificate and bring the facilities into compliance. He lacks
12 the -- for lack of a better term the infrastructure within his
13 business to, he can't wave a wand tomorrow and become a proper
14 utility company. But, his relationship with DNR and the
15 facility being on a boil order for so long, the lack of testing
16 of the other wells to see how bad they might be because we
17 expect they're probably of similar construction, all those to me
18 suggest that a utility company that has demonstrated an ability
19 to bring facilities into compliance and operate them properly is
20 the best choice for customers going forward.

21 MS. KERR: Okay. I don't have any other
22 questions. Thank you.

23 JUDGE CLARK: Mr. Blevins, do you have any
24 questions for this witness?

25 MR. BLEVINS: I do.

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EXAMINATION

QUESTIONS BY MR. BLEVINS:

Q. You've mentioned complaints. What complaints did you actually receive?

A. Are you asking how many or the details of them?

Q. Well, I've never received any complaints in writing from you folks, but you indicated that there were complaints.

Were there -- did you have that in writing or how did that get into your knowledge or whatever?

A. So there were customers who had contacted DNR to request assistance and DNR put us in contact with those folks. And we let them know that there was a process for anyone who has a complaint about a utility company, to file those with the PSC through our electronic docket system.

I do not recall if I actually spoke with any of the folks who had filed the complaints because one of my staff was the lead on that. But, I did read them.

Q. You said filed the complaints and you read them?

A. Yes.

Q. And what did you do with them after that?

A. Because the nature of the complaints and the information from DNR showed that we were potentially dealing with an unregulated utility the investigation then shifts to the utility itself because with the complaints Staff is charged with

1 examining whether a company violated their tariff or other
2 provisions of the law. And there isn't a tariff to compare to
3 for a company that isn't yet regulated.

4 Q. Am I understanding that from that point then you did
5 not go into any mode of trying to help the situation or just to
6 attack the situation?

7 A. We met with the person who was providing the service
8 and tried to explain the nature of the investigation early on.
9 But, it rapidly became clear to me that this was a situation
10 where we were not going to be able to have a facility come in
11 and be regulated -- or a company come in and be regulated.
12 Instead we needed an entity with better resources to step in.

13 Q. How long had this person that we're talking about --
14 which happens to be me. How long did you think that the wells
15 were in operation by me?

16 A. Well, I've heard at least three different amounts of
17 time. In our initial meeting you were, you know, somewhat upset
18 with our appearance and discussion about this subject. You had
19 said that it had been going on for forty years and why was this
20 a problem now?

21 Yesterday I heard you say that you had only been
22 operating the wells for three to four years. And then later on
23 said that you had taken them over twenty years ago.

24 So I don't know.

25 Q. Okay. So at that point then it was not your position

1 then with the problem that you indicated from complaints and the
2 DNR asking you to assist -- was that assistance supposed to be
3 providing help to this individual or this company or whatever
4 you tried to make this, call this company utility?

5 Was that, was your efforts to help that or to just
6 dispose of it?

7 A. With the regulations I operate under there is no
8 specific provision that I'm here to assist a utility company or
9 to assist a particular customer or company, that sort of thing.

10 My initial examination of it, of the information that
11 was available to me at the time, and the, what I know through my
12 career meant that my No. 1 priority was the safety of those
13 customers. And how do we get, how we get there? The most
14 efficient way it's -- I had no particular agenda to assist you
15 and your company or to assist the customers with forming their
16 own homeowner association, any of that.

17 My No. 1 priority was fixing the situation. And the
18 more I learned the more concerned I became and, no, I did not --
19 after receiving quite a bit of information I was not in any,
20 making any further efforts to assist you.

21 Q. Okay. You mentioned that earlier that you seen
22 something that looked like people were dodging something or
23 double dealing. What do you mean there?

24 How did you determine anything like that?

25 A. For the double dealing reference that was my attempt

1 to explain the customers being upset at having contracts which
2 they -- I've seen at least three of them where folks came to me
3 and showed me that they believed they should be paying I believe
4 it was thirty-five dollars, a certain amount. And that that
5 rate had been changed on them and more than one of them had
6 hired an attorney to consult with and were going to sue under
7 breaking that contract.

8 The evasion of DNR regulations when wells like these
9 were constructed I had seen it before during my career when I
10 was at DNR, and I had seen it in previous cases where the
11 Commission had to step in and order an entity to become
12 certificated. That company then failed and we had to do a
13 receivership, take it away.

14 But, wells that were intentionally drilled and set up
15 to supply only a few customers to try to stay below DNR's rules
16 on having to sample them, not constructing them properly I had
17 seen that before. And after a major Court decision that changed
18 things for the way DNR can regulate some of these they regained
19 some more power to ensure safety.

20 DNR's rules are set up for -- and it comes down from
21 the Federal law. It's about the amount of risk. The more
22 people that are put at risk the more regulations are applied to
23 a well down to -- when you get down to individual wells there
24 really aren't rules for sampling or licensing for a well for an
25 individual home.

1 These situations where developments in Pulaski County
2 -- and probably some other counties where a developer chose to
3 punch multiple wells instead of installing one adequate well in
4 a centralized distribution system to me is clearly an effort to
5 evade DNR rules.

6 I'm not alleging that you constructed those wells.

7 Q. That was my question. Did you determine when these
8 wells were constructed and who constructed them?

9 A. I've heard anecdotes. I did not personally try to run
10 down those details because my current role with the PSC it's
11 more about rectifying the current situation than trying to go
12 back and address violations of DNR law historically.

13 Q. You mentioned outside the law, operations outside the
14 law. What do you mean by that? That you determined was outside
15 the law.

16 A. It's a nicer way for me to say someone is operating
17 illegally on purpose.

18 There is no situation where utility in Missouri that
19 is charging for service and serving the public should be able to
20 do so without following their PSC rules and being subject to the
21 same rules that other utility companies are subject to.

22 In addition, those rules are set out to protect
23 customers in a monopoly situation, and those laws exist for a
24 reason. Folks who are not following those laws are operating
25 outside the law.

1 Q. How did you -- what would be or how did you determine
2 that something was done on purpose when these wells that have
3 been in operation for in excess of twenty years already and has
4 never been subject to your rules -- I don't understand why in
5 twenty years...

6 Can you explain to me why twenty years these wells
7 were operated the way they are today?

8 A. I think that there are a lot of things that go on that
9 we don't know about. I think that even if we had a lot more
10 inspectors and a lot more investigators we would not be able to
11 identify every situation that was going on that shouldn't be
12 that way. When customers complain to us we're going to
13 investigate.

14 But, no. I do not have an explanation for how it was
15 constructed and the evasion of the rules for so long. I don't.

16 Q. Again, you mentioned that you had complaints.

17 A. Yes.

18 Q. And you investigate that complaint. The complaints
19 that you alluded here how did you investigate that, them?

20 A. My staff member contacted those customers, asked for
21 some documentation that they might have to support their
22 positions, visited the sites and saw for himself what the
23 physical situation was. We then realized that we were, appeared
24 to be dealing with an unregulated utility that should be subject
25 to PSC rules, but because there's no tariff in place and the

1 company had not received a certificate our investigation had to
2 shift to then dealing with that unregulated company because
3 we -- there wasn't an ability to say to a customer complaint
4 that there were violations of a tariff when no tariff was yet in
5 place.

6 Q. You mentioned prices earlier. How did you determine
7 that the price that you seen in reference to maybe the
8 complaints about pricing was it too high? Too low? How did you
9 determine that? That the pricing was incorrect, I guess.

10 A. Well, I haven't made a determination that it's
11 incorrect. We have not been able to conduct an audit to
12 determine the cost to provide service. And I don't know that --
13 I mean just professional experience, thirty-five dollars seems a
14 little bit low. Customers had told me that they were now being
15 asked to pay quite a bit more than that. I don't know what the
16 proper price is yet.

17 Q. What is quite a bit more than that?

18 A. We're going off my memory. But, I believe that I was
19 told by customers that they had been raised to fifty-five
20 dollars to I believe some had told me seventy dollars. But,
21 that may be incorrect.

22 Q. Do you consider fifty-five dollars too high?

23 A. I don't know. There are situations where some
24 companies under PSC rules have rates that are lower than that,
25 but it's very site specific and depends on that company's cost

1 to operate and how many customers are there.

2 Q. Okay. But, did you determine the cost of operations
3 in your investigation?

4 A. No.

5 Q. Okay. You mentioned pressure. Pressure in the wells?

6 A. Pressure at the residences.

7 Q. Pressure at the residence. Can you explain that to
8 me, please?

9 A. DNR has regulations on minimum pressure, that water
10 being the way it is it can vary a bit in the distribution
11 system. But, in no situations should it be below I believe it's
12 twenty psi, pounds per square inch. The goal there is to ensure
13 that if there's a leak in the water line the water is leaking
14 out, not leaking in. Water lines in the ground, obviously water
15 getting in could introduce contaminants. It's allowed to be
16 quite a bit higher.

17 Coming into my house I had to install a pressure
18 reducing valve because it was tearing up my equipment.

19 Q. Was it determined that the pressure in these wells
20 since you mentioned it was wrong or --

21 A. I don't remember that.

22 I have seen documentation of operating below twenty
23 psi when the wells were in operation. Obviously there has been
24 outages complained about, but customers have routinely expressed
25 to us their dissatisfaction with pressure. Not at all of the

1 systems obviously, but in some of them. And that's why I
2 mentioned that it was -- while a customer has, multiple
3 customers have complained to us about pressure we sometimes get
4 customer complaints about pressure that are operating legally
5 but the customers don't consider it adequate.

6 Q. Did you investigate any of those complaints?
7 Typically.

8 A. I don't believe that we put a pressure gauge with a
9 data recorder on ourselves.

10 Q. Okay.

11 A. And I don't remember if DNR did.

12 Q. Okay. You also mentioned the billing. Was there any
13 mention in the meeting that there's any billing going on for the
14 water that's used?

15 A. Which meeting? The public meeting where we had --

16 Q. No. The personal meeting I think you were talking
17 about.

18 A. I don't remember. We covered a lot of ground because
19 it was your first introduction to these. I really don't recall.

20 Q. Do you remember how the customers were charged then?

21 A. Customers showed us bills from what's my understanding
22 is two of your businesses that, the fictitious names the Outlaw
23 Corral and Misty Mountain or Misty Water Works. They also told
24 us that they had had verbal billing that folks had come door to
25 door to try to collect.

1 And then during the meeting when I met with you
2 personally two customers were there and I witnessed you and a
3 customer negotiate some other price that appeared. But, I
4 didn't try to write that down or keep track of it. That
5 customer is -- my understanding was writing one check to cover a
6 number of months. So to me the billing was -- there was not a
7 consistent way that bills were being received, which is required
8 by our regulations.

9 Q. Were you provided with a document that said agreement
10 to furnish water?

11 A. I believe I have reviewed it -- at least a couple of
12 those, yes.

13 Q. And what did you think about that particular document?

14 A. It demonstrated to me that you -- the water
15 provider -- were putting yourself out there to provide water
16 service to the public.

17 Q. Who do you call the public?

18 A. I'm sorry?

19 Q. Who do you call the public?

20 A. In this situation I'm talking about the people who
21 live within the subdivisions where you provide water.

22 Q. Did you in your investigation determine whether or not
23 there was any other source of water available to these people?

24 A. Yes.

25 Q. And were there other sources?

1 A. In most situations no, there were no other existing
2 sources.

3 We learned of the line that existed from the Pulaski
4 County Water District that would serve a small number of
5 customers. But, our investigation reaching out to the local
6 municipalities and that water district showed that it would be
7 cost prohibitive for any of them to try to provide service
8 primarily due to topography and distance. It's not flat ground.

9 Q. Am I to understand then that in your investigation you
10 determined that there was no public service for water available
11 on a reasonable basis or a reasonable cost?

12 A. No alternative sources, correct.

13 Q. No alternative, okay.

14 I'd like to get your determination as to what you
15 actually investigated and saw for you to say that the safe and
16 adequate operations are not safe and adequate.

17 A. Well, I think it's -- the easiest way is to start with
18 the bacterial contamination that wasn't fixed. Any company that
19 my group oversees that would allow folks to be exposed to
20 contaminated water for eight months will have a complaint filed
21 before the Commission. That's not acceptable. It's not
22 acceptable to anyone.

23 The problems that were were relayed to us from
24 customers of wells being improperly shocked. Customers
25 complaining to us about having to take their children to the

1 doctor because they had chemical burns from chlorine. And while
2 that's not, you know, direct evidence that I obtained it's
3 something that we have to investigate when customers complain of
4 that. And it was corroborated by experiences that DNR had and
5 some of the statements they had from the operator, the licensed
6 operator. That's a demonstration of not receiving safe service.

7 Q. I see. You indicated that someone had a chemical
8 burn. Did you collaborate that -- did you collaborate that with
9 a doctor or something?

10 A. No. And there's a few reasons for that. No. 1, we
11 didn't have to as part of -- it wasn't the most important part
12 of this case. The most important part of this case in my mind
13 is a company is operating without a certificate and does not
14 appear to have the wherewithal to operate properly if a
15 certificate was granted.

16 A second reason is that if I try to start bringing in
17 documented health conditions with a particular person into a
18 case there's Federal privacy laws. I would like to avoid having
19 to make a customer come in and testify in a case like this when
20 it isn't necessary over any of them.

21 We do have customers who come in and testify in
22 complaint cases when they have a complaint against a regulated
23 utility and are asking for some kind of relief. But, I'm not
24 generally going to try to force other folks to come in with that
25 sort of thing. They volunteered it.

1 We did not make that a key part of our presentation
2 before the Commission.

3 Q. Am I to understand then with your testimony that on
4 the initial meeting that your determination was not to get
5 really a certificate of convenience and necessity, but to oust
6 out the whole situation, to eliminate it and put it somewhere
7 else?

8 A. I don't know when -- I didn't write down or document
9 when my attitude on that shifted. The initial meeting was
10 absolutely about this is the process for becoming certificated
11 and this is what we have to investigate.

12 I do remember more than one meeting amongst Staff
13 members discussing the situation, and at one point I finally
14 made the call that we were going to have to recommend
15 receivership instead of a certificate because what we had been
16 learning through our conversations with DNR and customers that
17 we did not believe that you would be able to properly operate a
18 utility if certificate was granted.

19 MR. BLEVINS: Okay. I have no further questions
20 at this point.

21 JUDGE CLARK: Thank you, Mr. Blevins.

22 Are there any questions from Commission? I hear none
23 at this time.

24 I have a few bench questions for you, Mr. Gateley.
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EXAMINATION

QUESTIONS BY JUDGE CLARK:

Q. Now, you said you went on several site visits, is that correct? You visited several wells?

A. I visited several wells on one visit.

Q. Okay. And even though you did not step into the well houses what was your observation in regard to those well houses?

A. I will characterize my site visits as much more limited than someone who was doing an inspection.

But, what I saw were very simply constructed well houses that did not appear to have received much maintenance. They didn't appear to be recently painted. Some of the roofs were clearly in distress. I don't recall during my visit if we saw one that had some of the other documented problems that we've seen in some of the photographs.

Q. You indicated just a minute ago to Mr. Blevins that you were not sure when you went exactly and made the determination to shift the PSC Staff focus from assisting Mr. Blevins with obtaining that certificate to recommending a receivership.

You may not remember when, but do you remember what it was that tipped the scale?

A. I would characterize it as an overview of the evidence and the repeated problems that we were seeing. I mean during our investigation customers learned we existed and started

1 reaching out to us. So we kept receiving communications from
2 customers about when they would lose service. We had one that
3 we were considering -- I may get the termination wrong, but that
4 some kind of emergency from the PSC because from my recollection
5 at one well they were without water for two weeks. At some
6 wells that was work going on that caused DNR concern. That we
7 kept seeing operational type of problems.

8 It just didn't seem like a safe situation to me that
9 could be remedied easily by a company that had the capabilities
10 to properly operate the utility.

11 And I don't remember there being a specific
12 circumstance. There was more a series of discussions with other
13 staff members.

14 Q. Now given that you indicated that most people have not
15 even heard of the Public Service Commission, much less know what
16 it is that we do, what makes you believe that Mr. Blevins was
17 operating illegally on purpose?

18 A. That has to be my presumption when I begin these
19 investigations. The companies that choose to do business that
20 is otherwise regulated for whatever reason -- there are lots of
21 them. There are lots of oversight boards and commissions and
22 such.

23 It has to be my position that someone is operating
24 illegally on purpose when we start these investigations.

25 With Mr. Blevins we met with him, we described the

1 situation, offered an educational opportunity, informed him that
2 if he wanted to get a certificate the proper thing to do was to
3 first acquire legal representation because this is a legal
4 process. That if he -- well, I started to say the ownership
5 situation, that wasn't clear. But, I don't know if we had
6 reviewed the property tax records to show that he had not
7 recorded ownership of a lot of these with the County. I don't
8 remember if that was part of the initial meeting.

9 But, that was part of some of our questioning to Mr.
10 Blevins when we found that he had for some reason chosen not to
11 record with the County government that he owned certain
12 properties. You can't provide safe and adequate service if you
13 do not have legal access to service a well.

14 So when customers had told us that they had bought
15 lots and believed they owned the well that was on the lot it
16 made us be concerned that, well, okay, does an easement exist?
17 Is there a way for the water provider to legally access that
18 well?

19 I've gone off track a bit. I'm sorry.

20 Q. You are fine. You answered my question plus some.

21 We have primarily talked about the three systems --
22 the three public water systems of Charity, Misty Mountain, and
23 Rolling Hills.

24 Now, you indicated there was a public information
25 meeting that was held. Was that just for customers of those

1 three systems or was that for a larger customer base?

2 **A. We invited -- we sent letters to all the customers**
3 **that we received contact information for from Mr. Blevins. We**
4 **had exchanged contact information during that meeting, got his**
5 **email address, exchanged some emails.**

6 **I later learned that one of the systems that we did**
7 **not receive addresses for those, a limited number of customers.**

8 **But, we wanted to hear from everyone that this entity**
9 **was providing service to.**

10 **Q. Have you received -- has the Commission received**
11 **complaints from customers that were not a part of those three**
12 **systems?**

13 **A. I believe so. I did not try to keep track of that**
14 **level of detail myself.**

15 **Q. Did the Commission or did the Commission Staff receive**
16 **complaints after the filing of this case?**

17 **A. Yes.**

18 **Q. Is the Commission Staff continuing to receive**
19 **complaints?**

20 **A. I think that's an appropriate characterization, yes.**

21 **Q. You indicated that you were contacted by DNR with**
22 **DNR's concerns. What concerns exactly did DNR express to you?**

23 **A. They had a situation they believed where customer**
24 **safety was in jeopardy, but also that it appeared to be a**
25 **company that should be regulated by the PSC. I and my**

1 predecessor do what we can to have meetings with DNR staff,
2 explain what we do. I had one with one of the DNR Regional
3 offices just last month. So that when they encounter a
4 situation like this they know to refer them to us for
5 investigation.

6 Q. At two different points during your testimony here
7 today you talked about Mr. Blevins' capabilities, and at one
8 point you said that he was lacking the infrastructure and at
9 another point you said he had insufficient resources.

10 What do you mean by that or by those? By using those
11 terms what do you mean?

12 A. I'll contrast his situation with another company that
13 we regulate. I know of one company in particular with slightly
14 more customers that still keeps track of everything on paper.
15 Issues paper bills. That company has an owner, has another
16 person that I believe is a relative that assists with office
17 tasks and billing, and they have a couple of other folks who can
18 step in when something needs to be done if those folks are busy
19 or unavailable. Those customers always have someone who will
20 answer the phone. There's a twenty-four hour service line.

21 None of that exists based on the customers'
22 experiences they have relayed to us with Mr. Blevins. It's
23 never a good idea to only have one copy of customer information,
24 billing records, that sort of things. If there was a fire, for
25 example, Mr. Blevins would have no idea who has paid, who has

1 not paid. And I witnessed customers who were paying for
2 multiple months at a time. Customers have told us that they had
3 paid ahead for six months just as a -- wrote a check. All those
4 kinds of records would be destroyed with no backup, no recourse
5 for those customers except for them having to try to file a
6 complaint and fight or go to Court.

7 That kind of lack of basic operating infrastructure
8 that I have seen done, done well, and I'm not seeing that with
9 Mr. Blevins.

10 The poorly maintained wells and the wells that were
11 not repaired quickly, the situation where DNR was asking for
12 disinfection to be installed and investigate the well to see why
13 disinfection was even necessary: Either a company lacks the
14 financial resources to conduct those activities to let people
15 have decent water, either they lack the money or they lack the
16 empathy.

17 I would call it a callous disregard of customer safety
18 and their health when you know you're providing water that can
19 make people sick.

20 Q. At one point during your testimony you indicated that
21 lives were in danger. Why is that?

22 A. The presence of e. coli in water is an indicator.
23 It's one that we can culture readily, we can do good tests for
24 quickly. There is a large infrastructure set up for that with
25 drinking water and with wastewater so that we can do these

1 tests. But, it's still just an indicator. It shows that some
2 gut bacteria is getting in the water. But, there are a host of
3 other pathogens, some of which are routinely more dangerous to
4 human health. And without a doubt e. coli will kill you. It
5 depends on which strain you get and how good your immune system
6 is. But, there are other things like cryptosporidium, for
7 example, that killed over a hundred people in Milwaukee in 1994.
8 Giardia [phonetic]. There is of course a host of viruses and
9 such that it's possible that could be in there. But, all of
10 those things are very hard to test for. So we use e. coli as
11 that benchmark. When we see e. coli we know there's at least a
12 problem with that, but likely problems with other pathogenic
13 organisms.

14 Q. We've seen that there is a lot of these small, I guess
15 you might call them domestic wells, that Mr. Blevins allegedly
16 has that are not being regulated in any way by the Department of
17 Natural Resources. And the concerns that were expressed by the
18 Department of Natural Resources were as to the three systems we
19 talked about, that they do now regulate.

20 What is the logic behind requesting that the
21 Commission do a receivership for all of Mr. Blevins' water
22 operations?

23 A. A water provider is required to provide that safe and
24 adequate service. There isn't a way to logically separate that
25 simply because a provider had multiple wells that were small

1 enough not to fall under DNR's rules for licensing and sampling.

2 I would envision a company that receives a certificate
3 if operations continued in this matter that we would work with
4 DNR to establish a minimum sampling requirement for that company
5 to demonstrate compliance with PSC law and the tariff that they
6 would receive. Without that there isn't any way to ensure that
7 customers are receiving that safe and adequate service.

8 But, the concept of a company being allowed to operate
9 in a way that they should have to have a certificate but they're
10 too small for some of DNR's rules that doesn't make any sense
11 with the PSC law. And there's no minimum number of customers to
12 be served with drinking water and I think that -- it's my
13 opinion that that's appropriate because of the risk. I mean
14 people are consuming this water, therefore, there must be some
15 kind of oversight to the extent of our ability.

16 Q. Okay. We're not talking just about oversight. That's
17 I believe the complaint case and that is also the certificate
18 case.

19 But, we're talking in this hearing about receivership.
20 Is the underlying assumption -- and if I'm wrong let me know.
21 Is the underlying assumption that if these are the deficiencies
22 and dangers with the systems that DNR is looking at that it is
23 unlikely that the systems that DNR is not looking at are
24 operating at a different standard?

25 Let me see if I can say that more succinctly.

1 **A. Thank you.**

2 Q. Is the Commission assuming or is the Commission Staff
3 assuming that because these deficiencies dangers exist with the
4 systems that DNR and the Commission has looked at that those
5 deficiencies are also present in the system or in the wells Mr.
6 Blevins owns that DNR and the Commission haven't directly looked
7 at?

8 **A. Yes.**

9 Q. Thank you. Would you just run down with me -- I've
10 heard a myriad of different complaints spread out across the
11 Hearing, you know, not receiving water, water off for periods of
12 time, high chlorine, you know.

13 Can you just go through to the best of your memory the
14 nature -- not the number, but the nature of all the complaints
15 that you're cognizant the Commission Staff has received?

16 **A. And by received I would include the ones we received**
17 **from --**

18 Q. From DNR, correct.

19 **A. -- at the public meeting as well. But, yeah.**

20 Q. I think that would be inclusive because that was --
21 theoretically were customers that were invited to be there.

22 **A. Customers complained of not being able to predict or**
23 **understand how much they were paying. Customers complained of**
24 **not being certain who they were even supposed to be paying**
25 **because they received conflicting documentation from someone**

1 trying to collect money from them. I received complaints that I
2 did not attempt to substantiate myself, but folks who
3 experienced a, what appeared to be people who were under the
4 influence of some kind of recreational product confronting them
5 at their homes, being unconscious in a vehicle right after
6 talking to them at their homes. Generally concerning an
7 unprofessional behavior out of folks who were purporting to be
8 working for the utility.

9 Q. Wait a second. Can you explain that? These were
10 things that customers told you or that you observed?

11 A. I did not observe because they had been in the past.

12 Q. Okay.

13 A. But, multiple customers told me that a person they
14 understood to be related to Mr. Blevins or his son -- I didn't
15 try to chase down who it was -- they had several unsavory
16 encounters to relay. Customers complained with a lack of
17 certainty that they were able to even sell their homes because
18 of the inconsistent service or lack of service or unsafe
19 service. Customers complained about the speed with which DNR
20 and PSC were addressing the situation. They complained about
21 a -- like the situation that was mentioned to us or mentioned to
22 me at the public meeting where a customer had to dig up the line
23 themselves that they had heard existed that would allow a
24 connection to the public water supply, the County. That their
25 water provider didn't even know that it existed or where it was

1 was upsetting to them. And I've heard multiple explanations of
2 that, that that was a complaint that we got that they felt they
3 were having to go out and improve the service themselves. When
4 they were told they were under a boil order there was no effort
5 to give them bottled water or some kind of alternative. That
6 was not what customers expected would, how they would be treated
7 by a company.

8 The safety concerns that DNR relayed were obviously
9 the most concerning for us with the contaminated well. They had
10 approached Mr. Blevins this must be corrected and nothing was
11 done. And then it was my understanding that there were also
12 other wells which experienced bacterial contamination, which
13 suggests to me the potential for either multiple wells being
14 constructed in a substandard manner or the particular area they
15 were in was contaminated and, therefore, disinfection may be
16 necessary for all the wells.

17 Pulaski County is an area that's what's called a karst
18 topography and it's relatively easy for surface water to enter
19 ground water and there's lots of situations where wells are
20 disinfected for a reason. That created concern out of the
21 customers that their -- if some of the wells which they had
22 understood had tested positive for bacteria, then multiple wells
23 might also test positive for bacteria but they didn't know.

24 At the well that eventually physically failed I
25 received complaints from customers about debris entering their

1 water or entering their house through the distribution system.
2 The faucet aerators were becoming clogged with sediment and
3 debris that they described as looking like mud. The overall
4 condition of the well houses that we saw is certainly going to
5 be something that folks complain about. Sometimes appearances
6 don't necessarily say that it's definitely an unsafe situation,
7 but in this case what customers brought to us certainly suggests
8 that if it's not unsafe yet it could be soon be.

9 There's a reason you secure a well and there's a
10 reason you have it safe for folks to come in and work on it and
11 maintain it. And then we also received complaints from
12 customers about outages and low pressure.

13 Q. Other than a boil warning from DNR were customers --
14 are you aware of whether or not Mr. Blevins informed customers
15 of some of these potential dangers as they were discovered?

16 A. I don't know.

17 JUDGE CLARK: Thank you. Those are all the
18 questions I have for you.

19 Are there any questions from the Bar based on bench
20 questions?

21 Mr. Blevins, do you have any questions based upon my
22 questions?

23 MR. BLEVINS: No questions.

24 JUDGE CLARK: Thank you. Any Redirect or any
25 questions based -- first of all, any questions based upon my

1 questions from Staff?

2 MS. ASLIN: I have some questions.

3 JUDGE CLARK: Are they Redirect?

4 MS. ASLIN: Mostly.

5 JUDGE CLARK: Okay. Go ahead.

6 MS. ASLIN: Thank you.

7

8

EXAMINATION

9 QUESTIONS BY MS. ASLIN:

10 Q. So if a person, a company, a utility -- well, I guess
11 a utility offers water to the public and charges or bills the
12 residents, people, for that water. People that use it for that
13 water and they're not licensed by the PSC they're violating
14 statute. Correct?

15 **A. In this case that's our position with Mr. Blevins.**

16 Q. Okay. And the PSC isn't out looking for violators,
17 they're not out searching for utilities, unregulated utilities
18 that might be billing people for using the water.

19 **A. Not only do we lack the resources to pursue such an
20 effort, I don't have enough people for that sort of thing.**

21 **We -- if folks are receiving safe water and they
22 believe that they're paying a reasonable amount for it they're
23 not coming to us with a complaint. Our involvement generally
24 only increases costs for everybody.**

25 Q. So if you get a complaint -- I'm sorry.

1 A. There's not a reason for us generally to go out and
2 start beating the bushes looking for folks to regulate.

3 But, they -- in our situation right now we are
4 certainly complaint driven or referrals from DNR usually.
5 Occasionally I'll receive a referral from a company that is
6 certificated to serve an area and learns of someone operating
7 illicitly.

8 Q. But, for the most part the complaint comes to you and
9 then you -- the complaint comes to the PSC Staff and then the
10 PSC Staff goes and does something?

11 A. Yes.

12 Q. But, an unregulated utility is not supposed to charge
13 rates under the law that -- they're supposed to charge rates
14 that are filed and approved by the Commission. Correct?

15 A. There are situations where folks recover costs by
16 charging company -- or customers where they're only recovering
17 their costs that they paid to another water provider. They're
18 not operating for gain. They're not disconnecting people.
19 They're not charging late fees, those sorts of things. They're
20 only recovering costs associated with usage through -- they have
21 one large meter themselves. Those situations, generally
22 speaking, are not subject to PSC regulation.

23 In this cause someone operating in the manner that Mr.
24 Blevins is operating under yes, they would only be able to
25 charge rates that are approved through a tariff.

1 Q. Okay. And that would be because they're licensed and
2 regulated?

3 A. Yes.

4 Q. So you testified about public water system being cost
5 prohibitive to be, to run that water to some of the houses, some
6 of the neighborhoods. That it was cost prohibitive.

7 Can you explain why?

8 A. We are trying to -- there are no lines that are close
9 by, that are easy for folks to simply make a connection to
10 beyond the -- that we know of beyond the line that Mr. Blevins
11 already took advantage of to connect some folks.

12 In order to move the water from a supply to these
13 neighbors you would probably have to have -- I haven't tried to
14 consult an engineer on design on this. But, looking at the
15 terrain you would probably have to have probably multiple
16 pumping stations. You would certainly have to have miles of new
17 water line laid for a very small number of people. That means
18 it costs a lot of money and that effort then to -- in the public
19 water supply's mind to serve a few folks over a long distance
20 away and to incur all those costs that would then have to be
21 borne by all their other customers. They did not view that as a
22 situation they wanted to get into, and really it didn't make any
23 sense. It's a lot cheaper to fix the wells that are there,
24 install disinfection, and maintain those wells than it would be
25 to spend hundreds of thousands or millions of dollars on getting

1 water from a long ways away.

2 Q. And you said you had visited Mr. Blevins in his
3 office. Did you see his records?

4 A. I saw some. I did not attempt to go through all of
5 his books.

6 Q. And what did they look like? Were they ledgers?
7 Paper? Computer records? What?

8 A. The records that he showed us -- our discussion with
9 him was more about the operation in general and what the PSC
10 was. He happened to have some on his desk that he briefly
11 referenced. But, two customers showed up while we were there
12 and he was referring to his ledger to reference what he believed
13 should be charged. So I did see some of that.

14 But, he also had a secretary who had a tablet and
15 that's how we started exchanging emails and such. So I don't
16 know for an absolute certainty that some of the records are not
17 on that tablet. But, when we asked Mr. Blevins for information
18 as part of discovery among the complaint case and the -- well,
19 all three cases what has been given to us is copies of
20 handwritten records.

21 Q. Okay. And you said you were trying to figure out what
22 properties Mr. Blevins owns. Could you -- were you able to tell
23 easily what properties he owns? What wells he owns?

24 A. Well, I have folks that are looking into that, so I'm
25 relying somewhat on what they relayed. No.

1 We have -- the County clearly indicated that some of
2 the wells that Mr. Blevins was providing service from the County
3 said he didn't own them through their property records.

4 Q. So you said he owned or sold wells without recording
5 the deeds.

6 Is that what you had said earlier?

7 A. I don't recall. But, that is a correct
8 characterization of what I believed some of this was because Mr.
9 Blevins had showed us documents for some of the wells that he
10 did own them. But, that conflicted with the County records and
11 that would suggest that it had not been filed with the County to
12 make it proper and legal.

13 Q. Okay. Is this a problem?

14 A. Absolutely.

15 Q. How so?

16 A. If someone else owns that well they can put a lock on
17 it and say you can't access this. If someone else owns that
18 well they could attempt to prosecute someone for trespass. If
19 someone else owns that well and they are the ones who are
20 providing service and someone else approaches you to bill you
21 and they claim they are also providing that service then the
22 customer has no idea who to pay.

23 Q. Would that be a problem for the PSC or receiver or
24 utility to --

25 A. The receiver is going to have to straighten some of

1 this out. It's my understanding that since we started this
2 effort Mr. Blevins has sold some wells. I haven't seen the
3 documentation of that myself. I don't know if any of those
4 sales have been properly recorded.

5 When we have a complaint we have to figure out who the
6 responsible party is, and that that has been somewhat difficult
7 in this situation -- except that Mr. Blevins has said that he is
8 the provider, that he does have clear ownership of some of the
9 wells. But, untangling some of these extenuating circumstances
10 is going to be the responsibility of the receiver when they're
11 trying to dispose of this and get it in the hands of a proper
12 utility.

13 Q. So really being the provider isn't necessarily being
14 the owner of the wells as you've come to find out?

15 A. In this situation, yes.

16 Q. The number of complaints that Staff received -- and
17 when I say complaints I mean in the general sense, not
18 necessarily informal or formal complaints, complaints received
19 in person conversations, phone calls, emails, is this what
20 triggered an investigation into Mr. Blevins' system?

21 A. Along with DNR, certainly.

22 Q. And once Staff's focus shifted from the CCN case to
23 filing a Petition for Receiver did Staff feel the need to act
24 relatively quickly due to the information that we had gathered
25 at that point?

1 **A. Yes.**

2 Q. And due to the difficulty locating information and
3 records in this case and also a lack of information and records
4 was that what Staff felt was the best option in this situation,
5 even though we weren't able to present maybe a perfect case?

6 **A. Yes.**

7 Q. Does Staff need to verify or investigate every single
8 complaint that it receives to determine that a utility is not
9 providing safe and adequate service?

10 **A. If we received several complaints that are of the same**
11 **nature and we demonstrate with even one of them if it's the same**
12 **complaint over and over then that would carry through all of**
13 **them. We don't have to investigate every single customer**
14 **complaint to view something as a problem. Generally speaking we**
15 **try and we do investigate every informal and formal complaint**
16 **against regulated complaints.**

17 Q. Would you say that the water and sewer industry is
18 unique from other utility industries such as electric and gas in
19 that you deal with a larger number of smaller systems?

20 **A. Yes.**

21 Q. So it's not unusual for water and sewer staff to meet
22 with individuals or small groups of people or families who own a
23 company in water and sewer?

24 **A. That's not unusual.**

25 Q. As opposed to electric and gas where -- or larger

1 water companies where you might be meeting with that company's
2 employees who are well versed in PSC regulation?

3 **A. Yes.**

4 Q. Do you think that Staff's Water and Sewer Department
5 does its best to explain the role of the PSC and how to comply
6 with our regulations?

7 **A. Certainly.**

8 Q. The purpose of Staff's Petition for an Interim
9 Receiver is to protect the customers. Correct?

10 **A. Yes.**

11 Q. Our goal is not to punish Mr. Blevins. Correct?

12 **A. Correct.**

13 Q. Does Staff's lack of knowledge of a system mean that
14 it should not be regulated?

15 If you are not aware that a system is --

16 **A. Not directly, no. I mean we have to have some kind of
17 basis for why we would pursue.**

18 Q. Right. But, just because we are not aware of a system
19 doesn't mean that it would fall under PSC jurisdiction?

20 **A. Correct.**

21 Q. Even if that system has been operating for decades?

22 **A. Yes.**

23 Q. Is it unusual for Staff to identify or discover or to
24 have brought to our attention water and sewer systems that have
25 been illegally operating?

1 **A. I would not characterize it as unusual. There are a**
2 **few a year. Most of those the outcome is that they change their**
3 **behavior to no longer fall under our jurisdiction.**

4 Q. In order to indicate a safety concern do we need to
5 determine that a specific person experienced skin irritation,
6 for example, from chlorine in their water, or is it enough to
7 just know that the risk is present once a certain level of
8 chlorine has been detected?

9 **A. I would characterize it as knowing that unsafe**
10 **practices are the norm for a company is enough. I don't have to**
11 **see myself the chlorine results that were a risk at someone's**
12 **tap if it has been explained to me that someone routinely**
13 **engages in activities that would, that are likely to put a**
14 **customer at risk.**

15 Q. Would your response be the same in relation to e. coli
16 or other bacteria that might be detected in water?

17 **A. To a degree. With e. coli detection that's a very**
18 **firm detection of a serious problem, but that's not necessarily**
19 **created by the water company. But, it dictates a response.**

20 Q. And that's why water testing or sampling occurs,
21 right, to prevent or limit harm to customers?

22 **A. Yes. Yes.**

23 MS. ASLIN: All right. I have no further
24 questions.

25 JUDGE CLARK: Staff have any more witnesses to

1 call at this time?

2 MS. KERR: No. No.

3 JUDGE CLARK: Mr. Blevins, did you want to
4 testify on your own behalf?

5 MR. BLEVINS: Yes. I would.

6 JUDGE CLARK: All right. I don't want to break
7 up your testimony. This seems like a good point to take about a
8 fifteen minute break.

9 It is currently 9:51. I am going to go -- why don't
10 we come back at -- let's come back at 10:15.

11 So we'll recess till 10:15. Let's go off the record.

12 (Whereupon, recess taken from 9:51 a.m. to 10:16
13 a.m.)

14 JUDGE CLARK: When we left off Staff had
15 completed their case in chief and we were moving on to Mr.
16 Blevins.

17 Mr. Blevins, you indicated you wanted to testify prior
18 to the break.

19 Is that still the case?

20 MR. BLEVINS: Yes.

21 JUDGE CLARK: Would you please step up to the
22 witness box? You can bring whatever notes you need with you.

23

24

25

LEON TRAVIS BLEVINS,

1 being sworn by Judge Clark on his oath saith:

2 EXAMINATION

3 STATEMENTS BY LEON TRAVIS BLEVINS:

4 JUDGE CLARK: Since you are your own witness
5 generally we don't go with the farcical, you know, where you
6 answer your own questions. But, what this is going to give you
7 an opportunity to do is you can just kind of go over in
8 narrative form what the, what it is you want to tell the
9 Commission in relation to this receivership hearing.

10 In regard to that I am going to caution you, again,
11 not to use any customers' actual names or identifying
12 information.

13 And if an objection is made while you are giving your
14 testimony, please stop talking and give me time to rule on the
15 objection. Okay?

16 MR. BLEVINS: Okay.

17 JUDGE CLARK: If you would like to go ahead and
18 let the Commission know your side of the story, please.

19 MR. BLEVINS: Okay. I guess I'll begin normally.
20 My name is Leon Travis Blevins. I'm almost eighty years old.
21 I've retired a couple of three times. I retired military,
22 veteran of twenty years, and I'm on Social Security and my wife
23 is the same. Both of us have a lot of medical problems. So I'm
24 not going into any situation, either past or future, that is
25 going to cause a problem for anybody, and especially my wife and

1 I.

2 The wells that I own I own these wells in a couple of
3 three different ways. I own some of them by deed, which is fee
4 simple transfer of property from one owner, which is the grantor
5 and to me as the grantee. If I dispose of those properties then
6 I become the grantor to somebody else.

7 Now, I acquired also some wells by contract of sale.
8 And the reason why they were done by contract of sale is because
9 there was a problem with maybe the legal description of the
10 particular well site or there might have been some problem or
11 discrepancy in the easement, either in the well site itself or
12 the lines that are -- the distribution system that are in the
13 easement along the roads and in the properties.

14 The people that I acquired these wells from are very
15 short. Don Becker, he is a contractor. He builds houses and
16 constructed some of these wells through other contracts, well
17 drillers, etc., twenty some years ago.

18 Also another contractor Jim Parsons. Same scenario as
19 far as the constructing the wells or owning the wells or having
20 them built for a particular purpose of providing water.

21 The most recent one acquired was from Mark Rowden, he
22 is a contractor, but from him I had no contractual agreement,
23 simply wanted the deed. That deed is in my possession, I had it
24 dated 1 December, and there are four wells in that deed.

25 I know that through all of this process there is some

1 confusion about what I own or don't own. But, I have no
2 confusion whatsoever of what I own. And I can show whatever
3 documentation that someone would want to see to let you know
4 what my interest is in that particular well or system.

5 There is also one other individual and that's Kevin
6 Rowden. I kind of forgot about him -- not that I forgot about
7 him. But, that is a recent purchase. That's a handshake. And
8 there's about two wells, I think, in reference to that
9 particular agreement and that's over on the Corvair side.

10 But, those wells have been sold. They've been sold in
11 the same manner in which I purchased them. In other words, they
12 were mine to sell by whatever reason of ownership and I've
13 transferred those out.

14 When I started gathering wells -- not gathering them,
15 but acquiring these wells I was in some places asked to do that.
16 I was asked to take over these wells, or maybe offered to take
17 over the wells.

18 I would like to go back to originally Mr. Don Baker
19 was the first well sites that I acquired. I worked for Mr. Don
20 Baker for a couple of years, and one of the things that I did
21 was take care of these wells. These wells were in not the best
22 of shape and they're not in perfect shape today. But, he has
23 confidence -- he had confidence in what I did do for the wells.
24 I improved them even when I was working for them. Made sure
25 that during the wintertime that if there was a call that's -- I

1 was the guy that went and took care of that problem. Nobody had
2 to show me how to do it or tell me to do it. I did it because
3 of responsibility.

4 In the well idea of another reason why I really
5 acquired these was not to dodge any laws or anything like that.
6 It was to create something that could be returned to me and my
7 wife on our retirement. We've been retired -- and I still work.
8 I have to work every day.

9 I had a total of twenty-four of these wells and if
10 you'll notice in some of the identification of some of these
11 wells you'll find the MW-01 clear on up to MW-24. Right now I
12 have eight wells left and those eight wells make up the three
13 public systems that the Department of Natural Resources has
14 recently activated. The Misty Mountain, the Charity, and the
15 Rolling Hills. Those are the eight wells in total.

16 There is particular problems with some of those wells,
17 but there are circumstances and reference that has not been
18 addressed in any of the other investigation type information
19 that we've been receiving through these investigations or
20 through these witnesses, etc.

21 I would like to go over some of those just briefly,
22 though. Let's say that the wells that are nonoperational at the
23 present time one of them is what we call a concrete well which
24 is out on the Charity system. It was taken out of operation. I
25 took it out of operation myself some time back, but we connected

1 it up to the other Charity wells.

2 There is two Charity wells on that one -- or two wells
3 on Charity Road that we connected so that the concrete well that
4 serviced the Covenant properties would be all covered by those
5 two wells.

6 Now, individually my anticipation is to continue to
7 get that well repaired by an appropriate person which is Rick
8 Guill which is Rick's Pump Service. Also the other well that is
9 nonoperational obviously is the Topo [phonetic] well. That's on
10 Misty Mountain. Different area.

11 But, since we talk about Topo so much in this process
12 that was a difficult well to deal with for the DNR and also for
13 myself.

14 I would like to clarify a few points maybe there from
15 all the other testimony that's been talked about in reference to
16 that particular well. The well tested with an e. coli
17 obviously. So my attempt through the DNR was to find out why
18 that particular well is coming up with e. coli. As we would do
19 the investigations we would eliminate certain things.

20 DNR talked about the pitless area. There was nothing
21 wrong with the pitless area. I inspected it with equipment,
22 videoed and etc., and found that it was not the pitless area but
23 it was a little bit below that. And that was on a line, it's on
24 a water line. That water line is four hundred feet long at
25 least; in fact, that well I think is four hundred and forty or

1 four hundred and sixty feet in the ground. The wet end of it is
2 that far, which is the pump and the motor that hangs on that
3 pitless. But, there was nothing wrong with the pitless. We
4 kept investigating.

5 I understood at one time that there was a connection
6 to the Public Water System of Pulaski County. I inquired about
7 it early on, but could not receive any good information as to
8 where that line still existed and where it came out at the well
9 site.

10 Finally after doing many things to investigate why we
11 had e. coli there and everything kind of -- it didn't solve the
12 problem because we would do shocking, which was directed, and
13 then later it would come back with e. coli again.

14 I finally got to talk with Don Baker. He was actually
15 in Florida at the time and he had just returned. Come to find
16 out that particular line or that particular property over there
17 was initially hooked up to the Pulaski County Water District.
18 But it was put in or connected with a line that Don Baker's
19 brother had actually installed in the ground which was a one
20 inch hex line. Nobody could remember twenty years back as to
21 what happened at that particular line. And also in reference to
22 that particular well.

23 We understood that all of the residents at that time
24 did not like the Pulaski County water supply. They wanted to
25 stay on the well or have a well water, so that was done. But,

1 what we did find out that there was still an existing line and I
2 hooked it up myself.

3 The line has never been dug up -- as there was some
4 testimony that the line was dug up. What was dug up was a
5 different line that was a valve that actually turned the well
6 water off when that particular water from the County would be
7 coming in to that, into the distribution system. It worked.

8 After we discovered at this late date -- I didn't know
9 this in the beginning. I had no idea of the County being
10 collected or connected to that particular well in the beginning
11 of twenty years ago. Didn't know it. And neither could Don
12 Baker even remember part of that. But, we sat down and talked
13 extensively about it and come to find out we -- he remembered
14 who put it in, which was Don Baker's brother. So I got hold of
15 him and we determined that that, he remembered there was a line
16 there.

17 So we went ahead and went down to the County,
18 confirmed that there was a meter out there, so I said let's take
19 it out and see what happens. We hooked it up.

20 And I think there was one question about what the
21 deposit was, I believe it was three hundred dollars deposit, but
22 that's not really an issue to me anyway.

23 So we hooked it up and water started coming in through
24 the well distribution system. So that solved that and that's
25 what's operating even today. We are trying to get maybe the

1 public water system there to just take over that line. They
2 don't want it. My understanding is that they don't think that
3 that line would be sustainable for their period of time, I
4 guess.

5 But, anyway DNR is talking about plugging up that
6 particular well. I would rather see the well repaired. But, if
7 they decide that that needs to be plugged that's probably what I
8 would have to do. In order for the residents to get back on a
9 well they would probably have to drill another well. I don't
10 know.

11 I'm in the retirement mode. I'm ready to not do this
12 so much. So I'm not here to cause anybody a problem, but I
13 don't want to go out of this process of obligations and
14 fiduciary agreements that I've made with other people. I want
15 to go out equitably.

16 I'm not even opposed to receivership in my opinion,
17 but I think it would be way, way too expensive for clients out
18 there to pay the expenses that would come about with all that,
19 especially if I had to gear what I do into the FSC [sic]
20 requirements. I can't make those requirements. And it's way
21 too late in the game for these wells to be brought up into that
22 type of situation.

23 But, there are other solutions. My solution would be
24 for the wells to be incorporated into a homeowner's association.
25 Doing that I've already arranged for an attorney to prepare all

1 the documents and make all the reports to the Secretary of State
2 and, etc., but there is a lot of work to do an HOA.

3 I'm sure you're probably familiar with it. I don't
4 know if you are or not, but there has to be agreements by the
5 people that use the water in these wells. But, that can be
6 arranged also. There are choices that they would have. If they
7 didn't want to be in the HOA they could drill their own well.

8 At the present time the cost of a well for one
9 property I would give you some numbers that would probably be up
10 in around twenty-five thousand dollars. That's a tremendous
11 amount of cost in relation to twenty years ago when that same
12 well could be put in the ground and operating for maybe eight
13 thousand. That's a big increase. Then twenty years ago when
14 that was put in the -- thank you.

15 The cost or the fee that was being charged by these
16 contractors that owned the wells at that time was like thirty
17 dollars, some of them twenty-five dollars. Today the cost of
18 that from my viewpoint and from the agreements to furnish water
19 that I try to get from each one of these customers that want the
20 water is fifty-five dollars.

21 There are other incentives, though, in this agreement.
22 Agreement to furnish water. They can pay a discount or prepay
23 it if they prefer which I was asked to -- by many of the
24 customer people, clients, if they could pay a year at a time or
25 three months at a time or six months at a time. I provided that

1 to them at a discount.

2 Also they can pay by automatic deposit. I've only got
3 two or three of those that actually do that, but most of them
4 just pay monthly. I've never had any real complaints about the
5 money or the charge until the -- until at such time when DNR got
6 involved and also the FSC got involved, the Staff I'm referring
7 to.

8 The DNR when they activated those particular wells
9 created expenses. My determination was about a thousand dollars
10 a month, that's twelve thousand dollars a year.

11 JUDGE CLARK: Can I clarify something real quick?
12 When you say FSC do you mean the PSC?

13 MR. BLEVINS: I'm sorry, you're correct. That is
14 the PSC. I'm sorry.

15 JUDGE CLARK: Thank you.

16 MR. BLEVINS: Public Service Commission. Yeah.
17 And mostly I'm referring to the Staff. That's the people I know
18 that I met with or that say they met with me.

19 My testimony is that twenty years ago you paid thirty
20 dollars for water for a residence and now it's fifty-five
21 dollars. That increase over twenty years is not much over a
22 dollar a year. I don't know if that equates or not but when
23 you -- to somebody's belief or whatever.

24 But, when a well costs twenty-five thousand dollars to
25 put in the ground and that's probably a horse and a half and

1 that -- wells that I have are five horse wells, three horse
2 wells, and very few of them are one point five horse wells.
3 But, those have all been sold. They're individually and they
4 can only handle two or three clients or two or three residences
5 getting water.

6 All of these wells were taken in good faith for me to
7 improve. Those to date since I started with these wells and
8 agreements with the contractors and etc. they had confidence in
9 me to go ahead and do that I probably -- I've improved each and
10 every one of them in some way or another. And they probably
11 still need more work, I'm real sure that they do.

12 But, I do not have a staff. I don't know. I do not
13 have employees.

14 The young lady that has been referred to as an
15 employee is what I call an adopted granddaughter. Not legally
16 adopted, but her father and me previously had business
17 relations, and I've tried to help that family as much as I can.
18 And she does come in and work with me. She helps us kind of
19 maintain and run a store, an antique type store or whatever.
20 And something that my wife likes to do is handle antiques and so
21 forth.

22 I mean she's not paid a salary. But, she does help in
23 everything that I do. I do pay her, I do pay her but she also
24 earns a little commission when she makes a sale or something of
25 that nature. She is not an employee. She's independent and she

1 can -- doesn't have any particular hours that she comes in. She
2 works on her own. But, she is familiar with a lot of things
3 that I do.

4 I've had several businesses in my lifetime, even in
5 Pulaski County.

6 But, back to this particular receivership at the
7 present time I've invested funds in improving these wells and
8 right now at the bank, and if I needed something done I would go
9 to the bank and draw on what I call a line of credit loan. I've
10 got about forty thousand dollars on that line of credit which
11 has been used, but I still pay it monthly back to the bank.

12 Those are financial situations that I think has been
13 said that I'm not capable of doing this or doing that. I've
14 went ever since 2006 with these particular wells on my own. I
15 didn't ask for any help from anyone else. It was mine. But,
16 the incentive there is to create the wells because of the
17 relationship I had with these contractors.

18 I've actually with Don Baker -- I was a partner with
19 Don Baker in years back constructing homes and Don Baker has
20 probably built a thousand homes. I owned a real estate
21 brokerage firm at that particular time and I probably sold more
22 than half of what he's built in my previous years of dealing
23 with real estate and construction, etc.

24 Again, I'm retired but I retired from the military in
25 1981. Right here in -- well, in Pulaski County. But, I've been

1 associated with these people and we have good relationships.

2 The last well that I actually upgraded is the Rolling
3 Hills well. And where we upgraded it it was about seventeen
4 thousand dollars. That is still owed. Not all of it, just part
5 of it, because we pay Rick Guill, who is our pump guy, we pay
6 him monthly and this is by agreement with him.

7 At one time or another he was going to purchase these
8 particular wells for his daughter, which we were going to sell
9 them to him. But, it turned out that there was too much
10 involvement for Rick Guill in reference to the Department of
11 Natural Resources. But, he's not opposed to DNR, but he didn't
12 want to deal with it at that particular time. He's a busy guy.
13 He's an honest guy. He's truthful. And he does not overcharge
14 anybody. And that's the reason I do business with him.

15 I will not do business with some other people,
16 companies, that are around. I'm not going to mention their
17 names. But, I wait for Rick Guill because he knows -- and I've
18 talked with him on several different occasions about the wells
19 that we've got.

20 Let 's see. The CCN, the Certificate of Convenience
21 and Necessity. I admit I had no idea what a CCN was when they
22 come in my door which was -- wanted to know. I was cooperative
23 with them. And I understood that I had to submit this
24 application for a CCN without really understanding why I needed
25 to do that. But, I very quickly after receiving information

1 that I was to provide over forty-four some data information,
2 which that data information was not available. And it had to be
3 created.

4 Everybody has talked about it already in this whole
5 process when they say they can't determine what I own or don't
6 own. That was part of why I took on this job of taking these
7 wells from Don Baker, Jim Parsons, is to help get all of that
8 straightened out in the proper manner. I'm the guy that he
9 called and wanted to fix it. I'm the fixer, I guess I'm trying
10 to say. I've done it all my life. That's what I do. But, I do
11 it honestly and truthfully. There is no other way to do that
12 and do it proper.

13 I admit, like, the Topo well is a problem and really
14 it's still a problem but just plugging up the holes really
15 doesn't solve the problem. I believe I know where the problem
16 is when I discovered that -- or myself and Rick Guill discovered
17 that particular casing around there was all cracked. That's
18 where I think the real problem existed then and still exists
19 now. But, that well is not into operation.

20 There has been so many different things said in this
21 whole process here that it's kind of hard to keep it in one
22 line, but I want to go back to this receiver, I guess it is.

23 If a receiver comes into play then I foresee a lot of
24 expenses that's going to happen to these people out here that
25 are now complaining about increases in their prices. DNR caused

1 some of these increases which I equated to you at a thousand
2 dollars a month. This last testing was six hundred and ten
3 dollars, that's just for the testing. So there is other
4 expenses already that has to be paid. So it's going to be over
5 a thousand dollars. But, over a year's time I don't think it
6 would go over a thousand.

7 I'm not objecting to the DNR. I think it's necessary
8 and would be good for whatever structure comes about. I don't
9 believe this receiver would be -- would have that particular
10 thing in mind about these clients out there. I think I have a
11 responsibility to protect them as well as myself. And as well
12 to protect as the way I can with the people that I made these
13 agreements with, that I acquired these wells from. For those
14 people I owe no money. There is no debt to them because I've
15 already paid that debt for the acquisition.

16 But, I didn't -- I've spent a lot of money just
17 improving them and bringing them up to where they are today.
18 And I anticipate that at the present time there needs to be
19 about five to ten thousand dollars more spent on some of these
20 improvements or some of the problems that I know exist with
21 these wells right now.

22 But, I don't want to -- I wouldn't want to intermingle
23 all of that into what's going on today. That's something that's
24 going to have to be taken care of and, but not only we're down
25 to the point I guess with just what DNR has activated in eight

1 wells, that's where I'm at, eight wells.

2 If they -- an equitable solution is not attainable
3 somewhere then I think it would fall apart. I think the system
4 would fall apart. These wells, especially the ones on Charity
5 and the ones on Misty Mountain now, the only single well that
6 would qualify under the DNR guidelines of fifteen connections
7 and twenty-five users is the Rolling Hills well. That one has
8 one well and nineteen connections.

9 And that brings my thought up to some of the
10 complaints that have come about here, even the ones that you
11 have read yesterday and today for the first time. I've not
12 received any of those complaints other than one or two of them
13 there that I believe -- and I've already answered to that
14 particular complaint that was on some of the previous
15 submissions that I gave to the Commission, you all.

16 I submitted that the other day when we talked about
17 having the answers to the receivership or the complaint. The
18 complaints made by the Staff asking for a receiver. I think I
19 answered all that. I assume that you all received all of those
20 documents. I personally delivered them to your mail activity
21 downstairs.

22 JUDGE CLARK: I don't know what documents you may
23 have provided to Staff. Now, are you referring to the answer
24 that I ordered you to provide?

25 MR. BLEVINS: Yes, sir.

1 JUDGE CLARK: Yes. That was filed, I have that
2 right in front of me inclusive of the various attachments.

3 MR. BLEVINS: Yes. And the reason I brought that
4 up is because the complaints -- there was a complaint in there,
5 but I believe I've answered that complaint. All those other
6 complaints that I see either by email or just mentioned or etc.
7 I've not seen before until yesterday or today -- yesterday
8 actually. And those exhibits I've not seen those before so no
9 opportunity to reply to them.

10 But, I can reply to them now I think by saying that I
11 think I recognize some of the complaints, especially those ones
12 that are lengthy, that that one would have come from one of the
13 water users that has owed money for water for several years --
14 not months, but years. I think the balance is probably over
15 four or five thousand dollars.

16 I've never threatened any of those clients out there
17 in any manner. It's not in my character to do that. But, it is
18 in my character to try to talk with them and come to a
19 resolution of what's going on.

20 And I've heard complaints about threatening to cut
21 their water off. In that agreement to furnish water it says
22 specifically if you do not pay your water usage fee that was
23 agreed upon for over six months then I as the owner would have
24 the right to disconnect that water and permanently terminate the
25 water from that residence. I have never done that. Even though

1 it's in that writing it's not in my character to cut people's
2 water off either. I've never cut people's water off for any
3 particular reason, even non-payment. I've never threatened to
4 cut it off, but I have indicated that if you're -- that you need
5 to, and that goes back to the billing.

6 I don't do billings at all. I don't bill you out
7 fifty-five dollars every month on a piece of paper. Because
8 there is no meter, there is no meters, there never has been for
9 twenty years. And so I don't bill it out. But, I do send out a
10 notice after ten days of not receiving the water payment and
11 it's important that we did that because the -- we have to pay
12 the expenses.

13 Now, totally in this whole system even with the
14 fifty-five dollars a month if you would count a hundred clients
15 out there that's fifty-five hundred dollars a month. Is that
16 correct? And that would be my calculation.

17 And that's quickly taken up in electric fees with so
18 many wells out there. Every one of those wells are on a
19 separate meter. So I can tell you right up front that the
20 electric bill to Laclede Electric, for example, has been like
21 fifteen hundred dollars a month. The electric bill over at the
22 Dixon area five, six hundred dollars a month. There's two
23 thousand dollars in just electric services.

24 We haven't paid for all of the maintenance that needs
25 to be done on a daily basis or a weekly basis or a monthly basis

1 or even in a situation where a water leak does happen. You've
2 got three backhoes, but when a water leak needed repair to take
3 a backhoe out there and fix it that's what I did.

4 I don't know why it was determined that I don't fix
5 leaks or something or don't perform maintenance. The
6 investigations that went on in my particular opinion was not
7 very well conducted. Lackadaisical in nature, in my opinion.
8 There was not investigated thoroughly enough to find out really
9 what the situation was, especially with the complaints.

10 I've heard complaints that I've never heard before.
11 And I think what prompted these complaints in my opinion were
12 the involvement. They finally had somebody I guess maybe
13 because of their frustrations, whatever it may be, and I can
14 understand that they would have frustrations when we had to
15 raise the prices because of the cost of DNR, for one.

16 We had to raise the prices in the beginning because
17 the people I purchased these wells from were tired. They
18 were -- didn't have the time to go make these collections or
19 anything like that. So all of the sudden, you know, the people
20 that have not paid for years I've provided a solution to that
21 for them, and the people that owned these wells prior to me and
22 also for the people that were using the water. I don't think it
23 was fair that they just not pay it and let them go. So I
24 created a past due account for them to pay whatever they could
25 afford on a monthly basis to take care of that, their own

1 responsibility.

2 And in one case, just to give you an idea, the
3 individual user would owe I think maybe twelve hundred dollars
4 or so and what they can afford to pay was five dollars a month.
5 No interest. Okay. That's okay. But, you had to keep your
6 current payment up to date. At that time it was probably
7 forty-five dollars, I don't know. So we just carry that on
8 through.

9 There's more than one or two or three or four of those
10 kind of situations. Some of that there were -- most every one
11 was behind when I first took all of these wells. And -- or
12 acquired them. I didn't take them.

13 Like for Mr. Mark Rowden who was the seller of those
14 four wells out there. He simply told me, he said he does not
15 want to get involved with trying to collect money from those
16 people for those wells. But, he obviously had been paying the
17 electric every month on them and no income. So he asked me to
18 take them over. I did that.

19 Right now those wells being twenty years old would you
20 imagine that maybe the pumps and the motors right now are kind
21 of in the area where they're going to need replaced right away?
22 Here pretty quick. But, if I do that, which I've already
23 committed to do that, then when I convert these out or sell them
24 out I'll get my money back. And it would be equitable for me to
25 do that. And even with going to a homeowner's association I

1 provided -- in that document that I provided in that report how
2 they could pay for that. That's equitable in my opinion.

3 They can even pay in cash let's say, that's an option.
4 Anybody has that option. Or they can just continue to pay what
5 they're paying now.

6 But, at the end of a certain period they would be
7 already in the homeowner's association, no longer have that debt
8 to get there, and they would be clearing back into twenty or
9 twenty-five dollars a month that the HOA would probably be
10 charging at that time. Even in the beginning when it's set up
11 the HOA needs to collect money in order to take care of expenses
12 and take care of the wells. How much they collect depends on
13 what really needs to be done, etc.

14 I understand also that people that use these wells may
15 not be familiar with an HOA, but that's a corporation and it's
16 run like a corporation and they owned the wells. Everybody in
17 that HOA would own that well. They can determine and --
18 determine how much of that fee even on a monthly basis if they
19 wanted to. They can do whatever they want. They're not subject
20 to any of the PSC guidelines and rules. Because they are
21 activated as a public water system they would be subject to the
22 Department of Natural Resources and all of their guidelines,
23 which I think are good guidelines. I don't object to that at
24 all. But the HOA is a nonprofit organization. Nonprofit. It's
25 not for profit.

1 And if anybody thinks that these wells are for profit
2 at the present time they need to step in my shoes. They'll find
3 out that five thousand dollars a month is not adequate. Of
4 course, I don't do that now because there's only eight wells
5 left so I'm trying to get this equitability finished.

6 My job was to take these wells, get them in a good
7 operating condition like with DNR especially, and do something
8 else with them. One of the main goals was to put it in an HOA
9 even from the beginning. I wouldn't own the wells at that
10 point, but the HOA would, and they have a board just like
11 everybody else is set up in different corporations. That's who
12 governs that nonprofit organization or the homeowner's
13 association.

14 I'm just reading and checking my notes here if I
15 could, please.

16 JUDGE CLARK: Take your time.

17 MR. BLEVINS: Again, I think that the complaint
18 that seems to be a crutch that some of the investigators are
19 using are unfounded. Or they're motivated by something else.

20 And like the example I gave you those I mentioned,
21 also that same person that I send out people to collect money I
22 do not do that. I have never done that ever. If there's
23 anything to do with money I do that personally and I try to do
24 it without demanding anything but, being reasonable about the
25 whole process. And I think I've been more than reasonable with

1 all of the clients that are out there.

2 And if you actually investigated and talked to enough
3 people I think you would find that what has been presented in
4 this investigation process is in most cases erroneous.

5 The case of Misty Mountain especially. There's a
6 client up there that every time that we went like to the Topo
7 well if he was around he had to come in and get involved with it
8 and take pictures. And I don't mind that at all. But, when
9 they begin to create something that is not there or interfere
10 with the people that I had there I've got to say something to
11 them. And I did. Not in my character to throw somebody off
12 their property. Physically I couldn't do it anyway and I
13 wouldn't do that. But, I asked him to leave more than once and
14 he absolutely refused and just got more belligerent and started
15 in my opinion telling untruths. Creating something.

16 I've heard a point where maybe somebody seen me put
17 something down a well head. Why would I do that when I drink
18 the same water? That don't make sense to me, but I don't know
19 why somebody would actually say that other than the fact that
20 they really don't know what they're looking at.

21 I've heard comments that well heads have froze up.
22 Well heads don't freeze up. There's no water up there other
23 than through the pipe and up through the line that comes through
24 the pedal that's where it hangs.

25 **A lot of those comments like that need to be**

1 investigated a little bit further to find out really what
2 motivated it. What motivated them to say things like that. I
3 think you'll find it's unfounded in most cases.

4 But, in any situation if I would have been notified or
5 told of that particular complaint I would have answered it. I
6 would have answered it honestly and truthfully, whatever it is.
7 And I've done that with the ones that I have been notified or
8 been told about or even provided. In writing. I've provided
9 that in its entirety.

10 I don't know. All the testimony that has went on here
11 I would just like to maybe close this out and let you know that
12 I'm not here to fight with anybody. I would like to resolve the
13 whole situation. I do not -- I'm not happy with the way the FSC
14 conducted -- I'm sorry, PSC, conducted whatever they conducted
15 as they -- an investigation. I'm not happy with that at all.
16 But I understand where you might be.

17 So I have a resolution, not a resolution, but a
18 solution to it under the HOA guideline. I would like for you to
19 at least consider. It doesn't mean that you have to do it, I'm
20 sure.

21 I did all of this in good faith. And I'll stay in
22 good faith.

23 I'll answer any other questions anybody may have
24 honestly and truthfully.

25 They -- I've been with my wife for sixty-six years and

1 married for sixty-two years. She must have had some confidence
2 in me to keep me around that long. So my character is not what
3 I've heard in these proceedings. I want people to know that.

4 I don't think I've made any real enemies. Although I
5 guess everybody does once in awhile. But not intentionally. I
6 do not avoid the law. I try to stay within the law. I try to
7 do what is necessary to do. Not only just for myself, but in
8 this case with the receivership I believe would be a real
9 mistake not only for me personally because of my involvement but
10 what I wanted to do with these wells I feel like I wouldn't be
11 able to do that. So it's not equitable. And it's not equitable
12 in my opinion for the people that use the water. Because if a
13 person comes in and says they're the ones that take care of this
14 they're going to have expenses and it's going to be a different
15 story, it's different progress with each client.

16 That created not a good image for me personally
17 because it's being taken away, I guess.

18 I'm not really sure what a receiver is. I'm not sure
19 that there is even a receiver that would accept these wells in
20 my opinion. I don't know. But, if that would be the solution I
21 wouldn't object to it.

22 But I would ask for all of it to be equitable for all
23 parties involved. I think maybe that's about where I'm at. I
24 just wanted to express my -- the way why I did that or what I
25 do, it was not against the law to my knowledge. That those

1 wells have been operating for twenty years. I just tried to
2 continue on and get them improved and get them into a situation
3 that they were needing.

4 Even the contractors they didn't want to -- the
5 contractors did not want to spend more time, more money, etc.
6 But, I was willing to do that. And I did. I have done that. I
7 just told you in my testimony here that the line of credit forty
8 thousand, I still owe that but I can't pay it with the normal
9 procedures or something equitable. Then what does that do to
10 me? Is that what everybody wants?

11 We've got laws that says when you can't pay a bill you
12 file bankruptcy. I've never filed bankruptcy in my life, but if
13 I get forced into that corner I may not have a choice. I'm not
14 saying I'm filing bankruptcy. I'm just telling you where my
15 thoughts are.

16 Receivership in this case I don't think it's good. I
17 don't know how else to say that.

18 I think I'm finished. I've said what I said maybe, my
19 point of view or my testimony.

20 I would be glad to answer any questions that any of
21 you might have.

22 JUDGE CLARK: Thank you, Mr. Blevins.

23 Any Cross Examination from the Staff or the
24 Commission?

25 MS. KERR: Yes. Thank you.

1

2

CROSS EXAMINATION

3

QUESTIONS BY MS. KERR:

4

Q. I have several questions and kind of here and there.

5

So just bear with me now.

6

We talked when the DNR witness was testifying you have a -- do you remember talking about your licensed operator Laura Jean?

8

9

A. Laura Jean, yes, ma'am.

10

Q. And you signed an agreement with her, that was a DNR agreement, where you work with her on making repairs and where she does, takes care of the wells and takes samples and does all of that?

13

14

A. Yes, ma'am.

15

Q. Do you remember signing that agreement?

16

A. Of course.

17

MS. KERR: May I approach?

18

JUDGE CLARK: Yes.

19

Q. (By Ms. Kerr) I'm going to hand you, I handed you what was previously marked Exhibit 8. I think you have a copy of that.

21

22

Is that correct?

23

A. Exhibit A?

24

Q. 8.

25

A. 8. I do over there probably.

1 Q. Okay. Is that what I -- I just handed that to you?

2 **A. This is 8?**

3 Q. Yes.

4 **A. Okay.**

5 Q. Do you recognize that?

6 **A. Yes. It's a -- Laura provided this to me as the**
7 **agreement.**

8 Q. Okay. And that's the three agreements that -- did you
9 sign those?

10 **A. Yes. I did.**

11 Q. Okay. Are those the three agreements that you signed
12 for each of the three public --

13 **A. One for each public water system, yes, ma'am.**

14 Q. Okay. And in those agreements you agree that if
15 you're going to make any changes or you are going to take any
16 samples or you are going to do anything to those wells that you
17 notify her first before you do any of that?

18 **A. That is correct. Let me explain that. Can I?**

19 Q. Let me ask the questions first.

20 **A. Okay.**

21 Q. And there are times where you've done, made changes to
22 the, made repairs to the wells or shocked the wells without
23 telling her first.

24 Is that right?

25 **A. Well, the explanation of that is that when --**

1 Q. Have you done that? Yes or no. Have you done that?

2 A. Pardon?

3 Q. Have you made -- have you shocked the wells or made
4 changes, made repairs?

5 A. Not to my knowledge, no.

6 Q. Without telling her first?

7 A. Not to my knowledge. But, I would explain that when
8 this document was first done DNR required this document so there
9 was a learning process from the time that DNR activated until
10 such time as we come to a point to where the wells would need to
11 be shocked.

12 I talked with Lori [sic] on almost every occasion. I
13 don't think we got to the point to where it said I can't do this
14 without seeing you first, which may be. I understand that at
15 the present time, but that is the learning process of...

16 Q. Thank you.

17 A. I shouldn't be doing anything that Lori doesn't -- is
18 not aware of or has already approved or disapproved. If she
19 disapproved something obviously I can't do that or shouldn't.

20 Q. Thank you.

21 MS. KERR: I ask that Exhibit 8 be admitted into
22 evidence.

23 JUDGE CLARK: Mr. Blevins, do you have any
24 objection to admitting Exhibit 8 onto the hearing record and
25 that is the water, the three water facility operations

1 agreement?

2 MR. BLEVINS: No objection.

3 JUDGE CLARK: Exhibit 8 is admitted onto the
4 hearing record.

5 Q. (By Ms. Kerr) So would you say that a request for
6 payment from someone is a bill?

7 A. **Pardon, what was your question?**

8 Q. Would you define a bill as a request for payment for
9 something?

10 A. **A bill? I don't send out bills.**

11 Q. I didn't ask if you sent out bills. I just asked if a
12 request for payment for services, would that be a bill?

13 A. **Not in my process of asking for money.**

14 Q. So if somebody does work for you does -- fixes your
15 car and gives you a request for payment is that a bill?

16 A. **That for my car I'm sure it probably would be.**

17 Q. So you provide services for somebody and you ask for
18 payment. Would you call that a bill?

19 A. **I already asked for payment a year in advance -- or a
20 year behind.**

21 Q. All right. Thank you. You've answered the question.

22 A. **A flat fee.**

23 Q. So who do customers call if you're not available like
24 in an emergency?

25 A. **I've always been available. The only number that's**

1 provided out there for a call is my number.

2 Q. So if you're on vacation who would they get in touch
3 with?

4 A. Well, if I was on vacation or out of town I would
5 contact someone within my scope to go check that well if I'm not
6 there to do it myself.

7 Q. Does DNR know who that person is?

8 A. I don't think so.

9 Q. Thank you.

10 A. Well, they may.

11 Q. Have you filed that with DNR?

12 A. Filed it? No. Not particularly filed that particular
13 name with DNR.

14 But, I have provided to DNR the people that work on
15 these wells, which is Rick Guill.

16 Q. Okay. Thank you.

17 A. Laura Jean is another one.

18 Q. So when you come up with how much you charge for
19 customers for water did you do some kind of calculation as to
20 how much people would be charged?

21 A. Well, I suppose you could say that I calculated and
22 come to a figure, but the calculation was based on what the
23 expenses are.

24 Q. Was there a formula that you used?

25 A. Oh, no. The plus and minus, times, divide. That's

1 the only formula that I know of.

2 And I've been a mortgage broker before. I pretty well
3 know how to put numbers together. I know how to put expenses
4 together also.

5 Q. Is there a formula or a plan that you could provide to
6 the PSC to show us how you came up with those rates?

7 A. Well, I think I did that in that document that I
8 provided. But, what I provided was how much the electric was,
9 how much the estimated maintenance and service per month would
10 be, even provided what rent might be. But, I don't charge rent
11 or pay rent because I own the building myself. So I didn't
12 charge the water company or water people in this case with rent.

13 Q. So it's just an estimate?

14 A. Just provided it.

15 Q. So five years ago when you were charging you just came
16 up with an estimate for the rate?

17 A. Pardon?

18 Q. So you just came up with an estimate for what you
19 might charge people for water?

20 A. I had to estimate that, sure.

21 Q. Does everybody pay the exact same amount?

22 A. What?

23 Q. Does everybody pay the exact same amount?

24 A. Yes, ma'am. It's all the same throughout the whole --
25 thread it out over different customers. All the same. Which is

1 their agreement to furnish water. And in that agreement there
2 are charges for also the residence itself.

3 And also for if you own a pool there is a separate
4 charge which is an addition to the fifty-five. That's a hundred
5 and eighty dollars a month or a year or fifteen dollars a month,
6 depending on how you actually wanted to pay it.

7 And I think at one time I even offered discounts if
8 they wanted to just pay it and not have to worry about it month
9 to month.

10 Q. Okay. So in going back to what you said at the
11 beginning of your testimony you said some of the deeds that you
12 have, some of the ownership records, that you have filed with
13 the Recorder's office and some you haven't?

14 A. That's correct.

15 Q. Okay. So the ones that you have filed with the
16 Recorder's office you pay property tax on?

17 A. Yes, ma'am.

18 Q. So the ones that you have not filed do you not pay
19 property tax on those?

20 A. No, not personally. But, taxes have been paid on it
21 by a different process.

22 Q. Okay.

23 A. Our county is not up to date.

24 Q. Okay. Thank you.

25 A. If you really want to know the reason why.

1 Q. I think you answered my question. Thank you.

2 You talked about collecting back payment from people
3 that owed you money that hadn't paid and they owed you past due
4 money. Does everyone pay the same amount?

5 A. For the back?

6 Q. Yes.

7 A. No. They do not. That's a particular situation. If
8 you look at -- if you're a water person I mean you're using the
9 water off a well and you haven't paid that bill to anyone -- me
10 or anybody else -- for a year or two years, and in some cases
11 five years, then I give them an opportunity to make that
12 payment.

13 Obviously it's kind of hard for people to pay cash all
14 the time. But, the responsibility of making that payment I
15 offer to them as a past due account set aside so that they
16 wouldn't be subject to any late fees because of the way that the
17 agreement is written to furnish the water and the payment.

18 Q. Okay. So there is no uniformity between --

19 A. For past due account?

20 Q. No.

21 A. Just the ability of the individual without interest.

22 Q. Okay. It's just based on whatever you decide.

23 Correct?

24 A. Not what I decide. It's what they were able to pay.

25 Q. But, it's based on what you and that person decide?

1 A. That's correct. It was --

2 Q. Thank you.

3 A. It allowed them to do that. No other --

4 Q. Okay. Thank you.

5 A. I didn't have any other choices because they couldn't
6 do anything else.

7 Q. Okay. Thank you.

8 In your data request responses you said you had,
9 getting your receipts was time consuming and too hard to get
10 together. Is that because your records are voluminous or what
11 would you -- you have trouble getting your records together?

12 A. What was the question?

13 Q. In your response to the Staff's data request --

14 A. Oh, data request. Yeah. You were asking for
15 information there the way I read that that was not available.

16 Q. Why aren't they available?

17 A. Well, because of the situation in the beginning.
18 Twenty years ago they didn't do things exactly the way they do
19 today, especially contractors, surveyors. So in order to get
20 that information and get it properly to you I would have to go
21 to the surveyor, research his records or ask him to research his
22 records, and provide me with a legal description, for example,
23 for a well. Or did they actually -- when they put that easement
24 in did they write a description? If they didn't write one,
25 which is sometimes the case, I would have had to ask them to

1 write the description or write it myself, which I'm capable of
2 doing that also.

3 Q. Okay. What about your records? Were you able to --
4 you said it was hard for you to get your records together to
5 answer some of these DRs because it took a lot of time.

6 A. Yes. Because the answers and the records have to come
7 from other people like surveyors or the owners or the attorneys
8 that are maybe involved at that time.

9 You're talking about ownership. Right?

10 Q. Well, I'm talking about your records in general.

11 A. What records in general then?

12 Q. Just your business records.

13 A. My business records? My accountable, the records I
14 show where they've made payment? Is that -- I don't know what
15 you're referring to there, I guess, specifically. I do know
16 that it takes time for me to get through other people to get the
17 proper records that you were asking for at that time.

18 Q. Okay. I'll just withdraw that question.

19 MS. KERR: I don't have any other questions.

20 Thank you.

21 JUDGE CLARK: Are there any Commission questions?
22 Commissioner Hahn.

23 COMMISSION HAHN: Thank you. I appreciate it.

24 Thank you, Mr. Blevins. This is not a question.

25 But I just want to let you know that I appreciate you

1 being here and I appreciate your testimony today. I know this
2 is a time intensive process and I don't think it's unusual that
3 people haven't heard of CCNs before. People in the regular
4 world have usually never heard these terms.

5 MR. BLEVINS: No.

6 COMMISSIONER HAHN: So I just wanted to let you
7 know that we appreciate your testimony and your travels to
8 inform us of your side. Thank you.

9 JUDGE CLARK: Are there any other Commission
10 questions? I hear none.

11 Mr. Blevins, I know you expressed yesterday that you
12 have a doctor's appointment and so we need to get you out of
13 here fairly quickly.

14 I am going to ask you a few questions, not all the
15 questions I had. But, if you can keep the answers short that
16 would probably speed the process.

17

18 EXAMINATION

19 QUESTIONS BY JUDGE CLARK:

20 Q. So you had indicated you initially owned twenty wells.

21 Is that correct?

22 **A. Twenty-four wells.**

23 Q. Twenty-four wells. And you owned those outright?

24 **A. Some of them were outright. The other ones were**
25 **either by contract and later fixed and disposed of. Not**

1 disposed of, but disposition -- other disposition made of the
2 wells. Properly.

3 Q. How many wells have you sold since you first had
4 contact with DNR?

5 A. Well, I've had contact with DNR for a few years. But,
6 I would have to say maybe half. I don't know.

7 Q. How many wells have you sold since you've had contact
8 with the PSC?

9 A. PSC? I believe eight. Eight or nine, I think.

10 Q. Okay. Now, Mr. Cloverside [phonetic] said yesterday
11 he visited sixteen wells with you.

12 Is that the total at that time?

13 A. I don't know. I don't know when he visited the wells.

14 Q. Okay. But, you're now down to eight. Correct?

15 A. I'm down to eight wells, yes, sir.

16 Q. And that would be four on the Charity system, three on
17 the Misty Mountain system, and one on the Rolling Hills system.

18 Is that correct?

19 A. Three -- you say three on Misty Mountain?

20 Q. Yes. You said -- yesterday you said it was five but
21 now three because you disposed of two?

22 A. That's correct, yes.

23 Q. So I'm getting four plus three plus one equals eight.

24 A. That's correct. Eight wells.

25 Q. How many current connections are there on the Charity

1 system?

2 **A. On the Charity system I would have to look at my**
3 **record, but I think there's twenty-two.**

4 Q. There's twenty-two connections?

5 **A. I think so.**

6 Q. How many households?

7 **A. Twenty-two.**

8 Q. Now before you had expressed that the only one that
9 you still felt would fall under DNR regulation would be the
10 Rolling Hills system.

11 **A. That's correct.**

12 Q. With nineteen. Why would Charity if it has twenty-two
13 connections not fall under their jurisdiction?

14 **A. Well, the guideline is fifteen connections or**
15 **twenty-five users, individuals. So if you take -- at that time**
16 **wells there is four wells, one of them is nonoperational, that's**
17 **the reason why you say three on Charity. There was four wells**
18 **but the nonoperational well I don't count at the present time.**

19 Q. Okay. How many connections are on the Misty Mountain
20 system?

21 **A. On the Misty Mountain would be fourteen -- probably**
22 **fourteen.**

23 Q. Fourteen connections. And you indicated there were
24 nineteen on the Rolling Hills. Correct?

25 **A. Nineteen on the Rolling Hills. On Misty Mountain now**

1 there's fourteen without the connection to the Pulaski County,
2 and Pulaski County is connected to five.

3 Q. Thank you. Now, you indicated you owned an antique
4 store?

5 A. Yes.

6 Q. Do you have any other businesses?

7 A. Not at the present time other than I do construction.
8 I have --

9 Q. What kind of construction?

10 A. Backhoe. I construct sewer systems, water lines,
11 backhoe. I've also -- I do remodeling. I don't do that much
12 any more. I also operated salvage, I would tear down old houses
13 and re-claim lumber in old houses. I do that.

14 Q. Do you have -- do you have loans on any of the wells?

15 A. What?

16 Q. Did you take out loans to buy any of the wells?

17 A. No. I did not.

18 Q. Now, you indicated in your Opening Statement that the
19 wells barely cover their cost and you've reiterated that here
20 today in your testimony. If that's the case are you running
21 these wells for profit?

22 A. No, sir. I'm not running these wells for profit in
23 that respect. I run the wells for the investment. And it would
24 go back to the reasons why I took these wells. The HOA would be
25 paying for the -- about three thousand dollars per connection to

1 **become a part of that HOA.**

2 Q. So -- I'm sorry to interrupt you here, like I said I
3 want to keep the answers short and get you out of here.

4 So when you say that it's for the investment what you
5 mean is instead of running them for profit you're hoping that
6 you will glean a profit at the end when you sell the wells?

7 **A. Yes.**

8 Q. What I call -- you're calling it an equitable
9 solution?

10 **A. Equitable solution to my investment, that's correct.**
11 **On a monthly basis I usually have to add to, to subsidize the**
12 **expenses. Obviously in my opinion and my record keeping I owe**
13 **forty thousand dollars for repairs and upkeep and etc., and plus**
14 **the last recent upgrade on the Rolling Hills well and I think**
15 **there's a balance of about fourteen thousand there. So fifty**
16 **thousand.**

17 **And I'm also testifying or I did say that there is**
18 **about five to ten thousand dollars probably needs to be spent on**
19 **bringing them up a little bit more.**

20 Q. But, you currently own and operate these eight wells.
21 Correct?

22 **A. Yes. I do.**

23 Q. And from them you distribute water to individuals.
24 Correct?

25 **A. I distribute water, yes.**

1 Q. And you do that through a contractual agreement
2 whereby they pay you for the water they receive. Correct?

3 **A. That's correct.**

4 Q. Plus expenses that you have in regard to -- as you
5 indicated electricity, to get water out of the ground requires
6 quite a bit of electricity?

7 **A. Yeah.**

8 Q. And you would agree that a well is a water source.
9 Correct?

10 **A. Yes, sir. It's a water source.**

11 Q. Now, the other day both DNR witnesses I believe said
12 at different times that in regard to the Topo well they had
13 several times -- I don't know whether they were suggestions or
14 directives but indicated to you what they felt needed to be done
15 to bring those wells up to standard and they indicated that
16 there was a failure on your part to follow through and do that.

17 Is there a reason -- and you indicated today that you
18 had an awareness of what needs to be done that seemed separate
19 and apart from what DNR dictated.

20 Was there a reason that you chose not to do the things
21 that DNR suggested or directed?

22 **A. They suggested as maybe places to look and investigate**
23 **about that. I chose -- I didn't refuse to do what they wanted**
24 **done. They in my opinion when they talked about digging up the**
25 **pitless -- I think they mentioned that, that I refused to dig up**

1 the pitless. I never refused to do it. It was the time frame
2 and their requirements of what they wanted. They didn't want me
3 to dig up anything unless everybody was there. DNR, Lori,
4 myself, and whatever. And we never could get that together for
5 whatever reason.

6 One of the reasons was that they asked me to dig it up
7 and expose it during the time where the ground was frozen, it
8 was cold or muddy.

9 On two occasions I remember that very clearly because
10 I said well, if I start digging up the front of that where the
11 pitless is then I'm going to damage it by doing that. I told
12 them, I said I prefer not to do it. And they said well -- their
13 reply at that time for that particular that I remember they said
14 well, do you want us to hire somebody to do it? And I said no,
15 we don't need to do that, I've got my own backhoe, got fifty
16 horse of backhoe here so I can dig up anything I need to dig up.
17 But, later on shortly after that even I had Rick Guill who is
18 the well, my well, not mine but the fellow I go to to help me
19 determine what's going on with the well because he's more
20 knowledgeable and he fixes wells, that's what he does. He's a
21 pump service. To help me determine what the real problem was
22 with this well throwing out e. coli which is a very serious
23 problem and I recognize that. And I'm concerned about it and
24 still am.

25 What else can we do to see what's going on? So we got

1 his video cameras and all of his other type of equipment and we
2 inspected the pitless. There was nothing wrong with the
3 pitless.

4 I guess DNR felt that I was evading them or telling
5 them a lie or in some way avoiding them. I was not avoiding
6 them. I was trying to get to the bottom of what the real cause
7 of that problem is on that well. There was nothing wrong with
8 the pitless at that time.

9 But, we did discover that the line, the pipe that
10 connects on to that pitless was busted below the pitless, but it
11 had been repaired. It had been repaired. And I remember paying
12 another pump service to repair that. But, I did not tell them
13 to repair it the way it was. That's another pump company that I
14 will never do another business with at all.

15 Q. Mr. Cloverside from DNR testified that he had talked
16 to you and you indicated that you had -- and he says that you
17 indicated you had shocked the wells prior to realtors coming out
18 to take samples and prior to DNR inspections.

19 Did you tell them that?

20 A. No, sir. Prior to a DNR inspection was not a common
21 practice for me to do. DNR was there for a different reason.

22 We tried to -- it was a common practice when a realtor
23 wanted to take a sample, for example, for the lenders, that's
24 when -- that's the time that maybe a week before that we would
25 shock that well for them to ensure that there was nothing wrong

1 basically coming from the well because they usually wanted to
2 take that sample from the house or in some cases from the well.

3 Taking those samples is a delicate process. And we
4 really don't want to have chlorine in it; when they're taking a
5 test and then they test and get clear chlorine. Bleach is
6 chlorine also. Some people may not understand that bleach is
7 actually less powerful than chlorine tablets that they use in
8 these wells. Don't let any of the well people toss chlorine
9 down the well head, but they do. But, they'll toss a whole
10 handful just down there and then walk away. I don't like that.

11 But, it was a common practice and had been for twenty
12 years. I don't -- that was something I guess normal. And I
13 just followed through with that normal.

14 Since that time the learning process, again, is
15 another reason why I agree with DNR. They have more knowledge
16 and more guidelines and rules to follow that makes sense.

17 Q. It was indicated that among the other things that need
18 to happen at this point from DNR is that the Topo well needs to
19 be capped and that something needs to be done if you've taken a
20 well I believe on the Charity system that's not currently being
21 used, that those wells need to be plugged or in some other way
22 decommissioned, for lack of a better word. There have also been
23 mentions here and there of other issues with wells.

24 Given that you're down to the eight wells right now
25 how long do you believe it would take you to bring those wells

1 into DNR compliance?

2 **A. I would have to contact Rick Guill and get his**
3 **schedule.**

4 Q. Okay. So the answer is you don't know or can you --
5 do you have any idea of a time period whatsoever?

6 **A. I think it would probably be within maybe a ninety to**
7 **a hundred and twenty days. Just knowing that people are busy at**
8 **this time and the proper people to actually do that work.**

9 **I can't do it myself any more.**

10 Q. Now, DNR also said that they're drafting a
11 noncompliant well agreement. Correct?

12 **A. Yes, sir.**

13 Q. And that you've been given some time period to do some
14 things within that time period. Do you believe you're going to
15 get that done within that time period?

16 **A. Oh, yeah. Yes, sir. Some of it has already been**
17 **done. And reports have been made back to the DNR through Laura**
18 **Jean. However, I also understand that besides Lori I need to**
19 **reply to it also as the owner.**

20 JUDGE CLARK: Those are all the questions I have.

21 Does Staff have any questions based upon bench
22 questions?

23 MS. KERR: I don't have any, no.

24 JUDGE CLARK: Well, do you all have Redirect on
25 this one?

1 MS. KERR: No. I don't.

2 JUDGE CLARK: Mr. Blevins, is there anything else
3 you wanted to tell the Commission before I conclude this
4 hearing?

5 MR. BLEVINS: At this point I don't think so. I
6 just ask for consideration is all.

7 JUDGE CLARK: Okay. I would like to echo what
8 Commissioner Hahn said. I do appreciate your time today. I
9 appreciate your explanation. I wish in a lot of ways that I was
10 as articulate as you are. You're extraordinarily articulate
11 when you were explaining this to me, so I appreciate that.

12 Is there anything else that needs to be addressed to
13 the Commission at this time before I adjourn this hearing?

14 MS. KERR: I don't think so. Will there be a
15 briefing schedule?

16 JUDGE CLARK: I hadn't anticipated ordering one.
17 Did Staff want to do a brief?

18 MS. KERR: I would prefer to do a brief just to
19 put our argument together.

20 JUDGE CLARK: Okay. Mr. Blevins, do you
21 understand what a brief is?

22 MR. BLEVINS: Well, I pretty well know basically
23 what a brief would be. But, yes, sir.

24 JUDGE CLARK: It's basically a short -- it is...
25 What Staff will do is it is not actual evidence, it is

1 more along the lines of a Closing Argument, and it says looking
2 at the evidence from my perspective here is why I think I should
3 win and that's essentially it.

4 How long would Staff need to be a brief in this case?
5 I'm not going to do multiple rounds of briefing.

6 MS. KERR: Oh, no. Twenty days.

7 JUDGE CLARK: Twenty days?

8 MS. KERR: Fifteen days.

9 JUDGE CLARK: Now that presents a little thing to
10 me because Staff had initially asked for expedited treatment on
11 this as quickly as possible and I set a hearing date. Then
12 Staff requested to continue that hearing date.

13 MS. KERR: Ten days.

14 JUDGE CLARK: I'm not trying to shorten it too
15 much.

16 MS. KERR: That's fine. Ten days is plenty.

17 JUDGE CLARK: Let me -- I'm cognizant that Staff
18 is busy. I wasn't saying that to back you into a corner.

19 Mr. Blevins, do you object to twenty days for Staff to
20 do a brief?

21 MR. BLEVINS: I have no objection. I understand
22 that time is value.

23 JUDGE CLARK: All right. Well, today is the
24 twenty-sixth.

25 MS. KERR: You can make it less than that. Two

1 weeks is fine.

2 JUDGE CLARK: It will take about ten days for the
3 transcript. I don't see any need to expedite this transcript.
4 We're looking at about ten days on the transcript; that's about
5 where they've been hitting in that ten -- I believe our contract
6 says ten days.

7 MS. KERR: That's fine.

8 JUDGE CLARK: Some instances have come in at
9 longer than that.

10 The seventeenth of November is a Friday. I know that
11 typically we don't try and order everything on Fridays and I'm
12 not saying that Staff can't get it in before then. But, if I
13 set that seventeenth date of November is that sufficient time
14 for Staff to do a brief?

15 MS. KERR: Sure.

16 JUDGE CLARK: Okay. I will order briefs for the
17 seventeenth of -- I will set a brief deadline of the seventeenth
18 of November for briefs from staff and Mr. Blevins.

19 Mr. Blevins, I'm not going to force you to write a
20 brief because I think that's unfair. But, if you want to
21 provide any sort of writing as to why you think this hearing
22 should go your way or if you want to provide argument to that
23 that same deadline will apply to you. You will -- so you will
24 also have till November seventeenth if you want to submit a
25 brief as to why you think you should prevail in this.

1 Bear with me just a moment.

2 I will try and follow up by the end of the day on
3 Friday with a written order explaining the briefing schedule.

4 MS. KERR: Okay. Thank you.

5 JUDGE CLARK: Is there anything else that the
6 Commission needs to address before we adjourn this hearing?

7 MS. KERR: I don't think so.

8 JUDGE CLARK: Mr. Blevins, you had no exhibits.
9 Staff, I believe you only had eight exhibits and all
10 of those have been admitted.

11 MS. KERR: Correct. Thank you.

12 JUDGE CLARK: I would like to thank everyone for
13 this time over this one and a half day hearing. It went on
14 longer than expected. And I think everybody conducted
15 themselves very well. I appreciate that.

16 And with that I appreciate everybody's patience, and I
17 will adjourn this hearing.

18 We'll go off the record.

19 (Whereupon, Hearing was concluded at 11:55 a.m.)

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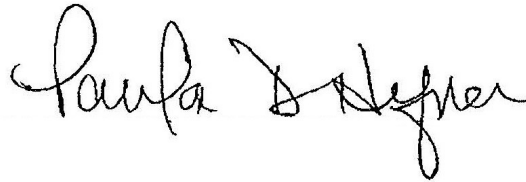
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CERTIFIED REPORTER'S CERTIFICATE
RSMo 492.010

I, Paula D. Hefner, a Registered Merit Reporter and Certified Court Reporter, within and for the State of Missouri, do hereby certify that there came before me on OCTOBER 26th, 2023 via WebEx, the foregoing EVIDENTIARY HEARING, and same was reduced to writing by me, according to my best knowledge and belief; and that EVIDENTIARY HEARING is a true and correct record of the testimony in said matter.

I further certify that I am neither attorney nor counsel for, nor related nor employed by any of the parties hereto, or financially interested in this action.



Paula D. Hefner, Reporter

1	accept 74:19	46:9 71:3	anecdotes 19:9
1 10:22 17:12,17 26:10 51:24	acceptable 25:21, 22	adjourn 96:13	answers 65:17 85:6 86:15 90:3
10:15 49:10,11	access 30:13,17 44:17	admit 62:21 63:13	anticipate 64:18
10:16 49:12	account 68:24 83:15,19	admitted 78:21 79:3	anticipated 96:16
1981 61:25	accountable 85:13	admitting 78:24	anticipation 54:6
1994 34:7	acquire 30:3	adopted 60:15,16	antique 60:19 89:3
2	acquired 51:7,14, 21 52:19 53:5 64:13 69:12	advance 79:19	antiques 60:20
2 5:3	acquiring 52:15	advantage 42:11	appearance 5:19 16:18
2006 61:14	acquisition 64:15	aerators 39:2	appearances 39:5
2023 5:2	act 45:23	afford 68:25 69:4	appeared 13:5 20:23 24:3 31:24 37:3
26th 5:2	activated 53:14 59:8 64:25 70:21 78:9	agenda 17:14	application 62:24
6	activities 33:14 48:13	agree 77:14 91:8 94:15	applications 8:8
6 13:16	activity 65:20	agreed 66:23	applied 18:22
8	actual 50:11 96:25	agreement 24:9 51:22 52:9 58:21, 22 62:6 66:21 76:10,11,15 77:7 79:1 82:1 83:17 91:1 95:11	appointment 5:6 86:12
8 6:24 76:20,24,25 77:2 78:21,24 79:3	Adam 8:10,21,22	agreements 57:14 58:4,18 60:8 64:13 77:8,11,14	approach 76:17
8:30 5:2	add 90:11	ahead 33:3 40:5 50:17 56:17 60:9	approached 38:10
9	addition 19:22 82:4	allegedly 34:15	approaches 44:20
9:51 49:9,12	address 19:12 31:5	alleging 19:6	approved 41:14, 25 78:18
A	addressed 53:18 96:12	allowed 13:8 22:15 35:8 84:3	area 38:14,17 41:6 54:10,20,21,22 67:22 69:21
a.m. 5:2 49:12,13	addresses 31:7	alluded 20:19	argument 96:19
ability 14:18 21:3 35:15 83:21	addressing 37:20	alternative 25:12, 13 38:5	arranged 57:25 58:6
absolute 43:16	adequacy 12:8,11	amount 18:4,21 40:22 58:11 81:21,23 83:4	articulate 96:10
absolutely 11:13 27:10 44:14 72:14	adequate 11:17 12:6 13:10 14:1 19:3 23:5 25:16 30:12 34:24 35:7	amounts 16:16	Aslin 6:13,14 40:2, 4,6,9 48:23
			assist 17:2,8,9,14, 15,20
			assistance 15:12 17:2

<p>assisting 28:18</p> <p>assists 32:16</p> <p>association 17:16 57:24 69:25 70:7 71:13</p> <p>assume 9:17 65:19</p> <p>assuming 36:2,3</p> <p>assumption 35:20,21</p> <p>attachments 66:2</p> <p>attack 16:6</p> <p>attainable 65:2</p> <p>attempt 8:25 17:25 37:2 43:4 44:18 54:17</p> <p>attended 10:10</p> <p>attending 5:14</p> <p>attention 47:24</p> <p>attitude 27:9</p> <p>attorney 6:5,9 18:6 57:25</p> <p>attorneys 85:7</p> <p>audit 21:11</p> <p>automatic 59:2</p> <p>avoid 26:18 74:6</p> <p>avoiding 93:5</p> <p>aware 39:14 47:15,18 78:18</p> <p>awareness 91:18</p> <p>awhile 74:5</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>back 19:12 49:10 52:18 53:25 55:13,20 57:8 61:6,11,19 63:22</p>	<p>67:5 69:24 70:8 82:10 83:2,5 89:24 95:17</p> <p>backhoe 68:3 89:10,11 92:15,16</p> <p>backhoes 68:2</p> <p>backup 12:23 33:4</p> <p>bacteria 34:2 38:22,23 48:16</p> <p>bacterial 25:18 38:12</p> <p>bad 14:16</p> <p>Baker 52:18,20 55:14 56:12 61:18,19 63:7</p> <p>Baker's 55:18 56:14</p> <p>balance 66:14 90:15</p> <p>bank 61:8,9,11</p> <p>bankruptcy 75:12, 14</p> <p>Bar 39:19</p> <p>barely 89:19</p> <p>base 31:1</p> <p>based 32:21 39:19,21,25 80:22 83:22,25 95:21</p> <p>bases 13:23</p> <p>basic 13:1 33:7</p> <p>basically 10:13 94:1 96:22,24</p> <p>basis 13:23 25:11 47:17 67:25 68:25 70:18 90:11</p> <p>bear 76:5</p> <p>beating 41:2</p> <p>Becker 51:15</p>	<p>begin 29:18 50:19 72:9</p> <p>beginning 56:9,10 68:16 70:10 71:9 82:11 84:17</p> <p>behalf 6:12 49:4</p> <p>behavior 37:7 48:3</p> <p>belief 59:23</p> <p>believed 18:3 30:15 31:23 43:12 44:8</p> <p>belligerent 72:14</p> <p>bench 27:24 39:19 95:21</p> <p>benchmark 34:11</p> <p>big 58:13</p> <p>bill 12:17 44:20 67:6,9,20,21 75:11 79:6,8,10, 12,15,18 83:9</p> <p>billing 23:12,13,24 24:6 32:17,24 40:18 67:5</p> <p>billings 67:6</p> <p>bills 23:21 24:7 32:15 40:11 79:10,11</p> <p>bit 17:19 21:14,15, 17 22:10,16 30:19 54:23 73:1 90:19 91:6</p> <p>bleach 94:5,6</p> <p>Blevins 5:20,21,25 6:7,10 7:3 8:12 9:3,10,13,14,23 10:8,14,18 11:6,9 12:21 13:25 14:10,23,25 15:3 27:19,21 28:16,19 29:16,25 30:10</p>	<p>31:3 32:22,25 33:9 34:15 36:6 37:14 38:10 39:14,21,23 40:15 41:24 42:10 43:2, 17,22 44:2,9 45:2, 7 47:11 49:3,5,16, 17,20,25 50:3,16, 19,20 59:13,16 65:25 66:3 71:17 75:22 78:23 79:2 85:24 86:5,11 96:2,5,20,22</p> <p>Blevins' 8:15 11:20 13:4 32:7 34:21 45:20</p> <p>board 71:10</p> <p>boards 29:21</p> <p>boil 14:15 38:4 39:13</p> <p>books 43:5</p> <p>borne 42:21</p> <p>bottled 38:5</p> <p>bottom 93:6</p> <p>bought 30:14</p> <p>box 49:22</p> <p>break 49:6,8,18</p> <p>breaking 18:7</p> <p>briefing 96:15</p> <p>briefly 43:10 53:21</p> <p>bring 14:3,11,19 49:22 91:15 94:25</p> <p>bringing 26:16 64:17 90:19</p> <p>brings 65:9</p> <p>broad 8:7 12:8</p> <p>broker 81:2</p> <p>brokerage 61:21</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>brother 55:19 56:14</p> <p>brought 39:7 47:24 57:21 66:3</p> <p>building 81:11</p> <p>builds 51:15</p> <p>built 51:20 61:20, 22</p> <p>burn 26:8</p> <p>burns 26:1</p> <p>bushes 41:2</p> <p>business 8:15 9:15 14:13 29:19 60:16 62:14,15 85:12,13 93:14</p> <p>businesses 23:22 61:4 89:6</p> <p>busted 93:10</p> <p>busy 32:18 62:12 95:7</p> <p>buy 89:16</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>C-U-R-T-I-S 8:1</p> <p>calculated 80:21</p> <p>calculation 67:16 80:19,22</p> <p>call 7:9,11 12:18, 19 17:4 24:17,19 27:14 33:17 34:15 49:1 52:25 53:23 60:15 61:9 79:18, 23 80:1 90:8</p> <p>called 38:17 63:9</p> <p>calling 13:8 90:8</p> <p>callous 33:17</p> <p>calls 12:18 45:19</p>	<p>cameras 93:1</p> <p>campers 13:5</p> <p>capabilities 29:9 32:7</p> <p>capable 61:13 85:1</p> <p>capped 94:19</p> <p>car 79:15,16</p> <p>care 6:21 52:21 53:1 64:24 68:25 70:11,12 74:13 76:12</p> <p>career 17:12 18:9</p> <p>Carolyn 6:13</p> <p>carry 46:12 69:7</p> <p>case 13:7 26:12, 18,19 31:16 35:17,18 39:7 40:15 43:18 45:22 46:3,5 49:15,19 69:2 72:5 74:8 75:16 81:12 84:25 89:20</p> <p>cases 18:10 26:22 43:19 72:4 73:3 83:10 94:2</p> <p>cash 70:3 83:13</p> <p>Casi 6:13</p> <p>casing 63:17</p> <p>caused 29:6 63:25</p> <p>caution 50:10</p> <p>CCN 45:22 62:20, 21,24</p> <p>CCNS 86:3</p> <p>centralized 19:4</p> <p>certainty 37:17 43:16</p> <p>certificate 9:24 14:11 21:1 26:13,</p>	<p>15 27:5,15,18 28:19 30:2 35:2,9, 17 62:20</p> <p>certificated 18:12 27:10 41:6</p> <p>Chairman 5:11</p> <p>challenges 12:22</p> <p>change 48:2</p> <p>changed 11:8 18:5,17</p> <p>character 66:17, 18 67:1 72:11 74:2</p> <p>characterization 31:20 44:8</p> <p>characterize 28:8, 23 48:1,9</p> <p>charge 41:12,13, 25 59:5 80:18 81:10,12,19 82:4</p> <p>charged 15:25 23:20 43:13 58:15 80:20</p> <p>charges 40:11 82:2</p> <p>charging 11:10 19:19 41:16,19 70:10 81:15</p> <p>Charity 30:22 53:14,24 54:1,2,3 65:4 87:16,25 88:2,12,17 94:20</p> <p>chase 37:15</p> <p>cheaper 42:23</p> <p>check 24:5 33:3 80:5</p> <p>checking 71:14</p> <p>chemical 26:1,7</p> <p>chief 49:15</p>	<p>children 25:25</p> <p>chlorine 26:1 36:12 48:6,8,11 94:4,5,6,7,8</p> <p>choice 14:20 75:13</p> <p>choices 58:6 84:5</p> <p>choose 5:16 29:19</p> <p>chose 19:2 91:20, 23</p> <p>chosen 30:10</p> <p>Circuit 5:6</p> <p>circumstance 29:12</p> <p>circumstances 45:9 53:17</p> <p>claim 44:21</p> <p>clarify 54:14 59:11</p> <p>Clark 5:1,8 6:2,8, 11,14,23 7:5,9,12, 17,20 14:23 27:21 28:2 39:17,24 40:3,5 48:25 49:3, 6,14,21 50:1,4,17 59:11,15 65:22 66:1 71:16 75:22 76:18 78:23 79:3 85:21 86:9,19 95:20,24 96:2,7, 16,20,24</p> <p>clear 16:9 30:5 45:8 53:11 94:5</p> <p>clearing 70:8</p> <p>client 72:6 74:15</p> <p>clients 57:17 58:24 60:4 64:10 66:16 67:14 72:1</p> <p>clogged 39:2</p> <p>close 42:8 73:11</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>closer 5:24</p> <p>Cloverside 87:10 93:15</p> <p>cognizant 7:1 36:15</p> <p>cold 92:8</p> <p>Coleman 5:12,14</p> <p>coli 33:22 34:4,10, 11 48:15,17 54:16,18 55:11,13 92:22</p> <p>collaborate 26:8</p> <p>collect 23:25 37:1 69:15 70:11,12 71:21</p> <p>collected 56:10</p> <p>collecting 83:2</p> <p>collections 68:18</p> <p>comments 72:21, 25</p> <p>commission 5:3, 11 6:13 8:3,8 9:16,24 18:11 25:21 27:2,22 29:15 31:10,15,18 34:21 36:2,4,6,15 41:14 50:9,18 59:16 60:24 65:15 75:24 85:21,23 86:9 96:3,13</p> <p>Commissioner 5:14 85:22 86:6 96:8</p> <p>Commissioners 5:10,11,12,16</p> <p>commissions 29:21</p> <p>committed 69:23</p> <p>common 93:20,22 94:11</p>	<p>communications 29:1</p> <p>companies 11:18 19:21 21:24 29:19 47:1 62:16</p> <p>company 13:1 14:14,18 15:14 16:1,3,11 17:3,4, 8,9,15 18:12 21:1, 2 25:18 26:13 29:9 31:25 32:12, 13,15 33:13 35:2, 4,8 38:7 40:10 41:5,16 46:23 48:10,19 81:12 93:13</p> <p>company's 21:25 47:1</p> <p>compare 16:2</p> <p>complain 20:12 26:3 39:5</p> <p>complained 13:18 22:24 23:3 36:22, 23 37:16,19,20</p> <p>complaining 13:8 25:25 63:25</p> <p>complaint 15:14 20:18 21:3 25:20 26:22 33:6 35:17 38:2 40:23,25 41:4,8,9 43:18 45:5 46:8,12,14, 15 65:14,17 66:4, 5 71:17 73:5</p> <p>complaints 9:21 10:18,20 15:4,7,8, 17,19,22,25 17:1 20:16,18 21:8 23:4,6 31:11,16, 19 36:10,14 37:1 38:25 39:11 45:16,17,18 46:10,16 59:4</p>	<p>65:10,12,18 66:4, 6,11,20 68:9,10, 11</p> <p>completed 49:15</p> <p>compliance 12:4, 16 14:3,11,19 35:5 95:1</p> <p>comply 47:5</p> <p>composed 5:11</p> <p>Computer 43:7</p> <p>concept 35:8</p> <p>concern 10:17,22 11:3,12 29:6 38:20 48:4</p> <p>concerned 17:18 30:16 92:23</p> <p>concerns 8:20 9:22 11:23 12:14 31:22 34:17 38:8</p> <p>conclude 96:3</p> <p>concrete 53:23 54:3</p> <p>condition 39:4 71:7</p> <p>conditions 26:17</p> <p>conduct 21:11 33:14</p> <p>conducted 68:7 73:14</p> <p>confidence 52:23 60:8 74:1</p> <p>confirmed 56:18</p> <p>conflicted 44:10</p> <p>conflicting 36:25</p> <p>confronting 37:4</p> <p>confusion 52:1,2</p> <p>connect 42:11</p>	<p>connected 53:25 54:3 55:18 56:10 89:2</p> <p>connection 37:24 42:9 55:5 89:1,25</p> <p>connections 65:6, 8 87:25 88:4,13, 14,19,23</p> <p>connects 93:10</p> <p>consideration 96:6</p> <p>consistent 24:7</p> <p>construct 89:10</p> <p>constructed 11:1 18:9 19:6,8 20:15 28:10 38:14 51:16</p> <p>constructing 18:16 51:19 61:19</p> <p>construction 14:17 61:23 89:7, 9</p> <p>consult 18:6 42:14</p> <p>consuming 35:14 84:9</p> <p>contact 8:19 15:12 31:3,4 80:5 87:4, 5,7 95:2</p> <p>contacted 15:11 20:20 31:21</p> <p>contacts 12:17</p> <p>contaminants 12:13 22:15</p> <p>contaminated 25:20 38:9,15</p> <p>contamination 25:18 38:12</p> <p>continue 54:6 70:4 75:2</p> <p>continued 35:3</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>continuing 31:18</p> <p>contract 18:7 51:7,8 86:25</p> <p>contractor 51:15, 18,22</p> <p>contractors 58:16 60:8 61:17 75:4,5 84:19</p> <p>contracts 11:7,8 18:1 51:16</p> <p>contractual 51:22 91:1</p> <p>contrast 32:12</p> <p>convenience 27:5 62:20</p> <p>conversations 27:16 45:19</p> <p>convert 69:23</p> <p>cooperative 10:1 62:22</p> <p>copies 43:19</p> <p>copy 32:23 76:20</p> <p>corner 75:13</p> <p>corporation 70:15,16</p> <p>corporations 71:11</p> <p>Corral 23:23</p> <p>correct 5:23 6:6,9, 10 11:22 25:12 28:4 36:18 40:14 41:14 44:7 47:9, 11,12,20 59:13 67:16 76:22 77:18 82:14 83:23 84:1 86:21 87:14,18, 22,24 88:11,24 90:10,21,24 91:2, 3,9 95:11</p>	<p>corrected 38:10</p> <p>corroborated 26:4</p> <p>Corvair 52:9</p> <p>cost 21:12,25 22:2 25:7,11 42:4,6 58:8,11,15,17 68:15 89:19</p> <p>costs 40:24 41:15, 17,20 42:18,20 59:24</p> <p>counsel 5:5,18 6:17</p> <p>count 67:14 88:18</p> <p>counties 19:2</p> <p>county 11:1 19:1 25:4 30:7,11 37:24 38:17 44:1, 2,10,11 55:6,17, 24 56:6,9,17 61:5, 25 82:23 89:1,2</p> <p>couple 24:11 32:17 50:21 51:2 52:20</p> <p>Court 5:6 18:17 33:6</p> <p>Covenant 54:4</p> <p>cover 24:5 89:19</p> <p>covered 23:18 54:4</p> <p>cracked 63:17</p> <p>create 53:6 61:16 72:9</p> <p>created 38:20 48:19 59:9 63:3 68:24 74:16</p> <p>Creating 72:15</p> <p>credit 61:9,10 75:7</p> <p>Cross 75:23 76:2</p>	<p>crutch 71:18</p> <p>cryptosporidium 34:6</p> <p>culture 33:23</p> <p>current 5:2 19:10, 11 69:6 87:25</p> <p>Curtis 7:11,16 8:1</p> <p>customer 12:10, 17,23,24 17:9 21:3 23:2,4 24:3,5 26:19 31:1,23 32:23 33:17 37:22 44:22 46:13 48:14 58:24</p> <p>customers 10:20, 22 11:5,15,24 12:5,18 13:2,7,18 14:4,20 15:11 17:13,15 18:1,15 19:23 20:12,20 21:14,19 22:1,24 23:3,5,20,21 24:2 25:5,24 26:3,21 27:16 28:25 29:2 30:14,25 31:2,7, 11 32:14,19 33:1, 2,5 35:7,11 36:21, 22,23 37:10,13, 16,19 38:6,21,25 39:7,12,13,14 41:16 42:21 43:11 47:9 48:21 58:19 79:23 80:19 81:25</p> <p>customers' 32:21 50:11</p> <p>cut 66:20 67:1,2,4</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>d/b/a 6:1</p> <p>daily 67:25</p> <p>damage 92:11</p>	<p>danger 10:24 33:21</p> <p>dangerous 34:3</p> <p>dangers 35:22 36:3 39:15</p> <p>data 23:9 63:1,2 84:8,13,14</p> <p>date 56:8 60:7 69:6 82:23</p> <p>dated 51:24</p> <p>daughter 62:8</p> <p>day 5:3 53:8 65:16 91:11</p> <p>days 67:10 95:7</p> <p>deal 46:19 54:12 62:12</p> <p>dealing 9:18 11:6 15:23 17:23,25 20:24 21:2 61:22</p> <p>debris 38:25 39:3</p> <p>debt 64:14,15 70:7</p> <p>decades 47:21</p> <p>December 51:24</p> <p>decent 33:15</p> <p>decide 57:7 83:22, 24,25</p> <p>decision 18:17</p> <p>decommissioned 94:22</p> <p>deed 51:3,23,24</p> <p>deeds 44:5 82:11</p> <p>deficiencies 35:21 36:3,5</p> <p>define 79:8</p> <p>degree 12:16 48:17</p> <p>delicate 94:3</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

delivered 65:20	68:4	discussion 9:20 10:11 16:18 43:8	9 80:7,11,13,14 87:4,5 88:9 91:11, 19,21 92:3 93:4, 15,18,20,21 94:15,18 95:1,10, 17
demanding 71:24	developer 19:2	discussions 29:12	DNR's 18:15,20 31:22 35:1,10
demonstrate 35:5 46:11	developments 19:1	disinfected 38:20	docket 15:15
demonstrated 14:2,18 24:14	dictated 91:19	disinfection 33:12,13 38:15 42:24	doctor 26:1,9
demonstration 13:10 26:6	dictates 48:19	dispose 17:6 45:11 51:5	doctor's 86:12
Department 8:4 10:21 34:16,18 47:4 53:13 62:10 70:22	difficult 45:6 54:12	disposed 86:25 87:1,21	document 24:9,13 27:8 70:1 78:8 81:7
depending 82:6	difficulty 46:2	disposition 87:1	documentation 20:21 22:22 36:25 45:3 52:3
depends 21:25 34:5 70:12	dig 37:22 91:25 92:3,6,16	disregard 33:17	documented 26:17 28:14
deposit 56:21 59:2	digging 91:24 92:10	dissatisfaction 22:25	documents 44:9 58:1 65:20,22
describe 9:12	direct 7:18 26:2	distance 25:8 42:19	dodge 11:2 53:5
description 51:9 84:22,24 85:1	directed 55:12 91:21	distress 28:13	dodging 17:22
design 42:14	directing 5:5	distribute 90:23, 25	dollar 59:22
desire 14:3	directives 91:14	distribution 12:13 19:4 22:10 39:1 51:12 56:7,24	dollars 18:4 21:13, 20,22 42:25 56:21 58:10,17,20 59:9, 10,20,21,24 61:10 62:4 64:2,3,5,19 66:15 67:7,14,15, 21,22,23 69:3,4,7 70:9 71:3 82:5 89:25 90:13,18
desk 43:10	directly 10:15 36:6 47:16	district 25:4,6 55:17	domestic 34:15
destroyed 33:4	disapproved 78:18,19	divide 80:25	Don 51:15 52:18, 19 55:14,18 56:11,14 61:18,19 63:7
detail 31:14	disconnect 66:24	Dixon 67:22	door 23:24,25 62:22
details 10:21 15:6 19:10	disconnecting 41:18	DNR 8:19 11:2 14:14 15:11,12,23 17:2 18:8,10,18 19:5,12 22:9 23:11 26:4 27:16 29:6 31:21,22 32:1,2 33:11 35:4, 22,23 36:4,6,18 37:19 38:8 39:13 41:4 45:21 54:12, 17,20 57:5 59:5,8 62:11 63:25 64:7, 25 65:6 68:15 71:7 76:6,10 78:8,	
detected 48:8,16	discount 58:22 59:1		
detection 48:17, 18	discounts 82:7		
determination 21:10 25:14 27:4 28:18 59:9	discover 47:23 93:9		
determine 17:24 19:7 20:1 21:6,9, 12 22:2 24:22 46:8 48:5 63:5 70:17,18 92:19,21	discovered 39:15 56:8 63:16		
determined 19:14 22:19 25:10 56:15	discovery 43:18		
	discrepancy 51:11		
	discuss 9:14		
	discussing 27:13		

<p>double 11:6 17:23, 25</p> <p>doubt 34:4</p> <p>downstairs 65:21</p> <p>drafting 95:10</p> <p>draw 61:9</p> <p>drill 57:9 58:7</p> <p>drilled 18:14</p> <p>drillers 51:17</p> <p>drink 10:23 72:17</p> <p>drinking 33:25 35:12</p> <p>driven 41:4</p> <p>DRS 85:5</p> <p>due 25:8 45:24 46:2 68:24 83:3, 15,19</p> <p>dug 56:3,4</p> <p>dump 13:9</p> <p>duties 8:5</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>earlier 17:21 21:6 44:6</p> <p>early 16:8 55:7</p> <p>earns 60:24</p> <p>easement 30:16 51:11,13 84:23</p> <p>easiest 25:17</p> <p>easily 29:9 43:23</p> <p>easy 38:18 42:9</p> <p>echo 96:7</p> <p>educational 30:1</p> <p>efficient 17:14</p> <p>effort 19:4 38:4 40:20 42:18 45:2</p>	<p>efforts 17:5,20</p> <p>eighty 50:20 82:5</p> <p>electric 46:18,25 67:17,20,21,23 69:17 81:8</p> <p>electricity 91:5,6</p> <p>electronic 15:15</p> <p>eliminate 27:6 54:19</p> <p>email 31:5 66:6</p> <p>emails 31:5 43:15 45:19</p> <p>emergency 29:4 79:24</p> <p>empathy 33:16</p> <p>employed 8:2</p> <p>employee 60:15, 25</p> <p>employees 47:2 60:13</p> <p>encounter 32:3</p> <p>encounters 37:16</p> <p>end 14:7 55:1 70:6 90:6</p> <p>endangers 14:4</p> <p>enemies 74:4</p> <p>engages 48:13</p> <p>engineer 42:14</p> <p>ensure 18:19 22:12 35:6 93:25</p> <p>enter 5:19 9:1 38:18</p> <p>entering 38:25 39:1</p> <p>entirety 73:9</p> <p>entity 13:8 16:12 18:11 31:8</p>	<p>environmental 12:4</p> <p>envision 35:2</p> <p>equals 87:23</p> <p>equated 64:1</p> <p>equates 59:22</p> <p>equipment 22:18 54:21 93:1</p> <p>equitability 71:5</p> <p>equitable 65:2 69:24 70:2 74:11, 22 75:9 90:8,10</p> <p>equitably 57:15</p> <p>erroneous 72:4</p> <p>establish 35:4</p> <p>estate 61:20,23</p> <p>estimate 81:13,16, 18,20</p> <p>estimated 81:9</p> <p>evade 19:5</p> <p>evading 93:4</p> <p>evasion 18:8 20:15</p> <p>eventually 38:24</p> <p>evidence 26:2 28:23 78:22 96:25</p> <p>evidentiary 5:4</p> <p>exact 81:21,23</p> <p>examination 7:18 15:2 17:10 28:1 40:8 50:2 75:23 76:2 86:18</p> <p>examining 16:1</p> <p>examples 13:12</p> <p>excess 20:3</p> <p>exchanged 31:4,5</p>	<p>exchanging 43:15</p> <p>excuse 7:3</p> <p>Exhibit 6:24 13:15 76:20,23 78:21,24 79:3</p> <p>exhibits 66:8</p> <p>exist 11:19 12:12 19:23 30:16 36:3 64:20</p> <p>existed 25:3 28:25 37:23,25 55:8 63:18</p> <p>existing 25:1 56:1</p> <p>exists 11:15 32:21 63:18</p> <p>expect 10:5 14:17</p> <p>expected 38:6</p> <p>expects 13:2</p> <p>expenses 57:18 59:9 63:24 64:4 67:12 70:11 74:14 80:23 81:3 90:12 91:4</p> <p>expensive 57:17</p> <p>experience 21:13</p> <p>experienced 12:21 37:3 38:12 48:5</p> <p>experiences 26:4 32:22</p> <p>explain 9:14,20 16:8 18:1 20:6 22:7 32:2 37:9 42:7 47:5 77:18 78:7</p> <p>explained 6:2 48:12</p> <p>explaining 96:11</p> <p>explanation 20:14</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

77:25 96:9	father 60:16	13 68:8 71:2 72:3 73:1,3	forty-five 69:7
explanations 38:1	faucet 39:2	fine 7:5 9:9 30:20	forty-four 63:1
expose 92:7	Federal 18:21 26:18	finished 71:5 75:18	forward 14:20
exposed 25:19	fee 51:3 58:15 66:22 70:18 79:22	fire 32:24	found 30:10 54:22
express 31:22 74:24	feel 45:23 74:10	firm 48:18 61:21	fourteen 88:21,22, 23 89:1 90:15
expressed 22:24 34:17 86:11 88:8	fees 41:19 67:17 83:16	fix 42:23 63:9 68:3,4	frame 92:1
extensively 56:13	feet 54:24 55:1	fixed 25:18 86:25	freeze 72:22
extent 35:15	fellow 92:18	fixer 63:9	front 66:2 67:19 92:10
extenuating 45:9	felt 38:2 46:4 88:9 91:14 93:4	fixes 79:14 92:20	froze 72:21
extraordinarily 96:10	fictitious 23:22	fixing 17:17	frozen 92:7
extreme 13:24	fiduciary 57:14	flat 25:8 79:22	frustrated 11:5
eyes 9:2	fifteen 49:8 65:6 67:21 82:5 88:14	Florida 55:15	frustrations 68:13,14
<hr/> F <hr/>	fifty 90:15 92:15	focus 28:18 45:22	FSC 57:19 59:6,12 73:13
facilities 9:2 14:3, 11,19	fifty-five 21:19,22 58:20 59:20 67:7, 14,15 82:4	folks 8:9 9:17 10:23 12:9 14:1 15:8,12,17 18:2 19:24 23:24 25:19 26:24 32:17,18 37:2,7 39:5,10 40:21 41:2,15 42:9,11,19 43:24	full 12:19
facility 14:15 16:10 78:25	fight 33:6 73:12	follow 91:16 94:16	funds 61:7
fact 54:25 72:19	figure 43:21 45:5 80:22	force 26:24	furnish 24:10 58:18,22 66:21 82:1 83:17
failed 18:12 38:24	file 5:7 15:14 33:5 75:12	forced 75:13	future 50:24
failure 91:16	filed 13:15,21 15:17,19 25:20 41:14 44:11 66:1 75:12 80:11,12 82:12,15,18	foresee 63:23	<hr/> G <hr/>
fair 68:23	filing 31:16 45:23 75:14	forgot 52:6	G-A-T-E-L-E-Y 8:1
fairly 86:13	finally 27:13 55:10,14 68:12	form 50:8	gain 41:18
faith 60:6 73:21,22	financial 33:14 61:12	formal 45:18 46:15	game 57:21
fall 35:1 47:19 48:3 65:3,4 88:9, 13	find 45:14 53:11 54:17 55:15 56:1,	forming 17:15	gas 46:18,25
familiar 8:12,14 9:19 10:25 58:3 61:2 70:15		formula 80:24 81:1,5	Gateley 7:11,12, 16 8:1 27:24
families 46:22		forty 16:19 54:25 61:10 75:7 90:13	gathered 45:24
family 60:17			gathering 52:14
farcical 50:5			gauge 23:8
			gave 65:15 71:20

gear 57:19	40:10 50:19 57:4	heads 72:21,22	honest 62:13
general 5:5 43:9 45:17 85:10,11	63:9,22 64:25 68:12 74:5,17 85:15 93:4 94:12	health 26:17 33:18 34:4	honestly 63:11 73:6,24
generally 8:5,18 26:24 37:6 40:23 41:1,21 46:14 50:5	guideline 73:18 88:14	hear 6:7,17 27:22 31:8 86:10	hooked 55:17 56:2,19,23
get all 63:7	guidelines 65:6 70:20,22,23 94:16	heard 16:16,21 19:9 29:15 36:10 37:23 38:1 66:20 68:10 72:16,21 74:3 86:3,4	hoping 90:5
Giardia 34:8	Guill 54:8 62:5,10, 17 63:16 80:15 92:17 95:2	hearing 5:4 35:19 36:11 50:9 78:24 79:4 96:4,13	horse 59:25 60:1,2 92:16
give 38:5 50:6,14 58:9 69:2 83:11	gut 34:2	held 30:25	host 34:2,8
giving 50:13	guy 53:1 62:5,12, 13 63:8	helps 60:18	hour 9:21 32:20
glad 75:20		hex 55:20	hours 61:1
glean 90:6	<hr/> H <hr/>	high 21:8,22 36:12	house 22:17 39:1 94:2
Glen 5:12	Hahn 5:13 85:22, 23 86:6 96:8	higher 22:16	households 88:6
goal 22:12 47:11	half 59:25 61:22 87:6	Hills 30:23 53:15 62:3 65:7 87:17 88:10,24,25 90:14	houses 9:1 28:7, 11 39:4 42:5 51:15 89:12,13
goals 71:8	hand 7:13 76:19	hire 92:14	human 34:4
good 5:1 7:23,24 32:23 33:23 34:5 49:7 55:7 60:6 62:1 64:8 70:23 71:6 73:21,22 74:16 75:16	handed 76:19 77:1	hired 9:18 18:6	hundred 34:7 54:24,25 55:1 56:21 64:2 67:14, 15,21,22 69:3 82:4 95:7
government 30:11	handful 94:10	historically 19:12	hundreds 42:25
governs 71:12	handle 60:4,20	HOA 58:2,7 70:9, 11,15,17,24 71:8, 10 73:18 89:24 90:1	<hr/> I <hr/>
granddaughter 60:15	hands 45:11	hold 13:1 56:14	idea 32:23,25 44:22 53:4 56:9 62:21 69:2 95:5
granted 26:15 27:18	handshake 52:7	holes 63:14	identification 53:10
grantee 51:5	handwritten 43:20	Holsman 5:12	identify 20:11 47:23
grantor 51:4,6	hangs 55:2 72:24	home 18:25	identifying 50:11
ground 22:14 23:18 25:8 38:19 55:1,19 58:12 59:25 91:5 92:7	happen 63:24 68:1 94:18	homeowner 17:16	illegally 19:17 29:17,24 47:25
group 25:19	happened 43:10 55:21	homeowner's 57:24 69:25 70:7 71:12	illicitly 41:7
groups 46:22	happy 73:13,15	homes 37:5,6,17 61:19,20	image 74:16
guess 21:9 34:14	hard 34:10 63:21 83:13 84:9 85:4		
	harm 48:21		
	head 72:17 94:9		

imagine 6:3 69:20	18:23,25 52:5 69:3 83:21	55:19	invited 31:2 36:21
immediately 10:6	individually 54:6 60:3	installing 19:3	involved 59:6 69:15 72:7 74:23 85:8
immune 34:5	individuals 46:22 88:15 90:23	insufficient 32:9	involvement 8:17 10:13 40:23 62:10 68:12 74:9
important 26:11, 12 67:11	industries 46:18	integrity 11:3	irritation 48:5
improperly 25:24	industry 46:17	intensive 86:2	issue 12:10,11,25 13:10 56:22
improve 38:3 60:7	influence 37:4	intentionally 11:2 18:14 74:5	issues 13:11 32:15 94:23
improved 52:24 60:9 75:2	inform 86:8	interest 52:4 69:5 83:21	
improvements 64:20	informal 45:18 46:15	interfere 72:9	
improving 61:7 64:17	information 10:10 13:18 15:23 17:10,19 30:24 31:3,4 32:23 43:17 45:24 46:2, 3 50:12 53:18 55:7 62:25 63:1,2 84:15,20	interim 5:5 47:8	<hr/> J <hr/>
inability 14:2	informed 30:1 39:14	intermingle 64:22	Jason 5:12
incentive 61:16	infrastructure 14:12 32:8 33:7, 24	interrupt 90:2	Jean 76:8,9 80:17 95:18
incentives 58:21	initial 8:19 16:17 17:10 27:4,9 30:8	introduce 22:15	jeopardy 31:24
inch 22:12 55:20	initially 9:3 55:17 86:20	introduction 23:19	Jim 51:18 63:7
include 36:16	inquired 55:6	invested 61:7	job 8:5 63:6 71:6
inclusive 36:20 66:2	inspected 54:21 93:2	investigate 20:13, 18,19 23:6 26:3 27:11 33:12 46:7, 13,15 55:10 91:22	John 5:8
income 69:17	inspection 28:9 93:20	investigated 25:15 68:8 72:2 73:1	Judge 5:1,8 6:2,8, 11,14,23 7:5,9,12, 17,20 14:23 27:21 28:2 39:17,24 40:3,5 48:25 49:3, 6,14,21 50:1,4,17 59:11,15 65:22 66:1 71:16 75:22 76:18 78:23 79:3 85:21 86:9,19 95:20,24 96:2,7, 16,20,24
inconsistent 37:18	inspections 8:9 93:18	investigating 9:22 55:4	jurisdiction 47:19 48:3 88:13
incorporated 13:14 57:24	inspectors 20:10	investigation 8:14,18,21 10:19 15:24 16:8 21:1 22:3 24:22 25:5,9 28:25 32:5 45:20 53:18 72:4 73:15	
incorrect 21:9,11, 21	install 22:17 42:24	investigations 8:9 29:19,24 53:19 54:19 68:6	<hr/> K <hr/>
increase 58:13 59:21	installed 33:12	investigators 20:10 71:18	karst 38:17
increases 40:24 63:25 64:1		investment 89:23 90:4,10	Kayla 5:13
incur 42:20			
independent 60:25			
indicator 33:22 34:1			
individual 17:3			

keeping 90:12	laid 42:17	Leon 49:25 50:3, 20	lot 11:3 12:18 13:5 20:8,9,10 23:18 30:7,15 34:14 42:18,23 50:23 58:2 61:2 63:23 64:16 72:25 85:5 96:9
Kerr 6:12,13,14,22 7:2,8,11,19,22 14:21 49:2 75:25 76:3,17,19 78:21 79:5 85:19 95:23 96:1,14,18	large 33:24 41:21	letters 31:2	lots 29:20,21 30:15 38:19
Kevin 52:5	larger 31:1 46:19, 25	level 31:14 48:7	low 21:8,14 39:12
key 27:1	late 41:19 56:8 57:21 83:16	licensed 26:5 40:13 42:1 76:7	lower 21:24
kill 34:4	Laura 76:7,9 77:6 80:17 95:17	licensing 18:24 35:1	lumber 89:13
killed 34:7	law 5:8 11:19 16:2 18:21 19:12,13, 14,15,25 35:5,11 41:13 74:6,25	lie 93:5	
kind 12:22 13:3 26:23 29:4 33:7 35:15 37:4 38:5 47:16 50:7 52:6 55:11 60:18 63:21 69:10,20 76:4 80:19 83:13 89:9	laws 19:23,24 26:18 53:5 75:11	life 63:10 75:12	M
kinds 33:4	lay 10:5	lifetime 61:4	made 21:10 27:14 28:17 30:16 50:13 52:24 57:14 64:12 65:18 74:4 77:21, 22 78:3,4 85:14 87:1 95:17
knowing 48:9 95:7	laying 9:2	likes 60:20	Maida 5:12
knowledge 15:10 47:13 74:25 78:5, 7 94:15	lead 15:18	limit 48:21	mail 65:20
knowledgeable 92:20	leak 12:13 22:13 68:1,2	limited 28:9 31:7	main 71:8
Kolkmeier 5:13	leaking 22:13,14	lines 22:14 42:8 51:12 89:10	maintain 39:11 42:24 60:19
L	leaks 68:5	listening 5:15	maintained 33:10
lack 11:25 12:9,14 13:10 14:2,12,15 33:7,15 37:16,18 40:19 46:3 47:13 94:22	learned 17:18 25:3 28:25 31:6	live 24:21	maintenance 12:15 28:11 67:24 68:5 81:9
Lackadaisical 68:7	learning 27:16 78:9,15 94:14	lives 10:24 33:21	major 18:17
lacking 32:8	learns 41:6	loan 61:9	make 11:16 12:12 17:4 26:19 27:1 33:19 35:10 42:9, 22 44:12 53:12 57:20 58:1 68:18 72:18 77:15 83:11
lacks 14:11 33:13	leave 72:13	loans 89:14,16	makes 29:16 60:24 94:16
Laclede 67:20	ledger 43:12	local 25:5	making 17:20 76:11 83:14
lady 60:14	ledgers 43:6	locating 46:2	
	left 6:18 49:14 53:12 71:5	lock 44:16	
	legal 30:3,13 44:12 51:9 84:22	logic 34:20	
	legally 9:25 23:4 30:17 60:15	logically 34:24	
	lenders 93:23	long 14:15 16:13, 14 20:15 42:19 43:1 54:24 74:2 94:25	
	lengthy 66:12	longer 48:3 70:7	
		looked 17:22 36:4, 6	
		Lori 78:12,17 92:3 95:18	
		lose 29:2	

<p>Manager 8:3</p> <p>manner 11:11 38:14 41:23 52:11 63:8 66:17</p> <p>Mark 51:21 69:13</p> <p>marked 76:20</p> <p>married 74:1</p> <p>matter 5:4 35:3</p> <p>matters 6:20</p> <p>means 42:17</p> <p>meant 17:12</p> <p>medical 50:23</p> <p>meet 10:7 46:21</p> <p>meeting 10:4,9 16:17 23:13,15,16 24:1 27:4,9,12 30:8,25 31:4 36:19 37:22 47:1</p> <p>meetings 32:1</p> <p>member 20:20</p> <p>members 27:13 29:13</p> <p>memo 13:14,20</p> <p>memorandum 13:15</p> <p>memory 21:18 36:13</p> <p>mention 23:13 62:16</p> <p>mentioned 15:4 17:21 19:13 20:16 21:6 22:5,20 23:2, 12 37:21 66:6 71:20 91:25</p> <p>mentions 94:23</p> <p>met 9:3,14 10:8 16:7 24:1 29:25 59:18</p>	<p>meter 41:21 56:18 67:8,19</p> <p>meters 67:8</p> <p>microphone 5:24</p> <p>miles 42:16</p> <p>military 50:21 61:24</p> <p>millions 42:25</p> <p>Milwaukee 34:7</p> <p>mind 6:18 26:12 42:19 64:10 72:8</p> <p>mine 52:12 61:15 92:18</p> <p>minimum 22:9 35:4,11</p> <p>minus 80:25</p> <p>minute 28:16 49:8</p> <p>Missouri 19:18</p> <p>mistake 74:9</p> <p>Misty 5:7,21 6:1 23:23 30:22 53:14 54:10 65:5 72:5 87:17,19 88:19, 21,25</p> <p>mode 16:5 57:11</p> <p>money 33:15 37:1 42:18 59:5 64:14, 16 66:13 69:15,24 70:11 71:21,23 75:5 79:13 83:3,4</p> <p>monopoly 11:16 19:23</p> <p>month 32:3 59:10 64:2 67:7,14,15, 21,22 69:4,17 70:9 71:3 81:9 82:5,8,9</p> <p>monthly 59:4 61:11 62:6 67:25</p>	<p>68:25 70:18 90:11</p> <p>months 24:6 25:20 33:2,3 58:25 66:14,23</p> <p>morning 5:1 7:23, 24</p> <p>mortgage 81:2</p> <p>motivated 71:19 73:2</p> <p>motor 55:2</p> <p>motors 69:20</p> <p>Mountain 23:23 30:22 53:14 54:10 65:5 72:5 87:17, 19 88:19,21,25</p> <p>move 5:24 42:12</p> <p>moving 49:15</p> <p>mud 39:3</p> <p>muddy 92:8</p> <p>multiple 19:3 23:2 33:2 34:25 37:13 38:1,13,22 42:15</p> <p>municipalities 25:6</p> <p>MW-01 53:11</p> <p>MW-24 53:11</p> <p>myriad 36:10</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>names 9:7 23:22 50:11 62:17</p> <p>narrative 50:8</p> <p>Natural 10:21 34:17,18 53:13 62:11 70:22</p> <p>nature 15:22 16:8 36:14 46:11 60:25 68:7</p>	<p>necessarily 39:6 45:13,18 48:18</p> <p>necessity 27:5 62:21</p> <p>needed 16:12 61:8 62:24 68:2 91:14</p> <p>needing 75:3</p> <p>negotiate 24:3</p> <p>neighborhoods 42:6</p> <p>neighbors 42:13</p> <p>nicer 19:16</p> <p>nineteen 65:8 88:12,24,25</p> <p>ninety 95:6</p> <p>non-payment 67:3</p> <p>noncompliant 95:11</p> <p>nonoperational 53:22 54:9 88:16, 18</p> <p>nonprofit 70:24 71:12</p> <p>norm 48:10</p> <p>normal 75:8 94:12,13</p> <p>notes 6:24 49:22 71:14</p> <p>notice 11:9 53:10 67:10</p> <p>notified 73:4,7</p> <p>notify 77:17</p> <p>number 12:19 14:6 24:6 25:4 31:7 35:11 36:14 42:17 45:16 46:19 79:25 80:1</p> <p>numbers 58:9 81:3</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<hr/> <p>O</p> <hr/> <p>oath 7:17 50:1</p> <p>object 70:23 74:21</p> <p>objecting 64:7</p> <p>objection 50:13, 15 78:24 79:2</p> <p>obligations 57:13</p> <p>observation 28:7</p> <p>observe 37:11</p> <p>observed 37:10</p> <p>obtained 26:2</p> <p>obtaining 28:19</p> <p>occasion 78:12</p> <p>Occasionally 41:5</p> <p>occasions 62:18 92:9</p> <p>occurs 48:20</p> <p>October 5:1</p> <p>offer 83:15</p> <p>offered 6:25 30:1 52:16 82:7</p> <p>offering 11:10</p> <p>offers 40:11</p> <p>office 6:16 32:16 43:3 82:13,16</p> <p>offices 32:3</p> <p>Opening 89:18</p> <p>operate 9:24 11:18 14:19 17:7 22:1 26:14 27:17 29:10 35:8 90:20</p> <p>operated 20:7 89:12</p> <p>operating 16:22 19:16,24 22:22</p>	<p>23:4 26:13 29:17, 23 33:7 35:24 41:6,18,23,24 47:21,25 56:25 58:12 71:7 75:1</p> <p>operation 11:21 16:15 20:3 22:23 43:9 53:24,25 63:19</p> <p>operational 29:7</p> <p>operations 19:13 22:2 25:16 34:22 35:3 78:25</p> <p>operator 26:5,6 76:7</p> <p>opinion 11:20 13:25 35:13 57:16 68:6,7,11 70:2 72:15 74:12,20 90:12 91:24</p> <p>opportunity 30:1 50:7 66:9 83:11</p> <p>opposed 46:25 57:16 62:11</p> <p>option 13:24 46:4 70:3,4</p> <p>order 5:5 14:15 18:11 38:4 42:12 48:4 57:8 70:11 84:19</p> <p>ordered 65:24</p> <p>ordering 96:16</p> <p>organisms 34:13</p> <p>organization 70:24 71:12</p> <p>originally 52:18</p> <p>oust 27:5</p> <p>outages 12:9,14, 15 22:24 39:12</p> <p>outcome 48:2</p>	<p>Outlaw 23:22</p> <p>outright 86:23,24</p> <p>overcharge 62:13</p> <p>oversee 8:7,9</p> <p>oversees 25:19</p> <p>oversight 11:25 29:21 35:15,16</p> <p>overview 28:23</p> <p>owe 64:14 69:3 75:8 90:12</p> <p>owed 62:4 66:13 83:3</p> <p>owned 30:11,15 44:4 58:16 61:20 68:21 70:16 86:20,23 89:3</p> <p>owner 32:15 45:14 51:4 66:23 95:19</p> <p>owners 85:7</p> <p>ownership 30:4,7 45:8 52:12 82:12 85:9</p> <p>owning 51:19</p> <p>owns 36:6 43:22, 23 44:16,17,19</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>paid 32:25 33:1,3 41:17 59:19 60:22 64:4,15 67:24 68:20 82:20 83:3, 9</p> <p>painted 28:12</p> <p>paper 32:14,15 43:7 67:7</p> <p>Pardon 78:2 79:7 81:17</p> <p>parked 13:5</p>	<p>Parsons 51:18 63:7</p> <p>part 6:7 8:19 9:2 26:11,12 27:1 30:8,9 31:11 41:8 43:18 56:12 62:4 63:6 90:1 91:16</p> <p>participate 5:17</p> <p>parties 5:18 74:23</p> <p>partner 61:18</p> <p>party 45:6</p> <p>past 37:11 50:24 68:24 83:3,15,19</p> <p>pathogenic 34:12</p> <p>pathogens 34:3</p> <p>pay 21:15 44:22 57:18 58:22,24 59:2,4 60:23 61:11 62:5 66:22 67:11 68:23,24 69:4 70:2,3,4 75:8,11 81:11,21, 23 82:6,8,16,18 83:4,13,24 91:2</p> <p>paying 11:16 14:6, 7 18:3 33:1 36:23, 24 40:22 69:16 70:5 89:25 93:11</p> <p>payment 67:10 69:6 79:6,8,12,15, 18,19 83:2,12,14, 17 85:14</p> <p>pedal 72:24</p> <p>people 17:22 18:22 24:20,23 29:14 33:14,19 34:7 35:14 37:3 40:12,18,20 41:18 42:17 46:22 51:14 57:14 58:5,24 59:17 62:1,15 63:24 64:12,14</p>
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>68:17,19,21,22 69:16 70:14 71:21 72:3,10 74:3,12 80:14,20 81:12,19 83:2,13 85:7,16 86:3 94:6,8 95:7,8</p> <p>people's 67:1,2</p> <p>perfect 46:5 52:22</p> <p>perform 68:5</p> <p>period 57:3 70:6 95:5,13,14,15</p> <p>periods 36:11</p> <p>permanently 66:24</p> <p>person 5:16 10:6 16:7,13 26:17 32:16 37:13 40:10 45:19 48:5 54:7 71:21 74:13 80:7 83:8,25</p> <p>personal 12:21 23:16</p> <p>personally 10:7,8 19:9 24:2 65:20 71:23 74:9,16 82:20</p> <p>Petition 5:4,6 13:15,22 45:23 47:8</p> <p>phone 12:17 32:20 45:19</p> <p>phonetic 34:8 54:9 87:10</p> <p>photographs 28:15</p> <p>physical 20:23</p> <p>physically 38:24 72:12</p> <p>pick 6:18</p> <p>pictures 72:8</p>	<p>piece 67:7</p> <p>pipe 72:23 93:9</p> <p>piped 13:7</p> <p>pitless 54:20,21, 22 55:3 91:25 92:1,11 93:2,3,8, 10</p> <p>place 20:25 21:5</p> <p>places 52:15 91:22</p> <p>plan 81:5</p> <p>play 63:23</p> <p>plugged 57:7 94:21</p> <p>plugging 57:5 63:14</p> <p>point 6:23 16:4,25 27:13,20 32:8,9 33:20 45:25 49:7 60:2 64:25 71:10 72:16 75:19 78:10,13 94:18 96:5</p> <p>points 32:6 54:14</p> <p>pool 82:3</p> <p>poorly 33:10</p> <p>position 8:2 16:25 29:23 40:15</p> <p>positions 20:22</p> <p>positive 38:22,23</p> <p>possession 51:23</p> <p>potential 38:13 39:15</p> <p>potentially 15:23</p> <p>pounds 22:12</p> <p>power 18:19</p> <p>powerful 94:7</p>	<p>practice 93:21,22 94:11</p> <p>practices 48:10</p> <p>predecessor 32:1</p> <p>predict 36:22</p> <p>prefer 58:23 92:12 96:18</p> <p>preliminary 6:20</p> <p>prepare 57:25</p> <p>prepay 58:22</p> <p>presence 33:22</p> <p>present 5:10 36:5 46:5 48:7 53:23 58:8 61:7 64:18 71:2 78:15 88:18 89:7</p> <p>presentation 27:1</p> <p>presented 8:20 72:3</p> <p>presiding 5:9</p> <p>pressure 12:10,12 22:5,6,7,9,17,19, 25 23:3,4,8 39:12</p> <p>presumption 29:18</p> <p>pretty 8:7 69:22 81:2 96:22</p> <p>prevent 13:11 48:21</p> <p>preventative 12:15</p> <p>previous 18:10 61:22 65:14</p> <p>previously 60:16 76:20</p> <p>price 21:7,16 24:3</p> <p>prices 21:6 63:25 68:15,16</p>	<p>pricing 21:8,9</p> <p>primarily 25:8 30:21</p> <p>prior 13:17 49:17 68:21 93:17,18,20</p> <p>priority 17:12,17</p> <p>privacy 26:18</p> <p>problem 12:23 16:20 17:1 34:12 44:13,23 46:14 48:18 50:25 51:9, 10 53:1 55:12 57:12 63:13,14, 15,18 92:21,23 93:7</p> <p>problems 25:23 28:14,24 29:7 34:12 50:23 53:16 64:20</p> <p>procedures 75:9</p> <p>proceeding 5:9</p> <p>proceedings 74:3</p> <p>process 9:16 15:13 27:10 30:4 51:25 54:11 57:13 63:5,21 71:25 72:4 78:9,15 79:13 82:21 86:2, 16 94:3,14</p> <p>product 37:4</p> <p>professional 9:18 21:13</p> <p>profit 70:25 71:1 89:21,22 90:5,6</p> <p>progress 74:15</p> <p>prohibitive 25:7 42:5,6</p> <p>prompted 68:11</p> <p>proper 14:13 21:16 30:2 44:12</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

45:11 63:8,12 85:17 95:8 properly 14:19 18:16 26:14 27:17 29:10 45:4 84:20 87:2 properties 30:12 43:22,23 51:5,13 54:4 property 30:6 44:3 51:4 55:16 58:9 72:12 82:16,19 prosecute 44:18 protect 11:15 19:22 47:9 64:11, 12 protections 11:19 12:5 provide 8:8 21:12 24:15,21 25:7 30:12 34:23 63:1 65:24 79:17 81:5 84:22 provided 10:21 24:9 58:25 65:23 68:20 70:1 73:8 77:6 80:1,14 81:8, 10,14 provider 24:15 30:17 34:23,25 37:25 41:17 45:8, 13 providing 16:7 17:3 31:9 33:18 44:2,20,21 46:9 51:20 provision 13:6 17:8 provisions 16:2 PSC 10:16 11:2, 12,15,22 12:3 13:21 15:14	19:10,20 20:25 21:24 28:18 29:4 31:25 35:5,11 37:20 40:13,16 41:9,10,22 43:9 44:23 47:2,5,19 59:12,14 70:20 73:14 81:6 87:8,9 psi 22:12,23 public 6:16 8:3 9:16 10:10 11:10 19:19 23:15 24:16,17,19 25:10 29:15 30:22,24 36:19 37:22,24 40:11 42:4,18 53:13 55:6 57:1 59:16 70:21 77:12,13 Pulaski 11:1 19:1 25:3 38:17 55:6, 17,24 61:5,25 89:1,2 pump 54:8 55:2 62:5 92:21 93:12, 13 pumping 42:16 pumps 69:20 punch 19:3 punish 47:11 purchase 52:7 62:7 purchased 52:11 68:17 purporting 37:7 purpose 19:17 20:2 29:17,24 47:8 51:20 pursue 40:19 47:17 put 15:12 18:22	23:8 27:6 44:16 48:13 55:18 56:14 58:12,14 59:25 71:8 72:16 81:3 84:23 96:19 putting 10:24 24:15 <hr/> Q <hr/> qualify 65:6 question 7:21 19:7 30:20 56:20 79:7,21 83:1 84:12 85:18,24 questioning 30:9 questions 6:3 7:19 14:22,24 15:3 27:19,22,24 28:2 39:18,19,20, 21,22,23,25 40:1, 2,9 48:24 50:6 73:23 75:20 76:3, 4 77:19 85:19,21 86:10,14,15,19 95:20,21,22 quick 59:11 69:22 quickly 33:11,24 45:24 62:25 67:17 86:13 <hr/> R <hr/> raise 7:13 68:15, 16 raised 21:19 rapidly 16:9 rate 11:7 18:5 81:16 rates 11:17 12:1 14:5 21:24 41:13, 25 81:6	re-claim 89:13 re-document 13:19 reach 12:20,23 reaching 25:5 29:1 read 15:18,19 65:11 84:15 readily 33:23 reading 71:14 ready 57:11 real 59:4,11 60:11 61:20,23 63:18 74:4,8 92:21 93:6 realized 20:23 realtor 93:22 realtors 93:17 reason 19:24 26:16 29:20 30:10 38:20 39:9,10 41:1 51:8 52:12 53:4 62:14 66:3 67:3 82:25 88:17 91:17,20 92:5 93:21 94:15 reasonable 11:17 25:11 40:22 71:24,25 reasons 26:10 89:24 92:6 recall 10:11 15:16 23:19 28:13 44:7 receipts 84:9 receive 15:5 31:7, 15,18 35:6 41:5 55:7 91:2 received 9:22 10:20 15:7 21:1 24:7 28:11 31:3, 10 36:15,16,25
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>37:1 38:25 39:11 45:16,18 46:10 65:12,19</p> <p>receiver 5:5,6 44:23,25 45:10,23 47:9 63:22,23 64:9 65:18 74:18, 19</p> <p>receivership 13:22,24 18:13 27:15 28:20 34:21 35:19 50:9 57:16 61:6 65:17 74:8 75:16</p> <p>receives 35:2 46:8</p> <p>receiving 10:18 13:3 14:1 17:19 26:6 29:1 35:7 36:11 40:21 53:19 62:25 67:10</p> <p>recent 13:18 51:21 52:7 90:14</p> <p>recently 28:12 53:14</p> <p>recess 49:11,12</p> <p>recognize 66:11 77:5 92:23</p> <p>recollection 29:4</p> <p>recommend 27:14</p> <p>recommendations 8:8</p> <p>recommending 28:19</p> <p>record 5:19 7:25 30:11 49:11 78:24 79:4 88:3 90:12</p> <p>recorded 30:7 45:4</p> <p>recorder 23:9</p> <p>Recorder's 82:13, 16</p>	<p>recording 44:4</p> <p>records 30:6 32:24 33:4 43:3,7, 8,16,20 44:3,10 46:3 82:12 84:10, 11,21,22 85:3,4,6, 10,11,12,13,17</p> <p>recourse 33:4</p> <p>recover 41:15</p> <p>recovering 41:16, 20</p> <p>recreational 37:4</p> <p>rectifying 19:11</p> <p>Redirect 39:24 40:3 95:24</p> <p>reduce 12:15</p> <p>reducing 22:18</p> <p>refer 32:4</p> <p>reference 17:25 21:7 43:12 52:8 53:17 54:15 55:21 62:10</p> <p>referenced 43:11</p> <p>referral 41:5</p> <p>referrals 41:4</p> <p>referred 60:14</p> <p>referring 43:12 59:6,17 65:23 85:15</p> <p>refuse 91:23</p> <p>refused 72:14 91:25 92:1</p> <p>regained 18:18</p> <p>regard 10:16 11:24 28:7 50:10 91:4,12</p> <p>Regional 32:2</p> <p>regular 86:3</p>	<p>regulate 18:18 32:13 34:19 41:2</p> <p>regulated 11:21, 22,24 12:3 16:3, 11 26:22 29:20 31:25 34:16 42:2 46:16 47:14</p> <p>regulation 11:2 41:22 47:2 88:9</p> <p>regulations 12:4 17:7 18:8,22 22:9 24:8 47:6</p> <p>Regulatory 5:8</p> <p>reiterated 89:19</p> <p>related 37:14</p> <p>relation 48:15 50:9 58:11</p> <p>relations 60:17</p> <p>relationship 14:14 61:17</p> <p>relationships 62:1</p> <p>relative 32:16</p> <p>relay 37:16</p> <p>relayed 25:23 32:22 38:8 43:25</p> <p>relief 26:23</p> <p>relying 43:25</p> <p>remedied 29:9</p> <p>remember 8:24 9:5,7,10 22:21 23:11,18,20 27:12 28:21 29:11 30:8 55:20 56:12 76:7, 15 92:9,13 93:11</p> <p>remembered 56:13,15</p> <p>reminding 7:6</p> <p>remodeling 89:11</p>	<p>rent 81:10,11,12</p> <p>repair 68:2 93:12, 13</p> <p>repaired 33:11 54:7 57:6 93:11</p> <p>repairs 76:11 77:22 78:4 90:13</p> <p>repeated 28:24</p> <p>replaced 69:21</p> <p>reply 66:9,10 92:13 95:19</p> <p>report 70:1</p> <p>reports 58:1 95:17</p> <p>representation 30:3</p> <p>represented 6:4,9</p> <p>representing 5:21, 25 6:4,8</p> <p>request 12:24 15:12 79:5,8,12, 15 84:8,13,14</p> <p>requesting 34:20</p> <p>required 24:7 34:23 78:8</p> <p>requirement 35:4</p> <p>requirements 57:20 92:2</p> <p>requires 91:5</p> <p>research 84:21</p> <p>residence 22:7 59:20 66:25 82:2</p> <p>residences 22:6 60:4</p> <p>residents 40:12 55:23 57:8</p> <p>resolution 66:19 73:17</p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

resolve 73:12	87:17 88:10,24,25 90:14	samples 76:12 77:16 93:18 94:3	14:2 16:7 19:19 21:12 24:16 25:7, 10 26:6 29:2,15 30:12,13 31:9 32:20 34:24 35:7 37:18,19 38:3 44:2,20,21 46:9 54:8 59:16 81:9 92:21 93:12
resources 10:22 16:12 32:9 33:14 34:17,18 40:19 53:13 62:11 70:22	roofs 28:12	sampling 18:24 35:1,4 48:20	serviced 54:4
respect 89:23	routinely 22:24 34:3 48:12	sat 56:12	services 13:2 67:23 79:12,17
response 48:15, 19 84:13	Rowden 51:21 52:6 69:13	scale 28:22	servicing 19:19
responses 84:8	rule 50:14	scenario 51:18	session 10:10
responsibilities 8:6	rules 11:25 12:12, 16 14:6 18:15,20, 24 19:5,20,21,22 20:4,15,25 21:24 35:1,10 70:20 94:16	schedule 95:3 96:15	set 5:3 12:1 18:14, 20 19:22 33:24 70:10 71:11 83:15
responsibility 45:10 53:3 64:11 69:1 83:14	run 19:9 36:9 42:5 60:19 70:16 89:23	scope 80:5	seventeen 62:3
responsible 45:6	running 89:20,22 90:5	Scott 5:11	seventy 21:20
rest 11:3	Rupp 5:12	scrutiny 12:4	sewage 13:6,9
results 48:11	RVS 13:5	searching 40:17	sewer 8:4 46:17, 21,23 47:4,24 89:10
retired 50:21 53:7 61:24	<hr/> S <hr/>	seated 7:20	shape 52:22
retirement 53:7 57:11	safe 11:4,17 14:1 25:15,16 26:6 29:8 30:12 34:23 35:7 39:10 40:21 46:9	secretary 43:14 58:1	shift 21:2 28:18
return 12:17	safety 10:22 12:10,11 13:9,11 17:12 18:19 31:24 33:17 38:8 48:4	secure 39:9	shifted 27:9 45:22
returned 53:6 55:15	saith 7:17 50:1	Security 50:22	shifts 15:24
review 8:7 14:7	salary 60:22	sediment 39:2	shock 93:25
reviewed 24:11 30:6	sale 51:7,8 60:24	sell 37:17 52:12 62:8 69:23 90:6	shocked 25:24 77:22 78:3,11 93:17
Rick 54:7 62:5,10, 17 63:16 80:15 92:17 95:2	sales 45:4	seller 69:13	shocking 55:12
Rick's 54:8	salvage 89:12	send 67:9 71:21 79:10	shoes 71:2
risk 18:21,22 35:13 48:7,11,14	sample 18:16 93:23 94:2	sense 35:10 42:23 45:17 72:18 94:16	short 51:15 86:15 90:3 96:24
Road 54:3		separate 34:24 67:19 82:3 91:18	shortly 92:17
roads 51:13		separately 10:11 13:19	show 30:6 52:2 53:2 81:6 85:14
role 19:10 47:5		series 29:12	
Rolling 30:23 53:15 62:2 65:7		serve 25:4 41:6 42:19	
		served 35:12	
		service 8:3 9:16 11:11,17 12:6,13, 24,25 13:3,10	

<p>showed 11:9 15:23 18:3 23:21 25:6 43:8,11 44:9</p> <p>shows 34:1</p> <p>sic 57:19 78:12</p> <p>sick 33:19</p> <p>side 50:18 52:9 86:8</p> <p>sign 77:9</p> <p>signed 7:4 76:10 77:11</p> <p>signing 76:15</p> <p>similar 14:17</p> <p>simple 51:4</p> <p>simply 14:10 28:10 34:25 42:9 51:23 69:14</p> <p>single 46:7,13 65:5</p> <p>sir 65:25 87:15 89:22 91:10 93:20 95:12,16 96:23</p> <p>sit 9:19</p> <p>site 8:21,23 21:25 28:3,8 51:10,11 55:9</p> <p>sites 8:24,25 20:22 52:19</p> <p>situation 8:20 9:20 12:2 13:4,6, 25 14:10 16:5,6,9 17:17 19:11,18,23 20:11,23 24:20 27:6,13 29:8 30:1, 5 31:23 32:4,12 33:11 37:20,21 39:6 41:3 42:22 45:7,15 46:4 50:24 57:22 68:1, 9 73:4,13 75:2 83:7 84:17</p>	<p>situations 10:25 14:4,9 19:1 21:23 22:11 25:1 38:19 41:15,21 61:12 69:10</p> <p>sixteen 87:11</p> <p>sixty 55:1</p> <p>sixty-six 73:25</p> <p>sixty-two 74:1</p> <p>skin 48:5</p> <p>slightly 32:13</p> <p>small 25:4 34:14, 25 35:10 42:17 46:22</p> <p>smaller 46:19</p> <p>Social 50:22</p> <p>sold 44:4 45:2 52:10 60:3 61:21 87:3,7</p> <p>solution 57:23 65:2 68:20 73:18 74:20 90:9,10</p> <p>solutions 57:23</p> <p>solve 55:11 63:15</p> <p>solved 56:24</p> <p>somebody's 59:23</p> <p>someone's 48:11</p> <p>son 37:14</p> <p>sort 9:1 17:9 26:25 32:24 40:20</p> <p>sorts 41:19</p> <p>source 24:23 91:8, 10</p> <p>sources 24:25 25:2,12</p> <p>speaking 41:22 46:14</p>	<p>specific 9:5 17:8 21:25 29:11 48:5</p> <p>specifically 66:22 85:15</p> <p>specifics 9:5</p> <p>speed 37:19 86:16</p> <p>spell 7:25</p> <p>spend 42:25 75:5</p> <p>spent 64:16,19 90:18</p> <p>spoke 15:16</p> <p>spread 36:10</p> <p>square 22:12</p> <p>staff 6:12,23,25 7:9,21 8:7 15:17, 25 20:20 27:12 28:18 29:13 31:15,18 32:1 36:2,15 40:1 41:9, 10 45:16,23 46:4, 7,21 47:23 48:25 49:14 59:6,17 60:12 65:18,23 75:23 95:21 96:17,25</p> <p>Staff's 45:22 47:4, 8,13 84:13</p> <p>Stamps' 8:10</p> <p>stand 7:13</p> <p>standard 35:24 91:15</p> <p>start 25:17 26:16 29:24 41:2 92:10</p> <p>started 28:25 30:4 43:15 45:1 52:14 56:23 60:7 72:14</p> <p>starting 5:19</p> <p>State 58:1</p> <p>Statement 89:18</p>	<p>statements 26:5 50:3</p> <p>stations 42:16</p> <p>statute 40:14</p> <p>stay 18:15 55:25 73:21 74:6</p> <p>Steam 8:4</p> <p>step 16:12 18:11 28:6 32:18 49:21 71:2</p> <p>stop 50:14</p> <p>store 60:19 89:4</p> <p>story 50:18 74:15</p> <p>straight 13:7</p> <p>straighten 44:25</p> <p>straightened 63:8</p> <p>strain 34:5</p> <p>street 9:7</p> <p>structure 64:8</p> <p>stuff 9:19</p> <p>subdivisions 24:21</p> <p>subject 11:15 12:3 16:18 19:20,21 20:4,24 41:22 70:19,21 83:16</p> <p>subjects 10:5</p> <p>submissions 65:15</p> <p>submit 62:23</p> <p>submitted 65:16</p> <p>subsidize 90:11</p> <p>substandard 11:1 38:14</p> <p>substantiate 37:2</p> <p>succinctly 35:25</p>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

sudden 68:19	53:13 89:10	86:4	64:1,5,6,19 66:15
sue 18:6		terrain 42:15	67:23 71:3 75:8
suggest 14:18 44:11	T	test 34:10 38:23 94:5	89:25 90:13,15, 16,18
suggested 91:21, 22	tablet 43:14,17	tested 38:22 54:16	thousands 42:25
suggestions 91:13	tablets 94:7	testified 42:4 93:15	thread 81:25
suggests 38:13 39:7	takes 76:12 85:16	testify 26:19,21 49:4,17	threatened 66:16 67:3
supervisor 8:10 10:16	taking 63:6 94:3,4	testifying 76:6 90:17	threatening 66:20
supply 11:7 18:15 37:24 42:12 55:24	talk 9:12 54:11 55:14 66:18	testimony 27:3 32:6 33:20 49:7 50:14 54:15 56:4 59:19 73:10 75:7, 19 82:11 86:1,7 89:20	throw 72:11
supply's 42:19	talked 12:6 30:21 32:7 34:19 54:15, 20 56:12 62:18 63:4 65:16 72:2 76:6 78:12 83:2 91:24 93:15	testing 14:15 48:20 64:2,3	throwing 92:22
support 20:21	talking 9:10 16:13 23:16 24:20 35:16,19 37:6 50:14 57:5 76:7 85:9,10	tests 33:23 34:1	till 49:11
suppose 80:21	tap 48:12	theoretically 36:21	time 5:2,3,18 6:21 7:9 16:17 17:11 27:23 33:2 36:12 49:1 50:14 53:23, 25 55:5,15,23 57:3 58:8,16,24, 25 59:5 61:7,21 62:7,12 64:5,18 65:11 68:18 69:6 70:10 71:2,16 72:6 75:5 78:9,10, 15 82:7 83:14 84:9 85:5,8,16,17 86:2 87:12 88:15, 18 89:7 92:1,7,13 93:8,24 94:14 95:5,8,13,14,15 96:8,13
supposed 17:2 36:24 41:12,13	tariff 16:1,2 20:25 21:4 35:5 41:25	thing 9:1 12:9 17:9 26:25 30:2 40:20 64:10	times 50:21 77:21 80:25 91:12,13
surface 38:18	tasks 32:17	things 18:18 20:8 32:24 34:6,10 37:10 41:19 52:20 54:19 55:10 61:2 63:20 73:2 84:18 91:20 94:17 95:14	tipped 28:22
surveyor 84:21	tax 30:6 82:16,19	thinks 71:1	tired 68:17
surveyors 84:19 85:7	taxes 82:20	thirty 58:16 59:19	today 5:1,3,10,14 20:7 32:7 52:22 56:25 58:17 64:17,23 65:11 66:7 84:19 86:1 89:20 91:17 96:8
sustainable 57:3	tear 89:12	thirty-five 18:4 21:13	today's 5:9
sworn 7:13,17 50:1	tearing 22:18	thought 65:9	
system 15:15 19:4 22:11 34:5 36:5 39:1 42:4 45:20 47:13,15,18,21 51:12 52:4 53:24 55:6 56:7,24 57:1 65:3 67:13 70:21 77:13 87:16,17 88:1,2,10,20 94:20	telling 13:3 72:15 75:14 77:23 78:6 93:4	thoughts 75:15	
systems 23:1 30:21,22 31:1,6, 12 34:18 35:22,23 36:4 46:19 47:24	ten 64:2,19 67:10 90:18	thousand 58:10, 13 59:9,10,24 61:10,20 62:4	
	term 6:1 12:8 14:12		
	terminate 66:24		
	termination 29:3		
	terms 11:8 32:11		

told 12:18,19 21:14,19,20 23:23 30:14 33:2 37:10, 13 38:4 69:14 73:5,8 75:7 92:11	50:22 51:17 55:20 56:11 58:11,13 59:19,21 67:9 69:19 70:8 75:1 84:18 86:20 94:11 95:7	unique 46:18	verbal 23:24
tomorrow 14:13	twenty-five 58:10, 17 59:24 65:7 70:9 88:15	unprofessional 37:7	verify 46:7
Topo 54:9,11 63:13 72:6 91:12 94:18	twenty-four 32:20 53:9 86:22,23	unregulated 15:24 20:24 21:2 40:17 41:12	versed 47:2
topography 25:8 38:18	twenty-two 88:3,4, 7,12	unsafe 11:11 37:18 39:6,8 48:9	veteran 50:22
toss 94:8,9	type 29:7 53:18 57:22 60:19 93:1	unsavory 37:15	video 93:1
total 53:9,15 87:12	types 14:5	untangling 45:9	videoed 54:22
totally 67:13	Typically 23:7	untruths 72:15	view 14:9 42:21 46:14 75:19
touch 80:2	<hr/> U <hr/>	unusual 46:21,24 47:23 48:1 86:2	viewed 11:6
town 80:4	ultimately 9:23	upgrade 90:14	viewpoint 58:18
track 24:4 30:19 31:13 32:14	unavailable 32:19	upgraded 62:2,3	violated 16:1
transfer 51:4	unconscious 37:5	upkeep 90:13	violating 40:13
transferred 52:13	underlying 35:20, 21	upset 16:17 18:1	violations 19:12 21:4
travels 86:7	understand 10:3,6 20:4 25:9 27:3 36:23 68:14 70:14 73:16 78:14 94:6 95:18 96:21	upsetting 38:1	violators 40:16
Travis 49:25 50:3, 20	understanding 16:4 23:21 24:5 38:11 45:1 57:2 62:24	usage 41:20 66:22	viruses 34:8
treated 38:6	understood 37:14 38:22 55:5,23 62:23	user 69:3	visit 28:5,13
tremendous 58:10	unfounded 71:19 73:3	users 65:7 66:13 88:15	visited 9:8 20:22 28:4,5 43:2 87:11, 13
trespass 44:18	uniformity 83:18	utilities 40:17	visits 8:22,23 28:3,8
triggered 45:20		utility 11:10 13:2 14:14,18 15:14, 24,25 17:4,8 19:18,21 20:24 26:23 27:18 29:10 37:8 40:10,11 41:12 44:24 45:12 46:8,18	voicemail 12:20
trip 9:2		<hr/> V <hr/>	voluminous 84:10
trouble 84:11		vacation 80:2,4	volunteered 26:25
truthful 62:13		valve 22:18 56:5	<hr/> W <hr/>
truthfully 63:11 73:6,24		vary 22:10	wait 37:9 62:17
turned 12:25 56:5 62:9		vehicle 37:5	walk 94:10
twelve 59:10 69:3			wand 14:13
twenty 16:23 20:3, 5,6 22:12,22			wanted 9:23 30:2 31:8 42:22 49:17 51:23 55:24 62:22 63:9 70:19 74:10, 24 82:6,8 86:6 91:23 92:2 93:23 94:1 96:3

<p>warning 39:13</p> <p>wastewater 33:25</p> <p>water 5:7,21 6:1 8:4 10:23 11:7 12:9 22:9,13,14 23:14,23 24:10, 14,15,21,23 25:4, 6,10,20 29:5 30:17,22 33:15, 18,22,25 34:2,21, 23 35:12,14 36:11 37:24,25 38:5,18, 19 39:1 40:11,12, 13,18,21 41:17 42:4,5,12,17,19 43:1 46:17,21,23 47:1,4,24 48:6,16, 19,20 51:20 54:24 55:6,17,24,25 56:6,23 57:1 58:5, 18,20,22 59:20 60:5 66:13,21,22, 24,25 67:2,10 68:1,2,22 70:21 72:18,22 74:12 77:13 78:25 80:19 81:12,19 82:1 83:8,9,17 89:10 90:23,25 91:2,5,8, 10</p> <p>wave 14:13</p> <p>wife 43:1 51:3 96:9</p> <p>Webex 5:15,17</p> <p>week 93:24</p> <p>weekly 67:25</p> <p>weeks 29:5</p> <p>wells 9:8 11:1,3 12:2 13:4 14:16 16:14,22 18:8,14, 23 19:3,6,8 20:2,6 22:5,19,23 25:24 28:4,5 29:6 33:10</p>	<p>34:15,25 36:5 38:12,13,16,19, 21,22 42:23,24 43:23 44:2,4,9 45:2,9,14 51:2,7, 14,16,19,24 52:8, 10,14,15,16,17, 21,23 53:9,11,12, 15,16,22 54:1,2,5 57:21,24 58:5,16 59:8 60:1,2,6,7 61:7,14,16 62:8, 18 63:7 64:13,21 65:1,4 67:18 68:17,21 69:11, 14,16,19 70:12, 14,16 71:1,4,6,9 74:10,19 75:1 76:12 77:16,22 78:3,10 80:15 86:20,22,23 87:2, 3,7,11,13,15,24 88:16,17 89:14, 16,19,21,22,23,24 90:6,20 91:15 92:20 93:17 94:8, 21,23,24,25</p> <p>wet 55:1</p> <p>whatsoever 52:2 95:5</p> <p>wherewithal 26:14</p> <p>wife 5:22 50:22,25 53:7 60:20 73:25</p> <p>wintertime 52:25</p> <p>withdraw 85:18</p> <p>witnessed 24:2 33:1</p> <p>witnesses 48:25 53:20 91:11</p> <p>WO-2024-0036 5:7</p> <p>word 94:22</p> <p>words 52:11</p>	<p>work 29:6 35:3 39:10 53:7,8 58:2 60:11,18 76:11 79:14 80:14 95:8</p> <p>worked 8:20 52:19 56:7</p> <p>working 37:8 52:24</p> <p>works 5:7,21 6:1 23:23 61:2</p> <p>world 86:4</p> <p>worry 82:8</p> <p>write 24:4 27:8 84:24 85:1</p> <p>writing 15:7,9 24:5 67:1 73:8</p> <p>written 83:17</p> <p>wrong 22:20 29:3 35:20 54:21 55:3 93:2,7,25</p> <p>wrote 33:3</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>yard 12:25</p> <p>year 48:2 58:24 59:10,22 79:19,20 82:5 83:10</p> <p>year's 64:5</p> <p>years 16:19,22,23 20:3,5,6 50:20,22 51:17 52:20 55:20 56:11 58:11,13 59:19,21 61:19,22 66:13,14 67:9 68:20 69:19 73:25 74:1 75:1 81:15 83:10,11 84:18 87:5 94:12</p> <p>yesterday 6:19 16:21 65:11 66:7</p>	<p>86:11 87:10,20</p> <p>young 60:14</p>
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