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IN THE MATTER OF:  
CHRISTIAN COUNTY

ZONING BOARD OF APPEALS

SEPTEMBER 22, 2020

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CHRISTIAN COUNTY

ZONING BOARD OF APPEALS

SEPTEMBER 22, 2020

6:00 P.M.

ZONING BOARD:

Steven Sipes, Chairman

Glen Goodrich

Mark Dozier

Jon Rosenthal

Joe Dorr

Joann Howard

Vince Harris, Zoning Administrator

COUNSEL PRESENT:

MCGUIRE WOODS LLP  
Attorneys at Law  
1 North Old State Capitol Plaza  
Suite 410  
Springfield, Illinois 62701  
(217) 527-1280

BY: MR. KYLE C. BARRY  
Appearing on behalf of  
Swift Current Energy

1       RAMMELKAMP BRADNEY, P.C.  
2       Attorneys at Law  
3       232 West State Street  
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5       Jacksonville, Illinois 62650  
6       (217)245-6177

7  
8               BY:   MR. H. ALLEN YOW  
9                Appearing on behalf of Dale Eggimann,  
10              Julie Eggimann, Carolyn Eggimann, and  
11              Gary Conner

12       PRESENT:

13              Mr. Jeff Durbin, CTI  
14              Mr. Daniel Sheehan, Swift Current Energy  
15              Mr. Dale Eggimann  
16              Ms. Julie Eggimann  
17              Ms. Carolyn Eggimann  
18              Mr. Jeff Scott  
19              Mr. Mark Elmore  
20              Ms. Kenna Bertoldo  
21              Mr. Jerry Thomas  
22              Ms. Terri Thomas  
23              Mr. Brian Wilbur  
24              Mr. David Loomis  
              Ms. Meredith Rodrigues  
              Mr. Michael Marous  
              Mr. Steve Battaglia  
              Ms. Sandra Haines, CSR

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WITNESSES:

STEVE BATTAGLIA

Direct Examination  
By Mr. Barry..... 19 - 30

MEREDITH RODRIGUEZ

Direct Examination  
By Mr. Barry..... 31 - 36

DAVID LOOMIS

Direct Examination  
By Mr. Barry..... 38 - 43

MICHAEL MAROUS

Direct Examination  
By Mr. Barry..... 45 - 56

DALE EGGIMANN

Direct Examination  
By Mr. Yow..... 84 - 105

Cross Examination  
By Mr. Barry..... 107 - 108

1                   CHAIRMAN SIPES: It is 6 o'clock the  
2                   22nd of September, 2020. It is our regular  
3                   Zoning Board of Appeals meeting night. We will  
4                   do roll-call.

5                   MR. HARRIS: Glen Goodrich.

6                   MR. GOODRICH: Here.

7                   MR. HARRIS: Jon Rosenthal.

8                   MR. ROSENTHAL: Here.

9                   MR. HARRIS: Mark Dozier.

10                  MR. DOZIER: Here.

11                  MR. HARRIS: David Copenbarger. He is  
12                  excused. JoAnn Howard and Joe Dorr.

13                  MR. DORR: Here.

14                  CHAIRMAN SIPES: And Steve Sipes.

15                  MR. HARRIS: And Steve Sipes. The  
16                  roll-call simulates a quorum.

17                  CHAIRMAN SIPES: Okay. Is there a  
18                  motion on the floor to open the meeting?

19                  MR. GOODRICH: Glen Goodrich, ZBA, I  
20                  make the motion we open the meeting.

21                  CHAIRMAN SIPES: I would like to make  
22                  note that JoAnn Howard is now present, one of  
23                  the other Board Members.

24                  Is there a second?

1                   MR. ROSENTHAL: I will second it, Jon  
2 Rosenthal.

3                   CHAIRMAN SIPES: Roll-call.

4                   MR. HARRIS: Joe Dorr.

5                   MR. DORR: Here, yes.

6                   MR. HARRIS: JoAnn Howard.

7                   MS. HOWARD: Here.

8                   MR. HARRIS: Mark Dozier.

9                   MR. DOZIER: Yes.

10                  MR. HARRIS: Jon Rosenthal.

11                  MR. ROSENTHAL: Yes.

12                  MR. HARRIS: Glen Goodrich.

13                  MR. GOODRICH: Yes.

14                  MR. HARRIS: Steven Sipes.

15                  CHAIRMAN SIPES: Yes. Okay. On our  
16 agenda this evening is a variance for a grain  
17 bin.

18                  Mr. Harris, were all fees paid, and are  
19 there any written objections or objectors  
20 present to this?

21                  MR. HARRIS: No, no, Mr. Chairman,  
22 there are not. Every fee has been covered down  
23 on by the applicant.

24                  CHAIRMAN SIPES: This is a variance for

1 a grain bin to be built five feet from the east  
2 property line address of 369 North 1900 East  
3 Road, Pana. Is the petitioner here?

4 MR. HARRIS: Yes, he is.

5 CHAIRMAN SIPES: Would you like to say  
6 anything? I am sorry, what's your name?

7 MR. JEFF SCOTT: Jeff Scott.

8 CHAIRMAN SIPES: Jeff Scott, okay.

9 Please proceed.

10 MR. JEFF SCOTT: It might just be a  
11 misprint, but the address is 362 North 1900 East  
12 Road.

13 CHAIRMAN SIPES: Okay.

14 MR. JEFF SCOTT: That might make a  
15 little difference. We would just like to move  
16 the grain bin within five feet of the property  
17 line. We have been farming the ground around it  
18 for 30 some years, and give me more room on my  
19 building site to better fill it and empty it.

20 CHAIRMAN SIPES: Okay. Mr. Harris,  
21 have all notices been put in the paper and  
22 notices sent to adjacent property owners?

23 MR. HARRIS: Yes, sir, they were.

24 CHAIRMAN SIPES: Is there any

1 discussion on this issue? Is there a motion to  
2 approve the variance?

3 MR. DORR: I will make a motion to  
4 approve the variance.

5 CHAIRMAN SIPES: Now, I need --

6 MR. DORR: Joe Dorr.

7 CHAIRMAN SIPES: -- to ask you a  
8 question. Joe, you have been here almost -- you  
9 have been around for a minute. Is it variances  
10 that don't have to go back to the County Board?

11 MR. DORR: Right.

12 CHAIRMAN SIPES: Okay. So, you may  
13 want to double-check that, but I am pretty sure  
14 it is a variance that doesn't have to go back to  
15 the County Board. So, you will have to work  
16 that out with Vince, okay.

17 Is there a -- I am sorry, did I get a  
18 motion to approve?

19 MR. DORR: Yes.

20 CHAIRMAN SIPES: Is there a second?

21 MR. ROSENTHAL: I will second it.

22 CHAIRMAN SIPES: Okay. Roll-call.

23 MR. HARRIS: Mr. Sipes.

24 CHAIRMAN SIPES: Yes.



1 MR. HARRIS: Mr. Goodrich.

2 MR. GOODRICH: Yes.

3 MR. HARRIS: Mr. Rosenthal.

4 MR. ROSENTHAL: Yes.

5 MR. HARRIS: Mr. Dozier.

6 MR. DOZIER: Yes.

7 MR. HARRIS: Miss Howard.

8 MS. HOWARD: Yes.

9 MR. HARRIS: Mr. Dorr.

10 MR. DORR: Yes.

11 MR. HARRIS: The ayes have it.

12 CHAIRMAN SIPES: Okay.

13 MR. JEFF SCOTT: Thank you.

14 CHAIRMAN SIPES: Next on the agenda is  
15 a special use permit by Black Diamond Solar  
16 Project. The company is actually called Swift  
17 Current.

18 MR. BARRY: Good evening. Thank you  
19 Mr. Chairman, Members of the Board. My name is  
20 Kyle Barry. I am a lawyer in Springfield. I  
21 have been doing permitting hearings like this  
22 one on renewable energy and solar projects for  
23 about a dozen years now, mostly in Central  
24 Illinois.

1           Most recently I helped a company obtain a  
2 permit for a 70 megawatt Solar Project in Logan  
3 County. It is just south of Lincoln.

4           Tonight though I am here representing the  
5 applicant, which is Black Diamond Solar, LLC.  
6 And the applicant seeking a special use permit  
7 to construct a 299 megawatt solar project here  
8 in Christian County. In a minute I am going to  
9 turn things over to my colleague, Daniel  
10 Sheehan. He is going to take us through an  
11 overview of the project through a set of slides.

12           Before I do that though I want to kind of  
13 give you a road map for how our presentation  
14 will proceed this evening. We will begin with  
15 Daniel again providing an overview, and then I  
16 am going to present four expert witnesses who  
17 will be on the phone only.

18           So, I ask you for your patience for that.  
19 I have done this a couple times now, and I have  
20 to say it never goes perfectly so when it is on  
21 the phone, but we will -- hopefully won't have  
22 any big problems.

23           So, the experts are going to talk about  
24 things like a wildlife study that was done for

1 the project, engineering issues, economic impact  
2 study, and a property value study. Again they  
3 will be testifying over the phone.

4 So, overall we intend to demonstrate that  
5 the application meets all of the standards in  
6 Christian County's solar siting ordinance as  
7 well as the zoning code.

8 With that I am going to turn it over to  
9 Mr. Sheehan, who is going to take us through a  
10 set of slides.

11 MR. SHEEHAN: Thank you, Kyle. Again I  
12 am Daniel Sheehan, Project Manager for Swift  
13 Current Energy, and we are developing like Kyle  
14 said this 299 megawatt solar project on the west  
15 side of Tovey.

16 I wanted to start with just a little  
17 background on the project, give you an overview  
18 of what we are working on here. The second page  
19 of your handout and the second slide gives  
20 you -- I realize it is hard to see with the  
21 lights.

22 MR. HARRIS: You want me to try to turn  
23 that off?

24 MR. SHEEHAN: It might be a little

1 better if you can. Thank you.

2 MR. DORR: While he is doing that can I  
3 ask a question?

4 CHAIRMAN SIPES: Absolutely.

5 MR. DORR: Is it a typo where it says  
6 permit the Black Diamond Wind Farm?

7 MR. SHEEHAN: It is a typo, apologies  
8 for that.

9 CHAIRMAN SIPES: I thought it was a  
10 nice touch, the front cover is a picture of a  
11 wind turbine.

12 MR. SHEEHAN: We like that picture. We  
13 like the flag on there. Apologies for that typo  
14 there.

15 So, the map depicts the proposed layout for  
16 the project. You can see it extends up the  
17 peninsula around Sangchris Lake, and then to the  
18 south this area right here is not within the  
19 project. It is a little hard to tell with the  
20 way the map is, but that's the Eggimann parcel,  
21 and then the 80 to the south there is not inside  
22 the project poster, but it is within the project  
23 area.

24 A little background on Swift Current

1 Energy. We are a company based in Boston,  
2 Massachusetts. We are a small firm, around 15  
3 or so people. We are comprised of -- our  
4 directors are comprised of individuals that have  
5 a lot of experience in wind and solar renewable  
6 energy development throughout the United States,  
7 and they formed their own team to come together  
8 to form their own company. So, as you can see  
9 on the slide and in your packet the track record  
10 of power development and operations, having  
11 developed, financed, constructed, and operated  
12 over 60 power projects in 26 states throughout  
13 the careers of the folks involved in Swift  
14 Current Energy.

15 There is a brief view of our team members  
16 and some of the companies they have worked with  
17 in the past, and some of their experience is  
18 listed there below.

19 Moving on to some facts about the proposed  
20 Solar Project, Black Diamond. Obviously located  
21 in Christian County, about eight miles from  
22 Taylorville in the Township of South Fork, the  
23 project area comprises just over 2,300 acres  
24 total. We are in the queue, in the PJM queue

1 for up to 299 megawatts of output. The project  
2 will consist of photovoltaic panels on  
3 single-axis trackers, internal access roads,  
4 underground collection lines, electrical  
5 inverters, a collection substation, and a  
6 perimeter fence around the project area for  
7 security purposes.

8 We will go through all this other  
9 information in detail as our other consultants  
10 go through their various aspects of their  
11 specialties. This is just an overview.

12 Project life is estimated at 50 years plus  
13 or minus, but we expect the project will be  
14 re-powered as new technology becomes available,  
15 and with the existing substation there and the  
16 interconnection that it will be a viable project  
17 for the foreseeable future.

18 We anticipate starting construction in the  
19 fourth quarter of 2021. Per the Christian  
20 County ordinance we've -- this ordinance  
21 establishes setbacks of 100 feet from residences  
22 or churches that are occupied.

23 For security as I mentioned before  
24 perimeter security fence with a minimum of six

1 feet in height will be installed at the project.  
2 The equipment -- that's the minimum height.  
3 That's not necessarily what our proposed height  
4 will be.

5 The collector cables will be installed  
6 underground. We will not have any overhead  
7 transmission lines with the exception of the  
8 connection into the ComEd Switchyard into the  
9 existing power lines that are there. All of  
10 that will take place within the substation  
11 footprint, which will be on the north side of  
12 Route 104, on the north side of that. I can  
13 pull this up. I have more detailed maps if  
14 anyone would like to look at them at all, and  
15 there is more detailed maps as we get further  
16 along in the presentation as well. But just for  
17 your benefit for right now the substation will  
18 be located where the power lines cross this  
19 field right off of this private access road  
20 right in this neighborhood here on the north  
21 side of the highway.

22 The applicant will prepare a  
23 decommissioning plan and the associated  
24 financial security prior to the issuance of the

1 building permit. So, we will have a  
2 decommissioning plan in place with full  
3 intending for funds to be posted to accommodate  
4 for whatever might be required with that  
5 respect.

6 The Christian County ordinance requests  
7 that the project be completed within two years  
8 of the SUP issuance, and we are requesting a  
9 variance to that that would extend the timeline  
10 to four years within the permit conditions in  
11 order to allow for unforeseeable schedule  
12 changes associated with the interconnection  
13 process, the construction planning, and the  
14 procurement of project materials. As all of us  
15 are experiencing the pain of COVID there is a  
16 lot of unknowns with regards to the supply,  
17 availability, as well as timeliness for  
18 construction purposes.

19 So, that's a request that we are presenting  
20 here tonight as well. The next page is a more  
21 detailed map of the proposed layout for the  
22 solar panels. Again it is a little hard to see,  
23 and I apologize for the small print there, but  
24 that will give you the layout of the panels as



1 proposed for the project area.

2 Give you an idea of the project cost, we  
3 are estimating project cost in the neighborhood  
4 of 425 million dollars to completely construct  
5 the project from start to finish. Our estimated  
6 building permit fees payable to Christian County  
7 would be \$307,000.00, and over the life of the  
8 project Black Diamond will generate a little  
9 over 48.5 million dollars worth of property  
10 taxes for the district for the life of the  
11 project.

12 We anticipate creating up to four on site  
13 long term employees through operations, and we  
14 estimate approximately 1,200 construction jobs  
15 would be created during the construction process  
16 for the project.

17 We are working with the Village of Tovey on  
18 a community benefit package. We have been in  
19 talks with the mayor and a few other key  
20 individuals in the Village of Tovey to see what  
21 they need, and where our interest can intersect,  
22 and where we can help them out with what they  
23 are trying to work on, what is on their list of  
24 things they would like to get done, that type of

1 thing. So, we are in current talks with them to  
2 come up with a good package that can benefit the  
3 Village as well. We fully intend to execute on  
4 that by the time if we would get to a County  
5 Board vote next month.

6 My contact information is there along with  
7 my counterpart Stephanie Fowler who is a  
8 development associate, and with that I will turn  
9 it back over to Kyle to introduce our next  
10 presenter.

11 MR. BARRY: Thank you, Daniel.

12 Okay, first off we are going to have Steve  
13 Battaglia. I don't know if you can find him on  
14 line there. By the way, here is a list of the  
15 folks we are going to want to unmute. Let me  
16 know when he is ready if you would, please.

17 MR. JEFF DURBIN: Can you hear me,  
18 Steve?

19 MR. BARRY: Steve, can you hear?

20 MR. STEVE BATTAGLIA: Can you hear me?

21 MR. JEFF DURBIN: There you go.

22 MR. BARRY: Yes, loud and clear.

23 CHAIRMAN SIPES: Is he speaking as an  
24 expert?

1 MR. BARRY: Yes. We would like to  
2 swear him in, yes, please.

3 CHAIRMAN SIPES: I missed the name, I  
4 am sorry. Steve, what was the name?

5 MR. BARRY: Battaglia.

6 CHAIRMAN SIPES: Mr. Battaglia, do you  
7 swear to tell the truth, the whole truth, and  
8 nothing but the truth?

9 MR. STEVE BATTAGLIA: Yes, I do.

10 CHAIRMAN SIPES: Thank you.

11

12

STEVE BATTAGLIA

13 called as a witness herein, at the instance  
14 of the Applicant, Swift Current Energy, having  
15 been first duly sworn/affirmed on his oath, was  
16 examined and testified as follows, to-wit:

17

DIRECT EXAMINATION

18

BY MR. BARRY:

19 Q. Good evening, Mr. Battaglia. Could you  
20 please state your name for the record.

21

A. Steven John Battaglia.

22

23

Q. Can you tell us a little bit about your  
background.

24

A. I am a civil engineer by trade. I work

1 for Westwood Professional Services based out of  
2 Minneapolis, Minnesota, and we are consulting  
3 engineers for Swift Current Energy.

4 Q. Could you spell your name, Steve.

5 A. Yes, B as in boy, A-T-T-A-G-L-I-A.

6 Q. Thank you. Mr. Battaglia, have you  
7 performed any reviews for solar energy projects  
8 in the past?

9 A. Yes.

10 Q. And have you done any in Illinois?

11 A. Yes.

12 Q. How many, if you recall?

13 A. Oh, I can't recall. I would probably  
14 say two or three.

15 Q. Thanks. Did you prepare a drainage and  
16 erosion control plan for the Black Diamond Solar  
17 Project?

18 A. Yes.

19 Q. And is that plan Exhibit B to the  
20 permit application?

21 A. Yes, it is.

22 Q. And I know we haven't talked about  
23 this, but I would like to enter Exhibit 4, I  
24 think. Did I say Exhibit 4? I am sorry, I

1           meant Exhibit 4. Is that Exhibit 4?

2           A.     Yes.

3           MR. BARRY: I would like to enter  
4 Exhibit 4, which is the erosion control plan  
5 into the record.

6           MR. HARRIS: Which book is that?

7           MR. SHEEHAN: The Westwood book, the  
8 civil site plan.

9           CHAIRMAN SIPES: Mr. Sheehan, you may  
10 have to point it out.

11          MR. HARRIS: This one.

12          MR. SHEEHAN: It would have been one of  
13 the stapled copies, I believe.

14          MR. HARRIS: Oh, this. It is one of  
15 these, or is it that?

16          MR. SHEEHAN: This one.

17          MR. HARRIS: Okay. It is this one.

18          MR. YOW: Is that the site plan?

19          MR. HARRIS: Yes, preliminary site  
20 plan.

21          MR. YOW: I wonder if it is better  
22 after each witness we have an opportunity to  
23 cross-examine.

24          MR. HARRIS: The way we have done it in

1 the past is save the questions until the end.  
2 Do you have this?

3 MR. GOODRICH: I have got one. It was  
4 covered up.

5 Q. And Mr. Battaglia, did you prepare a  
6 vegetative maintenance and screening plan for  
7 the Black Diamond Solar Project?

8 A. Yes, we did.

9 Q. Is that plan Exhibit 5 to the permit  
10 application?

11 A. Yes, it is.

12 MR. BARRY: I would like to enter the  
13 vegetative maintenance and screening plan into  
14 the record.

15 MR. SHEEHAN: It is in the same book.

16 MR. BARRY: In the same book, okay.

17 Q. Okay, Mr. Battaglia, could you at this  
18 time provide an overview of the project's  
19 components and discuss the details of the plans  
20 you developed.

21 A. Yes, and I see slides are up, okay.

22 Starting off just with the basic project  
23 components of the solar facility starting with  
24 the PV solar panels, which collect the energy,

1       they sit atop driven steel piles which will hold  
2       the solar panels up slightly above ground, and  
3       energy is collected with medium voltage  
4       collection cables, which are then routed to  
5       central inverter skids. From those inverter  
6       skids the cable runs directly to  
7       substation/switchyard where the energy is stuck  
8       up and put onto the grid. To access the  
9       inverter skids we have various gravel access  
10      roads to navigate the site. Surrounding the  
11      site there is a perimeter fence for security  
12      purposes, and at this facility we will have a  
13      temporary laydown yard, which will be  
14      decommissioned following construction.

15             Next slide, please. Going through the  
16      structure heights, anticipated structure heights  
17      for the project, the solar panel heights would  
18      be at a maximum of 15 feet above grade when they  
19      are at full tilt. That is a maximum. They will  
20      likely be more in the 10 to 11 foot range above  
21      grade when they are at full tilt, and they will  
22      be at six to seven feet above grade when they  
23      are in a still position, which is flat, parallel  
24      to the ground.

1           The perimeter fencing around the project is  
2           a seven foot chain link fence with one foot  
3           barbed wire on top for a total of eight feet.

4           Proposed microwave towers near the  
5           substation are a maximum 160 foot height, and  
6           the substation poles are a maximum 100 foot  
7           height.

8           Next slide, please. Solar panel setbacks,  
9           currently we are setback a minimum of 50 feet  
10          from public road right-of-ways, and also 50 feet  
11          from non-participating property lines. Setbacks  
12          from the existing residences that will be  
13          remaining within the project area and the  
14          surrounding area is a minimum of 100 feet.

15          Next slide, please. Surface drainage for  
16          the project is proposed to remain unchanged. It  
17          is a fairly flat site. So, we don't anticipate  
18          a lot of grading within this site, maybe just  
19          some general smoothing of the ground in various  
20          locations. No significant grading is proposed.

21          Surface water run-off will likely be  
22          reduced, and that is due to the change in land  
23          cover. Currently it is an agricultural land,  
24          and we will be replacing it with a native mix



1 grass following restoration, and what that does  
2 is it reduces the run-off of water, the rate of  
3 run-off.

4 There are a number of delineated wetlands  
5 on site, but all wetlands are proposed to be  
6 avoided with construction activities right now.

7 Next slide, please. There is a variety of  
8 drain tile within these parcels. Swift Current  
9 Energy is taking the approach of having key  
10 priorities be that the drain tile repair will be  
11 in accordance with the AIMA first and foremost.

12 Secondly, we will be maintaining the tile  
13 mains that convey the water to or from other  
14 properties surrounding the project.

15 One of the main goals is to avoid adversely  
16 impacting surface water drainage for adjacent  
17 properties, and we will also propose to relocate  
18 impacted tile mains to provide drainage  
19 continuity across the project.

20 Next slide, please. We are proposing a  
21 proactive approach to tile repair. Step by step  
22 process of what we are going to do is first we  
23 will field locate the tile mains within the  
24 project boundary, and that will be done via

1 landowner tile maps and probing into the ground  
2 to find those mains. Next we will determine  
3 where the proposed project infrastructure  
4 impacts those tilings, so figuring out where our  
5 project intersects the tilings. That's  
6 primarily due to driven piles for the solar  
7 racking, and also if the medium voltage cables  
8 are underground, that will also cause an impact.

9 Next we work on relocating those impacted  
10 tile mains to avoid our proposed pile and cable  
11 locations. If there are impacts that occur  
12 during construction or post construction that  
13 are found, Swift Current will maintain a close  
14 relationship with the landowners within the  
15 project boundaries, and they will -- they will  
16 be working closely with them to get those  
17 repaired within the time frame.

18 Next slide, please.

19 CHAIRMAN SIPES: Mister -- I am going  
20 to mess this up -- Battaglia, on the sheet it  
21 says SCE will maintain a fund following  
22 construction dedicated to providing financial  
23 assistance for landowners with drainage issues  
24 caused by the project. You didn't touch on

1       that.

2           A.       So, this will be more of an internal  
3       process for Swift Current Energy. They will be  
4       working directly with the landowners to  
5       determine the best course of action for  
6       repairing those tiles.

7           MR. SHEEHAN: I can speak a little more  
8       closely to that if you would like.

9           CHAIRMAN SIPES: Mr. Sheehan, I  
10       probably need to swear you in also. Do you --  
11       Dan, Daniel or Dan. State your name please and  
12       spell it.

13           MR. SHEEHAN: Daniel Sheehan,  
14       D-A-N-I-E-L, S-H-E-E-H-A-N.

15           CHAIRMAN SIPES: Do you swear to tell  
16       the truth, the whole truth?

17           MR. SHEEHAN: Yes, I do.

18           CHAIRMAN SIPES: Thank you. Please  
19       continue.

20           MR. SHEEHAN: So, for the landowners  
21       within the project itself, the ones that are  
22       having panels installed on the parcels, we will  
23       maintain a fund that will support repair and  
24       maintenance of drain tile for those landowners.

1 The idea is that if the project is  
2 decommissioned, that we will have money set  
3 aside to restore the mains and laterals to a  
4 functional capacity if they are damaged at some  
5 point.

6 CHAIRMAN SIPES: Okay, thank you.

7 A. Next slide, please. We have various  
8 locations for visual screening on the project  
9 for residences that are within close proximity  
10 to the project location. Number one, we have  
11 perimeter fencing. We have fabric screening,  
12 and that is in select location, one select  
13 location fabric screening on the west side of  
14 Tovey between the panels and the Town of Tovey.

15 There also will be landscaping shrubs in  
16 two locations, one on the west side of Tovey in  
17 the same spot as the fabric screening fence, and  
18 the second spot is on the east side of the  
19 project near the North 500 East Road. There are  
20 three residences that are immediately east of  
21 the project area within close proximity, and  
22 those landscaping shrubs when fully grown are  
23 proposed to be between eight and 20 feet in  
24 height. That will be dependent upon the

1 species.

2           Next slide, please. Here I am showing  
3 examples of those proposed landscaping shrub  
4 species. There are four of them that are  
5 currently proposed. They are between eight and  
6 20 feet in height when fully grown, and it is  
7 probably a little bit small for you guys to see  
8 on that screen, but on the bottom it shows the  
9 typical spacing for those shrubs.

10           Next slide, please. Vegetative cover  
11 within the project area is going to be broke  
12 into three separate categorizations. First is  
13 within the solar array area where we are  
14 actually going to have panels. We are proposing  
15 a low growing native seed mix with an estimating  
16 maximum height of 30 inches. That's to keep  
17 maintenance to a minimum, that it doesn't shade  
18 panels.

19           Next is the perimeter of the solar array,  
20 which is essentially outside of the panel area,  
21 but it is still within the fence area. We are  
22 proposing a pollinator seed mix, which will grow  
23 taller than 30 inches.

24           And the third location are farmed through

1 wetlands that are currently on the project area.  
2 We will be seeding those with a wetland  
3 pollinator seed mix. Five foot, those will  
4 be -- those will be seeded so there is no impact  
5 to those wetlands. And currently the project is  
6 targeting pollinator friendly status through  
7 this seeding regimen.

8 With that I will turn it back over to the  
9 Swift Current team.

10 MR. BARRY: All right. Thank you,  
11 Mr. Battaglia. That will do for right now. I  
12 have no further questions, but will ask you to  
13 stay on the line in case members of the Board or  
14 anyone from the audience has questions. Thank  
15 you.

16 Next up we are going to have Meredith  
17 Rodriguez. Meredith, can you hear us?

18 MS. MEREDITH RODRIGUEZ: Yes. Can you  
19 hear me?

20 MR. BARRY: Yes. First off we are  
21 going to ask the Chairman to swear you in.

22 CHAIRMAN SIPES: Miss Rodriguez, will  
23 you state your name and spell it, please.

24 MS. MEREDITH RODRIGUEZ: Meredith

1       Rodriguez, M-E-R-E-D-I-T-H, Rodriguez,  
2       R-O-D-R-I-G-U-E-Z.

3                   CHAIRMAN SIPES: Do you swear to tell  
4       the truth, and the whole truth, nothing but the  
5       truth?

6                   MS. MEREDITH RODRIGUEZ: I do.

7                   CHAIRMAN SIPES: Thank you. Please  
8       proceed.

9                   MR. BARRY: Thank you.

10

11                                   MEREDITH RODRIGUEZ

12       called as a witness herein, at the instance  
13       of the Applicant, Swift Current Energy, having  
14       been first duly sworn/affirmed on her oath, was  
15       examined and testified as follows, to-wit:

16                                   DIRECT EXAMINATION

17                                   BY MR. BARRY:

18               Q.     Good evening, Miss Rodriguez. Could  
19       you tell us a little bit about your background,  
20       please.

21               A.     Yes. I have a Bachelor's Degree in  
22       biology as well as a Master's Degree in biology,  
23       and over ten years of experience in wildlife  
24       biology. My experience includes surveys for

1 birds, bats, amphibians, and reptiles.

2 Q. Have you previously evaluated wildlife  
3 issues at solar energy projects?

4 A. Yes. I have reviewed ten solar  
5 projects overall, and worked on ten solar  
6 projects, and three solar projects in Illinois.

7 Q. And are you familiar with the wildlife  
8 and environmental studies performed for the  
9 Black Diamond Solar Project?

10 A. Yes. We performed breeding bird  
11 surveys, eagle and raptor nest surveys,  
12 Kirtland's snake habitat assessment, and wetland  
13 delineations.

14 Q. And did you participate in those  
15 studies?

16 A. Yes. I was the project manager.

17 Q. And are the wildlife studies and  
18 reports annexed number one in the permit  
19 application?

20 A. Yes.

21 MR. BARRY: I would like to enter annex  
22 number one into the record, please.

23 CHAIRMAN SIPES: Okay.

24 Q. All right, Miss Rodriguez, could you



1 please discuss the results of the wildlife  
2 studies.

3 A. Yes. We conducted breeding bird  
4 surveys the summer of 2019. We conducted three  
5 rounds of surveys at the site at 13 points.  
6 Overall we recorded 641 birds and 60 species.  
7 We recorded two upland sandpipers, two bald  
8 eagles, four black-billed cuckoos. Overall the  
9 project lacks grassland habitat suitable for our  
10 nesting of upland sandpiper. There is some  
11 potential for the black-billed cuckoos, and  
12 that's on the margins of the project.

13 We also conducted eagle and raptor nest  
14 surveys within a half a mile of the project by  
15 boat and with driving surveys. We did not  
16 record any raptor nests within the project.  
17 Likewise we did not record any bald eagle nests  
18 within the project or a half mile of the  
19 project. We did record 14 raptor nests.  
20 Majority of these were red-tailed hawks, which  
21 are common in agricultural species.

22 Next slide. Finally we conducted  
23 Kirtland's snake habitat assessment looking for  
24 areas with open grasslands, close to permanent

1 water sources and crayfish burrows or other  
2 potential retreats. The majority of the habitat  
3 that we mapped as suitable habitat was located  
4 around the edge of Lake Sangchris. That  
5 suitable habitat will be avoided through siting  
6 in upland habitat.

7 Q. Thank you, Miss Rodriguez. Are you  
8 familiar with the EcoCAT application filed by  
9 the project with the Illinois Department of  
10 Natural Resources?

11 A. Yes. I helped prepare the application.

12 Q. Did you engage in a consultation  
13 process with the Illinois Department of Natural  
14 Resources?

15 A. Yes. We attended meetings with IDNR on  
16 September 11th, 2019 and April 6th, 2020.

17 Q. What was the outcome of that  
18 consultation process?

19 A. IDNR concluded under the EcoCAT letter  
20 dated September 4th, 2020 that given the  
21 voluntary of where the minimization measures the  
22 project has adopted adverse, adverse impacts the  
23 State listed state protected natural resources  
24 are unlikely.

1           Q.     Did you also participate in  
2           consultations with the U.S. Fish and Wildlife  
3           Service?

4           A.     Yes.   We had a meeting with Fish and  
5           Wildlife Service on September 26th, 2019.

6           Q.     Has the U.S. Fish and Wildlife Service  
7           advised that it concurs with the wildlife study  
8           plans and approach taken by the Black Diamond  
9           Solar Project?

10          A.     Yes.   The U.S. Fish and Wildlife  
11          Service has been supportive of the studies and  
12          minimization measures.  We have discussed, and  
13          based on the project avoidance potential habitat  
14          including potential roosting habitat for bats  
15          they did not recommend further pre-construction  
16          surveys.

17          Q.     And how about the Illinois Department  
18          of Natural Resources, did the Department of  
19          Natural Resources advise that it concurs with  
20          the wildlife approach taken by the Black Diamond  
21          Solar Project?

22          A.     Yes.   Black Diamond has worked closely  
23          with IDNR and completed current list habitat  
24          assessments at IDNR's request.  IDNR was

1 supportive of the project proposed avoidance and  
2 minimization measures, and concurred that the  
3 risk of adverse impacts was low.

4 Q. Thank you. Miss Rodriguez, did you  
5 perform a wetland study for the project?

6 A. Yes.

7 Q. Is that study annexed 04 in the permit  
8 application?

9 A. Yes.

10 MR. BARRY: I would like to submit  
11 annex number 4 into the record, please.

12 CHAIRMAN SIPES: Yes, thank you.

13 Q. Could you tell us a little bit about  
14 the results of the wetland study.

15 A. The wetland delineation documented  
16 eight wetlands and one stream that are likely  
17 jurisdictional waters of the U.S. wetlands were  
18 avoided through siting to the extent possible.  
19 Less than .1 acres of jurisdictional waters will  
20 be impacted. So, the project will use a  
21 nationwide permit, which is essentially an  
22 automatic permit.

23 MR. BARRY: All right. Thank you, Miss  
24 Rodriguez. That's all of the questions that I

1       have for you right now.  If you could please  
2       hang on the line though because members of the  
3       Board or members of the public may have  
4       questions for you in a bit.  Thank you.

5               Next up we have David Loomis.

6               MR. DAVID LOOMIS:  Hi, can you hear me?

7               MR. BARRY:  Yes, we can hear you, Dave.

8               MR. DAVID LOOMIS:  Great.

9               CHAIRMAN SIPES:  Mr. Loomis, this is  
10       Steve Sipes, Chairman of the ZBA.  We need to --  
11       if you would, state your name and spell it for  
12       us, please.

13               MR. DAVID LOOMIS:  My name is David,  
14       D-A-V-I-D, Loomis, L-O-O-M-I-S.

15               CHAIRMAN SIPES:  I need to swear you in  
16       also.  You swear to tell the truth, the whole  
17       truth, and nothing but the truth?

18               MR. DAVID LOOMIS:  I do.

19               CHAIRMAN SIPES:  Thank you.

20

21

22

23

24



1 for projects here in Illinois.

2 Q. Thank you. Dr. Loomis, did you perform  
3 an economic impact and land use study in  
4 connection with the Black Diamond Solar Project?

5 A. Yes, I did.

6 Q. Is that annex 06 to the permit  
7 application?

8 A. Yes, it is.

9 MR. BARRY: Mr. Chairman, I would like  
10 to enter annex number 6 into the record.

11 CHAIRMAN SIPES: Yes.

12 MR. BARRY: Thank you.

13 Q. Dr. Loomis, could you please discuss  
14 the economic impacts or the projected economic  
15 impacts of the Black Diamond Solar Project.

16 A. Sure, I think I have some slides there.  
17 We can pull up the slides.

18 Q. We have a slide that's titled  
19 methodology currently.

20 A. Okay, great. So, in doing this study I  
21 relied upon the jobs and economic development  
22 impacts model. This is a model that's developed  
23 by the National Renewable Energy Labs. It is  
24 one of the U.S. Department of Energy Labs that

1       develop this model. It should say solar energy  
2       model. It is a PV12.13.16, but this model has  
3       been reviewed in the academic literature, peer  
4       reviewed literature, and it is based on an  
5       industry standard called the IMPLAN model that's  
6       used by economic development professionals  
7       around the country to look at the economic  
8       impacts of construction and operations of  
9       various projects, not just renewable energy or  
10      energy projects, but it would be the economic  
11      impacts of building a new hospital, for example,  
12      or new arena.

13               Next slide. So, when we are looking at  
14      economic impacts, we start with the initial  
15      capital expenditures, and then the expected  
16      ongoing operations and maintenance expenditures,  
17      and then we separate those out into three  
18      different buckets that you will see there in the  
19      middle of the screen.

20               The first is the local expenditures. So,  
21      we want to know how much is going to be spent in  
22      the local economy. In this case we looked at  
23      Christian County, and then we also looked at how  
24      much would be spent in the State, in the State



1 of Illinois, and then finally the non-regional  
2 expenditures. Those in economics they are  
3 called economic leakages. Those are money  
4 that's going to flow outside of the State. The  
5 first two categories are subject to what we call  
6 the multiplier effect. And so we took specific  
7 economic multipliers from IMPLAN that's just for  
8 Christian County, and then multipliers that are  
9 just specific to the State of Illinois to look  
10 at what those capital expenditures and  
11 operations and maintenance expenditures would do  
12 in the local economy through that multiplier  
13 effect.

14 Next slide. One of the economic impacts  
15 that we looked at in particular are the property  
16 tax impacts. In this project has a 425 million  
17 dollar investment into, for the total of the  
18 project. Illinois has a standardized assessment  
19 law that -- so, the value of the project is  
20 based on a megawatt basis, the size of the  
21 project. So, we take the 299 megawatts, and  
22 then that gives us the taxable value of the  
23 projects, and then based on the local tax rates  
24 we assumed in the analysis that the tax rates

1 don't change. So, these are constant at what  
2 they are currently, and we project those out for  
3 the expected 30 year life of the project. I  
4 know Daniel said that it's expected at 50 years.  
5 I only did the analysis out for the first 30  
6 years.

7 In total you can see there 29.5 million  
8 dollars would flow to school districts. 6.4  
9 million dollars would flow to townships and road  
10 districts. 4.8 million dollars would come to  
11 the County. And when we add up all of the  
12 different taxing districts, it totals over 45.8  
13 million dollars over the life of the project,  
14 and again that's an expected 30 year life of the  
15 project.

16 Next slide. So, when we look at the job  
17 impacts, we are expecting approximately 1,200  
18 new jobs during construction for the State of  
19 Illinois. That would include the direct labor,  
20 so the on site labor. It would also include  
21 supply chain impacts that would come. So,  
22 typically aggregate rebar, other construction  
23 materials would be purchased locally because the  
24 transportation costs are considerable relative

1 to the cost of those materials. So, they  
2 typically get purchased locally. Then it would  
3 include four long term operations and  
4 maintenance jobs. Those would be the solar  
5 technicians and supervisor that's on site. If  
6 we included those supply chain jobs, and the  
7 induced jobs, that would total 13 jobs for  
8 Christian County. Then we expect over 103  
9 million dollars in new local earnings during  
10 construction for the State of Illinois.

11 Q. Thank you, Dr. Loomis. Just to  
12 summarize then does your study show that the  
13 Black Diamond Solar Project will deliver  
14 significant economic benefits to Christian  
15 County and other local communities near the  
16 project's footprint?

17 A. Yes.

18 MR. BARRY: All right. That's all that  
19 I have for you right now, Dr. Loomis. If you  
20 could stick around and stay on the line, please.  
21 Some of the Board Members or members of the  
22 public may have questions of you later. Thank  
23 you.

24 A. Very well.

1 MR. BARRY: Next up we have got Michael  
2 Marous. Hello, Mr. Marous, can you hear me?  
3 Mike, can you hear us?

4 MR. MICHAEL MAROUS: Can you hear me?

5 MR. BARRY: We can hear you now, yes.  
6 Can you hear me?

7 MR. MICHAEL MAROUS: Yes, I can hear  
8 you.

9 MR. BARRY: Okay, great, are you on a  
10 phone?

11 MR. MICHAEL MAROUS: Well, I was on the  
12 web, and then I went on the phone to make sure.  
13 It sounds like I am reverbing. Maybe I should  
14 get off the screen.

15 MR. BARRY: Yes, you should probably  
16 drop one of them.

17 MR. MICHAEL MAROUS: Okay.

18 MR. BARRY: We can hear you.

19 CHAIRMAN SIPES: Mr. Marous, this is  
20 Steve Sipes, Chairman of the Zoning Board of  
21 Appeals. We need if you would, state your name  
22 and spell it, please.

23 MR. MICHAEL MAROUS: Michael S. Marous,  
24 M-A-R-O-U-S.

1                   CHAIRMAN SIPES:   Okay, Mr. Marous, I  
2                   would ask being as we don't have you on screen,  
3                   we have a court reporter here, to please speak  
4                   clearly and slowly.

5                   I need to swear you in also.   Do you swear  
6                   to tell the truth, the whole truth, and nothing  
7                   but the truth?

8                   MR. MICHAEL MAROUS:   I do.

9                   CHAIRMAN SIPES:   Thank you.

10

11

MICHAEL MAROUS

12

called as a witness herein, at the instance

13

of the Applicant, Swift Current Energy, having

14

been first duly sworn/affirmed on his oath, was

15

examined and testified as follows, to-wit:

16

DIRECT EXAMINATION

17

BY MR. BARRY:

18

Q.       Good evening, Mr. Marous.   Can you tell

19

us a little bit about your background, please.

20

A.       Sure.   I am President of Marous &

21

Company, which I founded about four years ago.

22

It is a real estate appraisal and consulting

23

firm located in Park Ridge, Illinois.   I

24

attended and graduated from the University of

1 Illinois Champaign in the school of finance and  
2 the specialization in land, urban land  
3 economics.

4 I have been a full time appraiser and  
5 consultant since that time, and have appraised  
6 15 plus million dollars of real estate primarily  
7 in the State of Illinois, many Conquest Projects  
8 including the State Farm Headquarters and  
9 probably millions of acres of agricultural land.

10 During that time period I have prepared  
11 over 200 value impact studies for various  
12 projects including solar, wind, power plants,  
13 gravel developments, waste transfer stations,  
14 mixed use developments, shopping centers,  
15 schools, industrial parks to name a few. I have  
16 done, probably have 40 plus public body clients  
17 throughout the State of Illinois that I consult  
18 with frequently in regard to valuation and land  
19 use issues. I have prepared value impacts for  
20 approximately ten solar farms throughout the  
21 Midwest, and this is the second in Christian  
22 County. I did a study for Hickory Point Solar  
23 Energy Center, and I have a general certified  
24 license in the State of Illinois and about four

1 other states. I have held the MAI designation  
2 since 1980. I have published. I have spoken,  
3 and I have sat on the National Board of  
4 Directors, and I am past president of the  
5 Chicago Chapter of the Appraisal Institute.

6 Q. Okay. Thank you, Mr. Marous. Did you  
7 perform a property values market impact study in  
8 connection with the Black Diamond Solar Project?

9 A. I did. It was a 64 page study with  
10 approximately 25 plus pages in the addenda.

11 Q. Is that study annex number seven to the  
12 permit application?

13 A. It is.

14 MR. BARRY: I would like to go ahead  
15 and enter annex seven into the record, please.

16 CHAIRMAN SIPES: Yes.

17 Q. Mr. Marous, can you tell us about the  
18 conclusions that you drew from your study.

19 A. Yes, as a result of the study and my  
20 expertise on value itself and value impacts it  
21 is my opinion that there is no market data  
22 indicating the project will have a negative  
23 impact on either rural residential, or  
24 agriculture property values in the surrounding

1 area. Further market data from Illinois  
2 supports the conclusion that the project will  
3 not have a negative impact on the rural  
4 residential aggregate property values in the  
5 surrounding area.

6 And finally for the agricultural properties  
7 that host the panels the additional income from  
8 the solar lease may increase the value and  
9 marketability of those properties and have a  
10 positive impact issue heard from Dr. Loomis on  
11 the townships and the County.

12 Q. Mr. Marous, can you tell us about the  
13 factors that you look at that tend to affect  
14 property values in your study.

15 A. Sure. When looking at any property, we  
16 look at initial appearance, environment  
17 sustainability, trend of development, noise and  
18 odor, traffic including heavy truck traffic and  
19 obviously rail traffic, hazardous materials, and  
20 the availability of public services,  
21 infrastructure, schools, public safety. This  
22 area is generally rural agriculture with some  
23 small towns nearby including Tovey. There is a  
24 coal plant immediately to the west, which is a



1 dominant factor in the area. But as an  
2 appraiser we look at economics. We look at  
3 values. We look at demographics.

4 One of the main analysis is looking at a  
5 matched pair study, which is simply looking to  
6 find sales of comparable property proximate to  
7 the proposed use, which in this situation would  
8 be a solar farm, and then comparable properties  
9 having similar characteristics, age, that are in  
10 a safe area, but are not proximate to the solar  
11 panels.

12 Q. So, you looked at actual sales data, is  
13 that correct?

14 A. That is correct, and in the report I  
15 provide probably over a dozen examples of these  
16 matched pairs. And in the power point I  
17 provided a brief summary of three matched pairs  
18 including a sale and resale of a house outside  
19 the North Star Solar Plant north of Minneapolis.  
20 That was the same house that sold before the  
21 solar facility was developed, and then resold  
22 after the facility was completed.

23 Q. Mike, we have the North Branch  
24 Minnesota matched pair on the screen right now.

1           A.     Yes.   Actually that is the sale,  
2           resale, and the first page just provides the  
3           general information as to the address, and the  
4           last sale of it, which was in March of 2018.  
5           That's 165 feet from the nearest solar array.  
6           Again this is about a 1,500 acre or maybe a  
7           little less than that, but 100 megawatt major  
8           solar facility.  The house was built in 2000, it  
9           is just under 2,800 feet on ten acres, newer two  
10          story, four bedroom, three bath, and I think a  
11          picture will come up soon that sold in March of  
12          2018 for \$302,500.00.  That was after the solar  
13          facility was constructed, and it had sold in May  
14          of 2010 before the solar facility was made  
15          public for \$219,900.00.  So, it was almost a 40  
16          percent increase over that time period, and  
17          probably the first three years of that time  
18          period was what we would call the real estate  
19          recession.  So, as part of this I had tracked an  
20          article, a study done by the local County  
21          Assessor, and then further confirmed with a  
22          phone call with him as to the impact of the  
23          solar farm, and he said in their tracking of  
24          sales and re-sales that they had seen no

1 negative impact in value impact. The whole area  
2 of the County was indicating increases. Now,  
3 part of it is just Minnesota economy in general,  
4 but there was no negative impact that he  
5 assessed the properties in proximity to the  
6 solar, I mean the farm and single family  
7 development no differently than he did  
8 comparable property in similar areas of this  
9 township and County.

10 Q. Okay, thank you.

11 A. There is a picture, there is a picture  
12 after that.

13 Q. And I think you had a couple other  
14 examples, the first one was from Illinois,  
15 correct?

16 A. Correct. So, this is actually matched  
17 pair in LaSalle County in Streator, Illinois.  
18 LaSalle County has actually had significant wind  
19 development, but it has also had solar. This is  
20 in more detail starting on Page 17 of my report,  
21 but basically the property that was proximate  
22 was 485 feet away. It sold for \$186,000.00, a  
23 little bit bigger than the house that was not  
24 proximate, a little larger lot size, both one

1 story ranch style residences, all three bedroom  
2 houses, and the one proximate to the solar panel  
3 sold for 186,000 compared to the one that was  
4 farther away, but it is a smaller house sold for  
5 \$151,000.00. But I looked at both the houses  
6 and researched the market, and found no negative  
7 impact based on the proximity to the solar  
8 panels.

9 Q. Thanks, and I think you had a matched  
10 pair analysis for some properties in Indiana as  
11 well.

12 A. Sure. Again these are just a  
13 representative sample. I think I have multiple  
14 matched pairs in Indiana, but these are found on  
15 Page 19 of my report, but again showing two  
16 sales in Franklin, Indiana both relatively  
17 modest ranch houses, and these are average  
18 quality construction. The first one proximate  
19 to the solar panels is prefab or factory built  
20 construction. They are both a little over 1,400  
21 feet, and the one proximate to the solar panel  
22 sold for \$112,000.00. The one that was not  
23 proximate farther away sold for approximately  
24 \$75,000.00.

1           Again touring the neighborhood, looking at  
2           the houses I found no indication of any negative  
3           impact from the existence of the solar  
4           development.

5           Q.     All right. Thank you, Mr. Marous. You  
6           have a number of other slides that occur after  
7           the matched pair analysis. Do you want to walk  
8           us through those, and if so, just let us know  
9           what page we should go to.

10          A.     Well, what I did here was simply  
11          provide some sales information called summary of  
12          residential sales nearest to the Black Diamond  
13          solar, and just kind of showing a representative  
14          example of these houses, and I have photographs  
15          thereafter with the low price point of 98,000,  
16          the high price point of 225,000. Most of them  
17          sold between 2017 and 2019, and generally were  
18          kind of indicating trends of development and  
19          price points, which is somewhat consistent with  
20          the matched pairs that I utilized throughout the  
21          report. Obviously the newer houses closer to  
22          the support services, the infrastructure of the  
23          towns, and the ones with larger lot sizes  
24          traditionally reflected higher values.

1           So, there is, I think, three pages of  
2 pictures, but again there is more detail on  
3 these properties in the report, and then there  
4 is a page titled recent residential sales map,  
5 which shows that two are basically in the middle  
6 of the project area, and then the other four  
7 kind of surround it. Then the last, and I am  
8 not sure, I really have to go into ag prices,  
9 and clearly that's indicated by the quality of  
10 the soil, the proximity of, to the  
11 infrastructure of the various towns, and how  
12 they ungravel, what's the shape, but generally  
13 indicated an average value 8 to \$9,000.00 per  
14 acre. These are all basically for corn and  
15 soybean, and then there is a map there.

16           I hope I am not going too fast for the  
17 court reporter, probably the last is just a  
18 literature review. What's interesting as  
19 opposed to wind, which there are quite a few  
20 peer reviewed studies, there have been very  
21 little peer reviewed studies for solar, and on  
22 this page I just summarized the study that was  
23 done by the University of Texas at Austin in  
24 2018. The simple conclusion what's interesting

1       because what they also did is interview  
2       assessors and found that the assessors that had  
3       no solar experience generally felt there might  
4       be a negative impact compared to the assessors  
5       that actually had experience with solar  
6       development in their counties and found there  
7       was no measurable impact.

8                Along that line with the assessors what I  
9       did was call every assessor in the County,  
10      County in Illinois that had solar development.  
11      Again it's relatively new, and discussed with  
12      them the developments, the proximity of  
13      residential, and had they had any formal tax  
14      complaints filed, and have they filed any  
15      reductions in value due to proximity of solar,  
16      and the answer was no. The other question, and  
17      generally these are more conversational  
18      discussions, but were they valuing houses in  
19      proximity to solar any different than similar  
20      properties in similar, with similar  
21      characteristics different than they were by the  
22      solar farms, and the same answer, no difference.

23               I done the same study in six Illinois  
24      counties, nine Indiana counties, eleven

1 Wisconsin counties, five North Carolina  
2 counties, and thirteen counties in Maryland, and  
3 came with the same conclusion, the assessors  
4 were not seeing any measurable impact based on  
5 the solar development. In fact, the economics  
6 on the positive impact to the tax base and also  
7 the money being paid to the landowners that  
8 turned out to be very positive.

9 Q. All right. Thank you.

10 A. Then my conclusions are simply I am  
11 restating what I said earlier in my report.

12 Q. Well, just to summarize then,  
13 Mr. Marous, does your study show that the Black  
14 Diamond Solar Project will have no negative  
15 effect on the property values of homes located  
16 in or near the project's footprint?

17 A. It does.

18 MR. BARRY: All right. Thank you,  
19 Mr. Marous. That's all of the questions that I  
20 have for you right now. I would also like you  
21 to stick around on the phone in case members of  
22 the Board have questions or members of the  
23 public.

24 I have one more piece of evidence I would



1       like to submit, actually two. Mr. Chairman, I  
2       would like to submit an affidavit from Richard  
3       Coles. Mr. Coles prepared a glint and glare  
4       study for the Black Diamond Project. That study  
5       is annex 08. I would like to submit his  
6       affidavit here, and I would like to ask that  
7       annex 08 be entered into the record as well.

8                   CHAIRMAN SIPES: Okay.

9                   MR. BARRY: I will give you an extra  
10       copy too in case somebody else wants to look at  
11       it.

12                  Then if I could, Mr. Chairman, I would like  
13       to enter the power point presentation that we  
14       just went through into the record as evidence.

15                  CHAIRMAN SIPES: Okay.

16                  MR. BARRY: With that we stand -- that  
17       concludes our initial presentation. We stand  
18       ready to answer any questions.

19                  So, I am not sure how we proceed from here,  
20       but we are going to stick around and field any  
21       questions you might have. Thank you.

22                  CHAIRMAN SIPES: Are there any  
23       questions from the ZBA?

24                  MR. DOZIER: I have got a few.

1                   CHAIRMAN SIPES: Mr. Dozier from the  
2                   ZBA. Can you go ahead and turn the lights back  
3                   on, please. Please proceed. State your name.

4                   MR. DOZIER: Mark Dozier, ZBA Board.  
5                   First of all, Swift Current, is that the  
6                   development or just the owner of this site or  
7                   project?

8                   MR. SHEEHAN: Swift Current is the  
9                   development company.

10                  MR. DOZIER: So, this will probably be  
11                  sold after you build this, or are you building  
12                  this for somebody in particular?

13                  MR. SHEEHAN: We will most likely bring  
14                  on a financial partner to go on through  
15                  construction and operations, yes.

16                  MR. DOZIER: Will this be an American  
17                  company, or this be a foreign entity?

18                  MR. SHEEHAN: I don't anticipate it  
19                  being a foreign entity.

20                  MR. DOZIER: Well, that's what I am  
21                  asking.

22                  MR. SHEEHAN: I guess that's ultimately  
23                  possible, but no, we have not taken on any  
24                  foreign owned entities to date.

1                   MR. DOZIER:   Okay.  Let's see here.  
2                   Why do you need four years to build this on a  
3                   two year project?

4                   MR. SHEEHAN:  Like I said before --

5                   MR. DOZIER:  The main reason I am  
6                   asking is we had one that went in last year, and  
7                   to my knowledge they have sunk eight posts in a  
8                   year.

9                   MR. HARRIS:  I can kind of speak to  
10                  that if you don't mind.  They wanted a four  
11                  year -- our special use application grants two  
12                  years to finish this.  They wanted an extra four  
13                  years to do that.

14                  MR. SHEEHAN:  Total -- an extra two.

15                  MR. HARRIS:  An extra two years  
16                  Invenergy did, and that was negotiated between  
17                  Invenergy and the Chairman, and the Chairman's  
18                  Office, and they got their's.  So, I am sure  
19                  that's -- it is past practice to give the four  
20                  years.

21                  MR. DOZIER:  Is it past practice that  
22                  we only do eight posts in a whole year?

23                  MR. SHEEHAN:  We don't anticipate  
24                  delaying --

1                   CHAIRMAN SIPES: Mr. Sheehan, would you  
2 go ahead and respond to the question too.

3                   MR. SHEEHAN: Gladly. There is a  
4 couple reasons for that. One is the  
5 interconnection studies have been delayed due to  
6 COVID. So, we are delayed in getting our  
7 results back from the PJM grid studies that are  
8 done, our interconnection studies. So, they  
9 kept rolling that ball back due to these COVID  
10 regulations, and that type of thing. So, that  
11 is one reason. And the other reason is being  
12 able to secure our supply of panels and other  
13 components of the project again due to some  
14 manufacturing delays, we are just trying to give  
15 ourselves a cushion to be able to procure all of  
16 the necessary components, and get them on site  
17 so we can construct in a timely fashion.

18                  MR. DOZIER: Okay. I got a couple  
19 other questions.

20                  Driven steel pilings, how deep are they?  
21 Are they set in concrete?

22                  MR. SHEEHAN: They are not set in  
23 concrete. They are just pile driven right into  
24 the ground with a pile driver.

1 MR. DOZIER: Ten feet, 15 feet?

2 MR. SHEEHAN: Oh, no, four to six feet  
3 depending on the geotechnical analysis of the  
4 soil, but yes, that's, generally speaking that's  
5 the typical depth of the steel piles.

6 MR. DOZIER: How big is a solar panel?

7 MR. SHEEHAN: They vary in size. We do  
8 not have our supplier contracted yet. So, I  
9 can't give you a specific size. I guess I could  
10 ask Steve Battaglia.

11 MR. DOZIER: I have no idea. Are they  
12 ten by twenty? Are they five by six? I mean --

13 MR. SHEEHAN: A typical panel is three  
14 by five, but they will sit on a rack in an  
15 array. So, there could be three to four panels  
16 depending on the size that fill up the rack.  
17 But like he said there would be -- they are  
18 twelve feet tall, two feet off the ground. So,  
19 relatively six to eight feet in height sitting  
20 on the rack itself I would say.

21 MR. DOZIER: Okay. I guess I have got  
22 questions on the native mix grass. What are you  
23 going to do for weed control here?

24 MR. SHEEHAN: The idea is to get the

1 stand established as quickly as possible, but as  
2 you and I both well know there is going to be  
3 some weed control. So, that's when mowing would  
4 be done to control weeds and try to get our  
5 stand established as well as possible.

6 MR. DOZIER: Well, usually about  
7 anything that you spray to control weeds is  
8 going to kill any pollinator.

9 MR. SHEEHAN: Right. Yep, we are aware  
10 of that.

11 MR. DOZIER: Okay. Tile -- I farm. I  
12 understand tile. You have got a big job if you  
13 are going to probe all that. I will tell you  
14 that.

15 MR. SHEEHAN: Well, now just to be  
16 clear we are probing the mains that transect  
17 from a non-participating parcel onto our parcel  
18 to maintain the flow of water from say the  
19 Eggimanns' parcels or the parcels surrounding us  
20 to the south. Obviously the laterals you  
21 don't -- you won't know where all of the  
22 laterals are anyway, but as we find them we will  
23 note them, we will identify them, and treat them  
24 as they need to be treated going forward.

1                   MR. DOZIER:   Okay.   In your -- under  
2                   tile repair it says SCE will maintain a fund  
3                   following construction.   Maybe I didn't hear you  
4                   correctly, but you said that was for  
5                   participating landowners?

6                   MR. SHEEHAN:   Right.   We won't affect  
7                   anything outside of our project boundary aside  
8                   from the mains that run from one parcel to  
9                   another.   So, we don't need -- we wouldn't need  
10                  to hold money back for lateral tile repair on a  
11                  non-participating parcel.

12                  MR. DOZIER:   I understand that.   Are  
13                  you going to take care of the mains though from  
14                  a farm that's non-participating that goes under  
15                  your project?

16                  MR. SHEEHAN:   Absolutely.   That will be  
17                  done ahead of time.

18                  MR. DOZIER:   Is there access to that in  
19                  case there is a problem?

20                  MR. SHEEHAN:   Well, that's why we are  
21                  going to reroute the mains ahead of time with  
22                  our survey, and that's why we are identifying --

23                  MR. DOZIER:   I understand.   I have had  
24                  new tile put in, and had a hole the next year.

1           MR. SHEEHAN: Oh, absolutely, yes,  
2           absolutely. There will be -- we will have to --  
3           like anything else we will have to come in and  
4           pull panels off to get in there and remove them.

5           MR. DOZIER: That's possible to do  
6           then?

7           MR. SHEEHAN: It is not ideal, but it  
8           is possible. As Kyle noted it is a requirement  
9           of the AIMA that we keep the drain tile  
10          functional.

11          MR. BARRY: And provide the GPS data.

12          MR. SHEEHAN: And provide the GPS data  
13          for the repair locations.

14          MR. DOZIER: Is this going to be done  
15          to your tiling standards, to a tiling  
16          contractor's standard, or to the adjacent  
17          landowner's standards?

18          MR. SHEEHAN: Well, we would replace  
19          whatever mains are running with the equivalent  
20          with what's there. We would just reroute them.  
21          If they need to be re-sized based on the route  
22          we take, then we will take that into  
23          consideration with a professional tile  
24          installer.



1           MR. DOZIER: I have put a few mains in,  
2           and that's a very expensive deal, and I know  
3           that if someone has got one running, they are  
4           going to be concerned that it's --

5           MR. SHEEHAN: Absolutely.

6           MR. DOZIER: Okay. I guess the only  
7           other -- back to solar panels. I believe your  
8           appraiser said that, something about hazardous  
9           materials. I was under the impression solar  
10          panels were considered a hazardous material upon  
11          the end of their life.

12          MR. SHEEHAN: I can't speak to that.  
13          You will have to speak to whoever's presentation  
14          you are referencing that.

15          MR. DOZIER: I am talking to the  
16          appraiser. I am not sure he knows a lot about  
17          solar panels either, but he knows land value,  
18          but he said that they were not -- he talked  
19          about hazardous materials.

20          MR. SHEEHAN: Steve, the engineer,  
21          might be able to speak to that. I can't speak  
22          to that.

23          MR. DOZIER: I just want to know. I  
24          mean I have always heard they couldn't be

1 disposed of in just a landfill.

2 MR. SHEEHAN: I don't know that to be  
3 true. I can't speak to that.

4 CHAIRMAN SIPES: Who are we looking  
5 for?

6 MR. SHEEHAN: Steve Battaglia.

7 CHAIRMAN SIPES: Mr. Battaglia.

8 MR. STEVE BATTAGLIA: Yes. Can you  
9 hear me?

10 CHAIRMAN SIPES: Yes.

11 MR. STEVE BATTAGLIA: I am not -- I am  
12 not aware of solar panels being considered  
13 hazardous materials. It is the first I heard  
14 that, but I can't testify conclusively that they  
15 are not. I just have not ever heard of it. I  
16 am not aware of any materials that would be  
17 considered hazardous.

18 MR. DOZIER: Can you find somebody that  
19 can?

20 MR. SHEEHAN: I will make note of that,  
21 and provide that information to the Board.

22 MR. DOZIER: I guess the only other  
23 thing that I had in your land cost stuff you  
24 listed some farmland back here, and I may have

1 got mixed up on the map, I am not sure, but it  
2 looks to me like parcel two and three were  
3 actually purchased for this project. I wasn't  
4 real sure how relevant that was because that  
5 could be an inflated price. I believe number  
6 three is going to be where your layout yard is.  
7 I kind of looked at the map, and looked at  
8 number two, and it looked like it was included,  
9 but I could be wrong on following roads.

10 MR. SHEEHAN: Number two would not be.

11 MR. DOZIER: That's not in your  
12 project.

13 MR. SHEEHAN: No. Let me make sure.

14 MR. DOZIER: I thought it was the out  
15 crop in here kind of purple colored.

16 MR. SHEEHAN: Two would not be  
17 included.

18 MR. DOZIER: Okay.

19 MR. SHEEHAN: Three was purchased. It  
20 is a part of the project now. It was not  
21 purchased for the project. It was purchased  
22 before the project entered into a lease  
23 agreement. They didn't have any knowledge we  
24 were going to go there yet.

1 MR. DOZIER: All right. I think that's  
2 all of the questions that I have got right now.

3 CHAIRMAN SIPES: Are there any other  
4 questions from the ZBA?

5 MR. GOODRICH: I have one, Glen  
6 Goodrich, ZBA. On a previous solar panel for  
7 some reason I was thinking there was something  
8 about the cleaning solution for the panels.  
9 Since they are so close to that lake will we  
10 have a hazardous problem with that, with the  
11 chemicals that may be used to clean the solar  
12 panels, or do you clean them? Some reason I  
13 think that they were cleaned every once in  
14 awhile.

15 MR. SHEEHAN: Any cleaning agent that  
16 would be used would be EPA certified, and it  
17 would be used according to the label of  
18 recommendations.

19 MR. GOODRICH: The only concern I had  
20 we are so close to that lake.

21 MR. SHEEHAN: Sure, understandable, and  
22 they would follow the label recommended  
23 practices for utilizing any solution or  
24 pesticides or herbicides that are used on the

1 project.

2 MR. DOZIER: I am sorry. I got one  
3 other question. How many feet from the panel,  
4 the closest panel to your fence of your project?

5 MR. SHEEHAN: Steve Battaglia would  
6 answer. It varies slightly, but he can give you  
7 a --

8 MR. STEVE BATTAGLIA: Can you hear me?  
9 Okay. So, it varies across the site, but the  
10 minimum distance would be 20 feet from the edge  
11 of the panel to the fence, the perimeter fence.

12 MR. DOZIER: Okay, thank you.

13 CHAIRMAN SIPES: Any other questions?

14 MR. DORR: I have one question, Joe  
15 Dorr, ZBA. Where are your panels made?

16 MR. SHEEHAN: We do not have our  
17 supplier contracted yet, so I don't.

18 MR. DORR: In some of your other  
19 projects where were those panels made?

20 MR. SHEEHAN: I believe the vast  
21 majority of them either come from China or the  
22 U.S. That's the two main lead manufacturers.

23 CHAIRMAN SIPES: Any other questions  
24 from the ZBA? Okay. Is it Mr. Yow?

1 MR. YOW: Yes.

2 CHAIRMAN SIPES: I think you are  
3 representing the three interested parties?

4 MR. YOW: Yes, Dale and Julie Eggimann,  
5 Carolyn Eggimann, and Gary Conner.

6 CHAIRMAN SIPES: Okay. Just so I am  
7 clear, Gary Conner is owner of the property, the  
8 80 acres on the south side that Eggimanns farm?

9 MR. YOW: That's correct.

10 CHAIRMAN SIPES: Okay.

11 MS. JULIE EGGIMANN: And he lives  
12 there.

13 CHAIRMAN SIPES: Okay. You had some  
14 questions you wanted to ask?

15 MR. YOW: Yes. Just so I understand, I  
16 can ask some questions of their witnesses, and  
17 then I can put on my case, is that correct?

18 CHAIRMAN SIPES: Yes. If you would ask  
19 your questions first though, and then present  
20 your case.

21 MR. YOW: Yes, absolutely. Thank you.

22 Mr. Sheehan, obviously you know who I  
23 represent. I think you have mentioned earlier  
24 that you acknowledge that my clients are not

1 part of the project?

2 MR. SHEEHAN: Yes.

3 MR. YOW: Okay, and is it also correct  
4 to say that my clients have not entered into any  
5 agreements with Black Diamond?

6 MR. SHEEHAN: That's correct.

7 MR. YOW: All right, and since they  
8 have not entered into an agreement or what they  
9 call an underlying agreement under the  
10 Agricultural Impact Mitigation Agreement, that  
11 those AIMA doesn't apply to my clients and their  
12 lands, their tiles?

13 MR. SHEEHAN: It is my understanding,  
14 Kyle could correct me if I am wrong, but they  
15 are protected by it.

16 MR. YOW: That's not what the AIMA  
17 says. Doesn't it define the landowner as  
18 someone that actually has the contract and  
19 agreement with the facility owner?

20 MR. SHEEHAN: I am going to let Kyle  
21 answer that. I don't know the answer to that  
22 specifically. What are you driving at?

23 MR. YOW: Well, previously I believe  
24 you have indicated that the AIMA would somehow

1 protect other people not within the project.

2 MR. SHEEHAN: If they are adversely  
3 affected by the project, I believe they are  
4 covered under that, but I mean --

5 MR. BARRY: I mean I can -- you want to  
6 swear me in?

7 CHAIRMAN SIPES: You are an attorney,  
8 correct?

9 MR. BARRY: Yes.

10 CHAIRMAN SIPES: I don't need to.

11 MR. BARRY: I am just reading the terms  
12 of the AIMA here, and it refers to, in terms of  
13 tile repair it refers to, I believe it refers to  
14 tiles that are outside the footprint of the  
15 project as well. So, I mean we can argue about  
16 what that scope is, but the AIMA itself is by  
17 its terms entered into to protect the landowners  
18 who participate in the project, but there is  
19 also I call it a penumbra that provides  
20 protection to neighboring landowners when it  
21 comes to drain tiles. So, I am not sure what  
22 the scope of the question is.

23 MR. YOW: Well, Counsel, I appreciate  
24 the answer, but I don't believe that's what the



1       AIMA says, or at least my clients have very much  
2       of a concern that it doesn't apply to them.

3               Now, Mr. Dozier asked you a question about  
4       the fund that had been established or may be  
5       established by Black Diamond. I believe you  
6       said that that does, that protects people within  
7       the project, correct?

8               MR. SHEEHAN: That's correct.

9               MR. YOW: All right. Were you part of  
10       developing the preliminary site plan for this  
11       project?

12              MR. SHEEHAN: I was involved in that,  
13       yes.

14              MR. YOW: Okay. Would it be fair to  
15       say that you did not contact my clients during  
16       the development of that project?

17              MR. SHEEHAN: I tried to reach out to  
18       your clients several times, and never got a call  
19       back.

20              MR. YOW: Well, did you work with them?  
21       Did you go to their, either of these -- well,  
22       did you contact Carolyn Eggimann, and ask for  
23       her to participate with you or to work with you  
24       in developing that preliminary site plan?

1           MR. SHEEHAN: I utilized the contact  
2 information that I could find on line and  
3 reached out with numbers that I could find.  
4 Whether they were valid -- whether they were  
5 good numbers or numbers that were still in  
6 service I don't have any way to verify that.

7           MR. YOW: All right. I don't mean to  
8 be overly aggressive with you. Would it be fair  
9 to say that as part of the preliminary site plan  
10 you did not get or work with the Eggimanns to  
11 identify any drainage tile that helps benefit  
12 the land that they own and/or farm?

13          MR. SHEEHAN: Well, I tried to reach  
14 out to Mr. Eggimann again this week, I think it  
15 was even yesterday or the day before. I would  
16 have to look at my phone log.

17          MR. YOW: Did you, in fact, speak with  
18 Dale or Julie Eggimann as part of the process of  
19 actually drafting the preliminary site plan?

20          MR. SHEEHAN: No.

21          MR. YOW: Did you speak with Gary  
22 Conner as part of this development of the site  
23 plan and discuss actually the location of  
24 drainage tiles, that type of thing?

1           MR. SHEEHAN: I did not get that far  
2 with Mr. Conner. I presented my -- when I spoke  
3 with him on the phone the one time that I could  
4 get ahold of him, he said he had zero interest  
5 in participating in the project, and so I tried  
6 to respect his wishes, and I left him alone.

7           MR. YOW: Was that in part you were  
8 attempting to actually acquire the land versus  
9 talking to him?

10          MR. SHEEHAN: Right. I had a variety  
11 of proposals I was wanting to present to him as  
12 options to participate, yes.

13          MR. YOW: The project entails burying  
14 lines, does it not?

15          MR. SHEEHAN: Underground collection  
16 lines, yes.

17          MR. YOW: Right, and in doing that that  
18 kind of activity clearly can damage, cut through  
19 drainage tiles, is that correct?

20          MR. SHEEHAN: That's correct.

21          MR. YOW: You also are going, you  
22 proposed having certain access roads along, in  
23 the various parts of the project, correct?

24          MR. SHEEHAN: That's correct.

1           MR. YOW:   And the construction,  
2           maintenance of those types of roads can also  
3           adversely impact or damage, destroy existing  
4           drainage tile?

5           MR. SHEEHAN:   Right, but all of that,  
6           all of that activity will be on participating  
7           parcels that we have agreements with.

8           MR. YOW:   Exactly, and you don't have  
9           an agreement with my clients, do you?

10          MR. SHEEHAN:   I am not on his parcel.

11          MR. YOW:   Well, but have you talked  
12          with my clients, have you gone out there and  
13          actually explored how the tiles from my clients'  
14          properties cross over other properties, for  
15          example, Judith Smith's property to the east?

16          MR. SHEEHAN:   That is in our plan to do  
17          that, yes.   We will.   We have not done that yet,  
18          no.

19          MR. YOW:   Okay, and would it be fair to  
20          say also that you haven't located any drainage  
21          tile that may be going from say the southeast of  
22          the Conner property through the project?

23          MR. SHEEHAN:   We haven't had the  
24          opportunity to do that yet, but we fully intend

1 to do that as part of our prior to construction  
2 phase of development.

3 MR. YOW: You would appreciate the  
4 concern that my clients would have about this  
5 type of project.

6 MR. SHEEHAN: Sure, and I am happy to  
7 work with them however I can to be sure that  
8 they are not adversely effected, and that their  
9 drainage is as good or better than it has been  
10 before.

11 MR. YOW: Does Black Diamond and Swift  
12 Current, do they acknowledge that my clients  
13 have perpetual easements in the drainage tiles  
14 that go, for example, across Judith Smith's  
15 property?

16 MR. SHEEHAN: I don't know that we have  
17 uncovered any of those recorded deeds, but it is  
18 in our title work to date.

19 MR. YOW: Okay. Well, I am not talking  
20 about recording. I am talking about perpetual  
21 easements that are created through mutual  
22 benefit under the Illinois Drainage Code.

23 MR. SHEEHAN: I am unaware of any of  
24 this. I am happy to explore the option with the

1 Eggimanns by all means. I have no problem  
2 working with them.

3 MR. YOW: Sure. Mr. Battaglia.

4 MR. HARRIS: You might want to come  
5 over here and speak into the mike. Steve, you  
6 are live again.

7 MR. YOW: Mr. Battaglia, my name is  
8 Allen Yow. I represent several landowners that  
9 are not within the project, specifically Dale  
10 and Julie Eggimann, Carolyn Eggimann, and Gary  
11 Conner.

12 Are you aware of those names and the fact  
13 that they are not part of the project?

14 MR. STEVE BATTAGLIA: I am, yes.

15 MR. YOW: Okay. Now, you testified  
16 earlier that you created the drainage and  
17 erosion plan in this, for the preliminary site  
18 plan?

19 MR. STEVE BATTAGLIA: Correct.

20 MR. YOW: And would it be fair to say  
21 in doing that you did not speak with my clients  
22 about the location or the presence of drainage  
23 tile that they had an interest in not only on  
24 their own properties but on other properties, on

1 project properties?

2 MR. STEVE BATTAGLIA: I did not speak  
3 to them. That would be highly atypical for the  
4 engineer to speak to them.

5 MR. YOW: Okay. Would it be fair to  
6 say that your drainage and erosion plan does not  
7 indicate the location of any mutual drain  
8 across, for example, Judith Smith's property?

9 MR. STEVE BATTAGLIA: Currently the  
10 drainage and erosion plan is specific to surface  
11 drainage, not subsurface.

12 MR. YOW: Okay, and would you agree  
13 that -- okay, so you were just dealing with  
14 surface drainage, not subsurface drainage, is  
15 that correct?

16 MR. STEVE BATTAGLIA: Correct. We  
17 don't have the tile maps yet for certain parts  
18 of the project. So, we are not able to do a  
19 full reconnaissance of what that tile mapping  
20 looks like yet of the project. So, it doesn't  
21 make sense to do it partway. You either do it  
22 all of the way or nothing.

23 MR. YOW: Okay. So, is it fair to say  
24 as you sit here today you have no idea where the

1 location of any drainage tiles or laterals are  
2 on, either on the property's part of the project  
3 or my clients' properties?

4 MR. STEVE BATTAGLIA: As of today  
5 that's correct. We have every intention of  
6 finding out where those are prior to  
7 construction though.

8 MR. YOW: Sure, and you testified  
9 earlier that fencing will be placed around the  
10 project?

11 MR. STEVE BATTAGLIA: Correct.

12 MR. YOW: All right, and fencing can  
13 impede or impair surface drainage, can it not?

14 MR. STEVE BATTAGLIA: I would say the  
15 chain link fencing that is proposed on this  
16 project I do not anticipate changing the surface  
17 drainage patterns.

18 MR. YOW: But you can't rule it out,  
19 can you, because sometimes fencing will actually  
20 impede if the brush or other debris gets along  
21 the fencing that can impair drainage, can't it?

22 MR. STEVE BATTAGLIA: I guess if you  
23 put it that way, it could. That would all be  
24 internal to the project.



1 MR. YOW: Thank you, Mr. Battaglia.

2 CHAIRMAN SIPES: Mr. Yow, are you  
3 finished at the moment?

4 MR. YOW: As far as cross examination.  
5 I would like to put on my case when I have an  
6 opportunity.

7 CHAIRMAN SIPES: Okay. I guess we are  
8 ready for that part.

9 MR. YOW: Okay, thank you. Just a  
10 couple of -- I had submitted on behalf of my  
11 clients entered appearances and objections.  
12 Will they be made part of the record on these  
13 proceedings?

14 MR. HARRIS: Was that this stuff here?

15 MR. YOW: Yes.

16 MR. HARRIS: Yes, I have that part of  
17 the record.

18 MR. BARRY: Could I get a copy of those  
19 materials?

20 MR. YOW: Do you have an extra one?

21 MR. GOODRICH: I have three of them  
22 over here.

23 CHAIRMAN SIPES: They are all  
24 different.

1                   MR. HARRIS:  He would need all three.  
2           I tell you what if you send me the e-mail  
3           address, I will scan them and e-mail them to you  
4           tomorrow.

5                   MR. BARRY:  The problem is how am I,  
6           excuse me.

7                   CHAIRMAN SIPES:  Here, you can have  
8           mine.

9                   MR. BARRY:  How am I going to  
10          potentially ask questions of his witnesses if I  
11          don't have the material?

12                   MR. DOZIER:  He is giving you his.

13                   MR. BARRY:  Thank you.

14                   MR. YOW:  Mr. Chairman, where would you  
15          like Dale Eggimann I am going to call as a  
16          witness.  Where would the best place for him to  
17          testify so you guys can see him?

18                   CHAIRMAN SIPES:  Probably just right  
19          here where you stood earlier.

20                   MR. YOW:  Would you like Mr. Eggimann  
21          to sit there?

22                   CHAIRMAN SIPES:  That's fine.

23                   MR. YOW:  Mr. Chairman, can I just -- I  
24          want to give a set of my exhibits to the

1           Commissioners. I have the original that I will  
2           have my client testify to.

3                   CHAIRMAN SIPES: Okay.

4                   MR. YOW: I thought I would give --  
5           they are very similar to what you already have  
6           although there is one additional.

7                   CHAIRMAN SIPES: Mr. Eggimann, am I  
8           pronouncing that right? Would you state your  
9           name and spell it, please.

10                   MR. DALE EGGIMANN: Dale Eggimann,  
11           E-G-G-I-M-A-N-N.

12                   MR. YOW: Mr. Eggimann --

13                   CHAIRMAN SIPES: Hang on just a second.  
14           I am sorry. Do you swear to tell the truth, the  
15           whole truth, and nothing but the truth?

16                   MR. DALE EGGIMANN: I do.

17                   CHAIRMAN SIPES: Thank you. Please  
18           proceed.

19                   MR. YOW: Thank you.

20

21

22

23

24

1 DALE EGGIMANN

2 called as a witness herein, at the instance  
3 of the Eggimanns and Gary Conner, having been  
4 first duly sworn/affirmed on his oath, was  
5 examined and testified as follows, to-wit:

6 DIRECT EXAMINATION

7 BY MR. YOW:

8 Q. Mr. Eggimann, would you again for the  
9 record state your name and spell it.

10 A. Dale Eggimann, E-G-G-I-M-A-N-N.

11 Q. And how old are you, sir?

12 A. Sixty-four.

13 Q. And are you married to Julie Eggimann?

14 A. Yes, I am.

15 Q. Is she here this evening?

16 A. Right there.

17 Q. Is your mother Carolyn Eggimann?

18 A. Right there.

19 Q. She is here as well, okay. Now, you  
20 own property in South Fork Township, is that  
21 correct?

22 A. Yes.

23 Q. All right, and that's land that you and  
24 your wife own, is that correct?

1 A. Excuse me.

2 Q. That's land that you and your wife own?

3 A. Yes.

4 Q. All right, and your mom also owns land  
5 in South Fork Township adjacent to yours?

6 A. Yes.

7 Q. Do you know a Gary Conner?

8 A. Yes, I do.

9 Q. Does he also own land basically  
10 southeast of your property?

11 A. Right, yes.

12 Q. All right. Now, Mr. Eggimann, in front  
13 of you I have placed several exhibits. Most of  
14 these except for one are the ones that were  
15 already part of your entry of appearance in this  
16 case. Is the first page, Exhibit A, a copy of  
17 the Black Diamond's project map?

18 A. As far as I know.

19 Q. Do you need to get your glasses out?

20 A. Sure do.

21 Q. Okay.

22 A. Yes.

23 Q. All right. So, Exhibit A is the  
24 project map, is that correct?

1 A. What map?

2 Q. Exhibit A is the project map?

3 A. Yes.

4 Q. Okay, and then if you turn the page,  
5 all right. That's Exhibit B, is that correct?

6 A. Yes.

7 Q. Now, is this the project map, but it  
8 also then has certain lands that are colored, is  
9 that correct?

10 A. Right.

11 Q. All right, and is your land highlighted  
12 in blue?

13 A. Yes, it is.

14 Q. All right, and is your mother's  
15 highlighted in orange?

16 A. Yes.

17 Q. Is Gary Conner's in pink?

18 A. Yes.

19 Q. All right. Now, is Exhibit C, are  
20 those property tax statements verifying you and  
21 your wife's ownership in those lands?

22 A. Yes.

23 Q. All right. I say the lands, the lands  
24 well obviously you and her own?

1           A.     Yes.

2           Q.     All right, and is Exhibit D true and  
3           exact copies of tax statements for the  
4           properties, the lands that your mom owns in that  
5           area?

6           A.     Yes.

7           Q.     All right. Is Exhibit E tax, real  
8           property tax statements for Gary Conner's  
9           property at issue here?

10          A.     Yes, it is.

11          Q.     Okay, now, how long have you owned the  
12          land that's marked in blue on Exhibit B?

13          A.     Twenty years.

14          Q.     All right. How long have you farmed  
15          it?

16          A.     All my life.

17          Q.     All right. Now, your mom owns property  
18          just to the south of yours, is that right? She  
19          owns 40 acre parcel?

20          A.     Yes, the 40 is south of me, right.

21          Q.     Right.

22          A.     South and east.

23          Q.     All right, and how long have you been  
24          involved with that property?

1           A.     All my life.

2           Q.     All right, and is that through farming?

3           A.     We grew up on that farm, yes.

4           Q.     All right, and your mom now owns that  
5 farm?

6           A.     Yes.

7           Q.     All right. Now, are there any drainage  
8 tiles on that property?

9           A.     A lot of them.

10          Q.     All right, and generally speaking on  
11 your mom's property where does the water flow?  
12 I am going to show you what is marked as Exhibit  
13 N. I have to get my glasses out. Is this an  
14 aerial that shows the lands that you, your mom,  
15 and Mr. Conner own?

16          A.     Yes, it is.

17          Q.     All right, and is yours highlighted in  
18 blue --

19          A.     Yes.

20          Q.     -- here? And is your mom's 40 right  
21 down here?

22          A.     Yes.

23          Q.     Okay. Who owns the land to the east?

24          A.     Judy Smith.



1 Q. All right, and how long has Judy Smith  
2 owned it, well, a long time?

3 A. The Smiths have been there as long as  
4 we have been on the other.

5 Q. More than 20 years?

6 A. Yes.

7 Q. More than 30 years?

8 A. More than 50 years.

9 Q. All right. Now, with regards to this  
10 property that your mom owns where does the  
11 drainage tiles go? Do they go towards the east  
12 towards the Judith Smith property?

13 A. They go east towards the lake across  
14 Judy's.

15 Q. They go through Judy's?

16 A. Yes.

17 Q. Okay. Now, prior to 2002 what type of  
18 drainage tiles were crossing from your mom's  
19 property over through Judy's property?

20 A. Prior to 2002 they were -- to my  
21 knowledge there is a 14 and a 12 inch main in  
22 the bottom of that ditch.

23 Q. All right. Going from your mom's  
24 property through the Smith property?

1           A.     Yes.

2           Q.     All right, and where -- so, water is  
3           taken away from your mom's property through  
4           Judith Smith's property?

5           A.     Yes.

6           Q.     All right.  Were there other waters,  
7           other lands also going across?

8           A.     Yes.

9           Q.     All right.  Were the Smiths aware of  
10          that prior tile and drainage work?

11          A.     Yes.

12          Q.     All right.  Then in 2002 did you work  
13          with or have the permission of the Smiths to  
14          install another tile?

15          A.     Yes.

16          Q.     All right.  Tell what happened in 2002.

17          A.     We put a 15 inch main all of the way  
18          from the east side of the Smith property up  
19          halfway across mom's 40.

20          Q.     All right.  So, in other words, from  
21          the far side by the road here on the way east  
22          side all of the way into the middle of your  
23          mom's property?

24          A.     Right.

1 Q. All right, and so once again that  
2 benefited your land?

3 A. Yes.

4 Q. All right. Did it benefit the Smiths'  
5 land?

6 A. Some.

7 Q. Did it benefit your land over here at  
8 some point?

9 A. Yes.

10 Q. Because in 2008 did you actually tie in  
11 some drainage tiles from your land over here  
12 into that?

13 A. In '08, yes.

14 Q. Was it 2008?

15 A. I think it was.

16 Q. All right, and so were you draining  
17 then -- so, waters were draining -- so, your  
18 land over here is being drained?

19 A. Right.

20 Q. Getting the benefit of that drainage  
21 tile?

22 A. Yes.

23 Q. All right, and Mr. Eggimann, just so we  
24 keep in order is Exhibit F that's in front of

1       you, is that just a plat book --

2           A.     Yes, it is.

3           Q.     -- page? That shows Section 17 where  
4       your land and your mom's land is located?

5           A.     Right.

6           Q.     All right. Now, what is Exhibit G?  
7       What does it show?

8           A.     It shows -- in green it shows that 15  
9       inch tile that we put in.

10          Q.     All right, and that was in 2008? Is  
11       that dated 2008 on the bottom?

12          A.     Yes.

13          Q.     All right, and who was Elliott  
14       Subsurface Drainage?

15          A.     He was a contractor that we hired to  
16       put that tile in.

17          Q.     Okay. Now, let's take a step back.  
18       Initially the 15 inch tile that you put in that  
19       was 2002, right?

20          A.     The first half of it.

21          Q.     The first half. All right. Can you  
22       tell the Board here in 2008 what was being done?  
23       What was the additional work that was being done  
24       that is shown on Exhibit G?

1           A.     In 2002 we put what is in green.  In  
2           2008 we came up to the corner with what is in  
3           orange, I think.

4           Q.     In red?

5           A.     Red, okay.

6           Q.     Well, it looks like orange, doesn't it?

7           A.     And then in 2008 we also ran an eight  
8           inch tile parallel to the road to the middle of  
9           my, or to the edge of my ground.

10          Q.     And once again where do all those  
11          waters flow to?

12          A.     To the east.

13          Q.     East through Mrs. Smith's property?

14          A.     Mrs. Smith's.

15          Q.     Can you tell the Board what's Exhibit  
16          H?

17          A.     It is kind of a summary of the same  
18          thing, but there is more tile on it than just  
19          ours.

20          Q.     All right.  Does the tile that's shown  
21          on Exhibit H, does it also help drain  
22          Mr. Conner's property to the northeast?

23          A.     Vaguely, yes.

24          Q.     All right, and where is that indicated?

1           A.     Well, there is one in the middle 80  
2 here that runs at an angle to the southeast.

3           Q.     Okay.

4           A.     But it doesn't show all of it. It  
5 comes on up to Gary's property.

6           Q.     All right. Now, you mentioned 2002,  
7 Exhibit I, is this the Elliott subsurface  
8 drainage map of August of 2002 showing that, the  
9 location of that 15 inch tile?

10          A.     Yes, it is.

11          Q.     All right, and there is also reference  
12 to an old 12 inch clay tile?

13          A.     Yes.

14          Q.     All right, and whose property was that  
15 located on?

16          A.     That's partly on Carolyn Eggimann's  
17 property, and the rest of it is on the Smith  
18 property.

19          Q.     Okay. Now, in 2002 when you installed  
20 that 12 inch or that 15 inch tile, who helped  
21 pay for that expense?

22          A.     Carolyn, Don Eggimann trust, me, and  
23 Julie, and William Shaw.

24          Q.     Did Mr. Conner have any involvement in

1 that?

2 A. Oh, yes. I left out -- at that -- wait  
3 a minute, what year?

4 Q. 2002.

5 A. 2002 his mother was still alive. She  
6 paid their part.

7 Q. All right, and in fact, her name was  
8 Norma, is that right?

9 A. Norma, yes.

10 Q. Gary is the trustee of the Norma Conner  
11 trust, right?

12 A. Right.

13 Q. Okay. So, everyone had an interest,  
14 financial interest in expanding that tile  
15 through Judith Smith's property?

16 A. Yes, whether it was 2002 or 2008, we  
17 all paid equal parts.

18 Q. All right. So, that development, that  
19 extra work that you testified to about 2008  
20 everyone was still chipping in on that?

21 A. Yes.

22 Q. All right. Now you mentioned Mr. Shaw?

23 A. Yes.

24 Q. He or a company that he owned owned

1           some land just to the east of Mr. Conner's  
2           property, is that right?

3           A.     Yes.

4           Q.     To your knowledge he doesn't own that  
5           anymore?

6           A.     No.

7           Q.     All right.  You believe that's part of  
8           the project area?

9           A.     Yes.

10          Q.     All right.  In fact, there is drainage  
11          from Mr. Conner's property through that adjacent  
12          east property that links up to your mom's  
13          property, is that right?

14          A.     Yes.

15          Q.     And so there is mutual benefit of that  
16          drainage, is that correct?

17          A.     Yes.

18          Q.     Now, looking at Exhibit J what is this  
19          document?

20          A.     Which one?

21          Q.     Exhibit J.

22          A.     J, this is -- the top right-hand part  
23          is drainage that goes, it drains a low spot in  
24          the middle of the field, and it goes, it goes,



1 eventually it goes southeast.

2 Q. All right. Let me ask you here --

3 CHAIRMAN SIPES: Mr. Eggimann, is this  
4 Exhibit J is that on your tract? That's on a  
5 piece of your property?

6 A. This is on Gary Conner's.

7 CHAIRMAN SIPES: That's on Gary  
8 Conner's, okay.

9 MR. YOW: I was going to try to direct  
10 him.

11 CHAIRMAN SIPES: Sorry.

12 MR. YOW: No, you're fine.

13 Q. Mr. Eggimann, this is the Conner  
14 property that's outlined in ink on Exhibit N, is  
15 that correct?

16 A. Yes.

17 Q. All right, and on the top northeast  
18 part of that property you said there is some  
19 drainage?

20 A. Yes.

21 Q. All right. Does this drainage then  
22 eventually come over to your mom's property?

23 A. Yes, it does.

24 Q. All right, and was some of that work

1 done -- when was that work done, the tile work  
2 approximately?

3 A. We think it was 2015. That's what Gary  
4 told me awhile ago.

5 Q. Okay. Now, looking back at Exhibit J  
6 though, is there some -- well, take a step back.

7 Is there tile -- is there tile constructed  
8 leading from the southeast portion of  
9 Mr. Conner's property further down?

10 A. Yes, yes, that's what's on the bottom  
11 of this page.

12 Q. Exhibit J?

13 A. Yes.

14 Q. All right, and was that work done  
15 around 1998, 1999, something like that?

16 A. Yes, 1998.

17 Q. What was the purpose of this drainage  
18 tile?

19 A. To drain the back corner, the back  
20 corner is a wet area. So, we drained it and  
21 took it southeast.

22 Q. Now, Mr. Eggimann, can you tell me why  
23 were you concerned about draining Mr. Conner's  
24 property?

1           A.     Because I farm it.

2           Q.     Okay.  How long have you farmed it?

3           A.     Our family farmed it since I was in  
4     grade school.

5           Q.     Okay.  How old are you again?

6           A.     Sixty-four, about forgot.

7           Q.     All right, and who contributed to the  
8     cost of improving the drainage on the south end  
9     of Mr. Conner's property?

10          A.     Okay.  Norma Conner paid equivalent for  
11     an eight inch all of the way across.  Then as we  
12     went across other property it upsized to a ten  
13     inch, and then when we crossed onto the  
14     Achambach ground -- well, let me back up.  As we  
15     went across June Calloway's ground at that time,  
16     which turned into the Shaw ground, we took it to  
17     a ten inch.  Then as we crossed the road onto  
18     Achambach we took it to a twelve inch, and  
19     everybody paid -- Norma Conner paid the biggest  
20     part of it, but everybody paid to increase the  
21     tile.

22          Q.     All right.  You were getting mutual  
23     benefit out of this?  You were getting benefit  
24     from that tile?

1 A. Because I farmed the ground, yes.

2 Q. Right, and the tile that goes from the  
3 southeast of the Conner property that was  
4 installed in the 1998, '99 time frame that  
5 crosses the property that's in the project, the  
6 Solar Project?

7 A. Yes.

8 Q. Mr. Eggimann, if you could turn to  
9 Exhibit K. Mr. Eggimann, could you spell  
10 Achambach?

11 A. You might have to talk to my mom there.

12 MS. CAROLYN EGGIMANN: I think it is  
13 A-C-H-A-M-B-A-C-H, I believe.

14 A. It would be on that plat map page.

15 MS. CAROLYN EGGIMANN: I think I am  
16 right.

17 MR. YOW: We will come back to that.

18 A. It had already changed hands by then.

19 Q. Okay. Now, look at Exhibit K.

20 A. Okay.

21 Q. What is this document?

22 A. This is a map, an old map that Judy  
23 Smith gave me.

24 Q. Is it dated November 7th, 1939?

1           A.     I think it is, yes.

2           Q.     It is entitled plat of tile drains?

3           A.     Yes.

4           Q.     All right, and is your mom's property  
5 shown on this, a portion of your mom's property  
6 shown on this document?

7           A.     It would be the top left-hand square in  
8 that map is mom's 40.

9           Q.     That's the one that says old twelve  
10 inch main tile, and it intersects with a six  
11 eight inch new?

12          A.     Yes.

13          Q.     And does this show that back in '39  
14 there was drainage tile leading from your mom's  
15 property onto what is now known as the Smith  
16 property?

17          A.     Yes.

18          Q.     All right. Does this also show that  
19 waters were being conducted from the southeast  
20 to the northwest onto your mom's property, and  
21 then that water was then sent over to the Smith  
22 property?

23          A.     Yes.

24          Q.     All right, and is Exhibit L,

1 Mr. Eggimann, is this a tile drainage plan from  
2 May of 1960 concerning tiles and laterals on the  
3 Smith property?

4 A. Yes.

5 Q. And on the left-hand side of the  
6 boundary line there is a line that's north  
7 south. That's like a section line, isn't it, or  
8 a quarter section line, this one right here,  
9 that line?

10 A. I am not sure if it is a quarter  
11 section or not.

12 Q. Is that the boundary line between what  
13 the Smith property is and what your mom's  
14 property is now?

15 A. Yes.

16 Q. Once again does this show the existence  
17 of drain tiles?

18 A. Yes.

19 Q. Finally, Mr. Eggimann, with regards to  
20 the exhibit, Exhibit M, does this three pages  
21 consist of portions of the Illinois Drainage  
22 Code that you believe are relevant to this  
23 cause?

24 A. I haven't seen this before. I have

1 looked at a million papers.

2 Q. All right. Let me just say does this  
3 appear to be State law to you, statutes? We  
4 have Section 2-8, drains and levies for mutual  
5 benefit?

6 A. Yes.

7 Q. All right, and if you turn the next  
8 page, drains and levies for mutual benefit,  
9 duration of easement, is that what it is called?

10 A. Yes.

11 Q. All right. Then also Section 2-11,  
12 drains and levies for mutual benefit right to  
13 repair?

14 A. Yes.

15 Q. And Mr. Eggimann, are you concerned  
16 about the likely adverse impacts on the drainage  
17 that your mom has enjoyed, your lands have  
18 enjoyed, and Mr. Conner's have enjoyed by this  
19 Solar Project?

20 A. Was the question am I concerned about  
21 it, yes, I am.

22 Q. Yes. Is Carolyn Eggimann concerned  
23 about it?

24 A. Yes.

1 Q. Is Julie Eggimann concerned about it?

2 A. Yes.

3 Q. Is Gary Conner concerned about it?

4 A. Yes.

5 Q. What are you all concerned about?

6 A. Because without that drainage tile we  
7 are going to be -- we are going to have wet  
8 ground.

9 Q. What do you mean by that?

10 A. It drains all our farms.

11 Q. So, if these drainage tiles that you  
12 have that extend onto project lands if they are  
13 damaged, destroyed, you are going to have  
14 increased standing water on your properties?

15 A. Yes.

16 Q. Will that have an economic loss to you,  
17 Mr. Conner, and to your mom?

18 A. Definitely.

19 Q. All right. Has Black Diamond, anyone  
20 from Black Diamond come and walked with you on  
21 the ground to attempt to locate any of these  
22 existing drainage pipes?

23 A. No.

24 Q. Are you asking that the Zoning Board of



1 Appeals defer approving any application here  
2 until such time as concerns that you all have  
3 regarding protecting your drainage system is  
4 fully addressed, and that plans are actually set  
5 in place so you know what's really going to  
6 happen if this project starts going forward?

7 A. That is what I would like, yes.

8 MR. YOW: Mr. Chairman, I would ask  
9 that the Exhibits A through M be admitted,  
10 Exhibit A, B, C, D, E, F, G, H, I, J, K, L, M,  
11 and N be admitted.

12 CHAIRMAN SIPES: You get to keep the  
13 big map.

14 MR. BARRY: No objection.

15 CHAIRMAN SIPES: Thank you.

16 MR. YOW: Let's gather these up.

17 MR. HARRIS: If you just set those  
18 right there, I will take care of it.

19 MR. YOW: Yes, I just want to make sure  
20 I get them in order for you.

21 A. They are probably exactly backwards.

22 MR. YOW: These are the original  
23 exhibits. I will just put it there.

24 CHAIRMAN SIPES: Did you give a copy of

1 all of that to --

2 MR. YOW: Yes, I gave him the exhibits.  
3 Yes, he has them. I am done with this witness.  
4 I wouldn't mind making a little bit of a closing  
5 argument though when we are done.

6 CHAIRMAN SIPES: Because your other --  
7 there were three packets, but they were all  
8 basically the same, correct?

9 MR. YOW: Yes, right. They have  
10 different interests, but yet similar interests.

11 CHAIRMAN SIPES: I just wanted to make  
12 sure we weren't going to do this two more times,  
13 if you know what I mean, because I looked over  
14 it, and it looked all the same.

15 MR. YOW: Right. It is all the same  
16 except Exhibit M, which are the statutes, which  
17 I cited a couple of those in my written  
18 materials; but I just want to make sure that you  
19 have them so I guess it is clear the exhibits  
20 that I submitted tonight are for all three of  
21 my, all four of my clients.

22 CHAIRMAN SIPES: Yes. Mr. Barry,  
23 rebuttal or questions.

24 MR. BARRY: Actually I just have a

1 couple quick questions for Mr. Eggimann.

2

3 CROSS EXAMINATION

4 BY MR. BARRY:

5 Q. Mr. Eggimann, my name is Kyle Barry. I  
6 am an attorney for the project. Did you talk to  
7 Mr. Sheehan or anybody at the project about --

8 A. No.

9 Q. -- about your concerns about drainage?

10 A. No.

11 Q. Did Mr. Sheehan, did you receive a  
12 message or a phone call from Mr. Sheehan?

13 A. Yesterday right before noon.

14 Q. Okay.

15 A. That's the only thing I have heard from  
16 him.

17 Q. Did you call him back?

18 A. No.

19 Q. Did you talk to Mr. Cooper about  
20 contacts with the project?

21 A. I have never -- I don't know a  
22 Mr. Cooper.

23 Q. Excuse me, I am sorry, Mr. Conner.

24 A. Oh, Conner, as far as he knew he hadn't

1           talked to anybody.

2           Q.     Okay.

3           MR. SHEEHAN:   He had talked to me.

4           Q.     Were you aware of the project before  
5 yesterday at noon?

6           A.     Rumors.

7           Q.     Okay.  There was nothing that prevented  
8 you from calling Mr. Sheehan or anybody else  
9 with the project to express your concerns,  
10 correct?

11          A.     We had heard rumors there might be a  
12 solar farm.  How would I know where to start?

13          Q.     Was there anything that prevented you  
14 from calling Mr. Sheehan back when he called  
15 you?

16          A.     At that point I had already hired an  
17 attorney, and I didn't call him back, no,  
18 yesterday.  We had already did all of the  
19 paperwork, and I spent a lot of money.

20          MR. BARRY:  Thank you.  I wanted to --  
21 I wasn't sure.  I don't have any more questions  
22 for Mr. Eggimann.

23          Mr. Yow, are you finished with your  
24 witnesses?

1 MR. YOW: Yes, I am.

2 MR. BARRY: So, are we going to be able  
3 to have what we call a closing argument or  
4 something of that effect at some point?

5 CHAIRMAN SIPES: As long as we are  
6 wrapped up by 9:00 because that's bedtime, just  
7 being blunt.

8 MR. BARRY: I certainly hope so.

9 MR. HARRIS: We do have other persons  
10 of interest.

11 MR. DOZIER: Can we question here?

12 CHAIRMAN SIPES: We can.

13 MR. DOZIER: Good. Dale, you talked  
14 about this tile running across Smith's ground  
15 towards the lake. What did you hook into  
16 because Smith's property does not touch the  
17 lake?

18 MR. DALE EGGIMANN: We dropped right at  
19 the edge of the road, and there is a big culvert  
20 that goes under the road.

21 MR. DOZIER: Is there an open ditch  
22 then going to the lake?

23 MR. DALE EGGIMANN: Yes, it needs  
24 cleaned out, but there is one.

1 MR. DOZIER: I was just looking at the  
2 map, and I just didn't know what you hooked to  
3 if you went across Smiths to get to the lake.

4 MR. DALE EGGIMANN: No, we just dropped  
5 it right at the edge of the road.

6 MR. DOZIER: It don't show a ditch  
7 here.

8 MR. MARK ELMORE: It goes on my  
9 property.

10 CHAIRMAN SIPES: Hang on. You are?

11 MR. MARK ELMORE: Mark Elmore.

12 MR. DOZIER: Seventeen acres.

13 MR. MARK ELMORE: Correct.

14 MR. DOZIER: Is that the south or the  
15 north end of your property?

16 MR. MARK ELMORE: I have drains on both  
17 sides.

18 MR. DOZIER: Where is this ditch at  
19 that this jumps into?

20 MR. MARK ELMORE: The south side.

21 MR. DOZIER: Who has the five acres  
22 south of that? You have that. Okay, all right.

23 CHAIRMAN SIPES: Let's back up here  
24 just a minute. Okay. Who are the other

1 interested parties in the room because I don't  
2 have the list?

3 MR. HARRIS: The Thomases.

4 CHAIRMAN SIPES: Are one of you going  
5 to speak?

6 MR. JERRY THOMAS: I am.

7 CHAIRMAN SIPES: If you want to move up  
8 here, please. Would you state your name and  
9 spell it, please.

10 MR. JERRY THOMAS: Jerry Thomas,  
11 T-H-O-M-A-S.

12 CHAIRMAN SIPES: Okay. Do you swear to  
13 tell the truth, the whole truth, and nothing but  
14 the truth?

15 MR. JERRY THOMAS: Yes, I do.

16 CHAIRMAN SIPES: Okay, thank you.  
17 Please proceed with what you have.

18 MR. JERRY THOMAS: Actually my wife and  
19 I are here to possibly -- are interested in  
20 deferring this decision being that we only found  
21 out September 2nd, which was the first time I  
22 got to talk with Mr. Sheehan about this said  
23 project.

24 My house is involved. We are on the

1 northwest corner of Tovey. We are not in the  
2 City limits. We are in the County, but we are  
3 adjacent within 100 feet of this project. We  
4 are concerned how it is going to affect our  
5 property values.

6 I have asked a few questions. Mr. Sheehan  
7 has answered a couple of them, but I do have a  
8 question for his, for their expert Mr. Marous.  
9 It has to do with his appraisal values.

10 CHAIRMAN SIPES: Mr. Marous.

11 Mr. Marous, are you there?

12 MR. JEFF DURBIN: He should be live  
13 now.

14 CHAIRMAN SIPES: Mr. Marous, are you  
15 there?

16 MR. JEFF DURBIN: There is three of  
17 them. So, hold on a second.

18 MR. MICHAEL MAROUS: Can you hear me  
19 now? I was unmuted.

20 CHAIRMAN SIPES: We hear you now.  
21 There is a question here by an interested party.

22 MR. MICHAEL MAROUS: Yes, I understand,  
23 Mr. Thomas, right?

24 CHAIRMAN SIPES: Yes.



1                   MR. JERRY THOMAS: I have a few  
2                   questions for you. What was the average mega  
3                   capacity on the examples that you have given in  
4                   what you presented? You said you had a dozen or  
5                   so that you could present.

6                   MR. MICHAEL MAROUS: A dozen matched  
7                   pairs. There was quite a variety.

8                   MR. JERRY THOMAS: That's not what I  
9                   asked. In the examples that you were giving,  
10                  the solar farms that they were adjacent to what  
11                  was the average megawatt size of those projects?  
12                  Were they 15?

13                  MR. MICHAEL MAROUS: I am providing.

14                  MR. JERRY THOMAS: Were they --

15                  MR. MICHAEL MAROUS: I can't answer if  
16                  you interrupt me, sir.

17                  MR. JERRY THOMAS: My apologies.

18                  MR. MICHAEL MAROUS: So, the average  
19                  was probably in the 20 megawatt range was  
20                  brought down by a couple that were relatively  
21                  small and the large one in Minnesota.

22                  MR. JERRY THOMAS: So, you have no  
23                  examples that would be close to this 297  
24                  megawatt project that we are dealing with right

1 now?

2 MR. MICHAEL MAROUS: The one in  
3 Minnesota at 100 megawatts is probably the  
4 closest.

5 MR. JERRY THOMAS: As an example that  
6 you gave on the illustration in Minneapolis, I  
7 believe it was, what are the setback  
8 requirements in that state?

9 MR. MICHAEL MAROUS: They vary by  
10 county. I believe that -- well, the state  
11 that's multiple, depends on the county, sir.  
12 That project itself I believe was somewhere  
13 between 100 and 150 feet from a residence.

14 MR. JERRY THOMAS: Were any of the  
15 examples that you were able to produce located  
16 near a project that actually landlocked an  
17 entire community?

18 MR. MICHAEL MAROUS: Yes. Again the  
19 North Star actually surrounded a neighborhood of  
20 maybe 15 houses.

21 MR. JERRY THOMAS: Of 15, okay. So,  
22 from what you have told this Board you said you  
23 can guarantee there would be no property loss in  
24 our area. Are you willing to put that in

1 writing for any resident living in the Village  
2 of Tovey or adjacent within a half mile of that  
3 Village in writing that they can maintain their  
4 property value?

5 MR. MICHAEL MAROUS: I am chuckling  
6 because property value is impacted by the  
7 economy, the location itself, the economics of  
8 the location, the condition of the property, and  
9 those items I can't control.

10 MR. JERRY THOMAS: I understand.

11 MR. MICHAEL MAROUS: I am not a title  
12 company. So, I am here to provide an opinion of  
13 value, not a property value guarantee.

14 MR. JERRY THOMAS: But the main concern  
15 is the property value. If they were to do an  
16 appraisal right now on a property and by the  
17 time of completion of this project, would you  
18 guarantee that they would not lose any property  
19 value?

20 MR. MICHAEL MAROUS: I am not a title  
21 company, sir. I am an appraiser so I --

22 MR. JERRY THOMAS: Exactly.

23 MR. MICHAEL MAROUS: -- I can give you  
24 my opinion that in my opinion based on the

1 project alone once it is completed and  
2 stabilized let's say within 60 to 90 days, in my  
3 opinion there will be no negative impact.

4 MR. JERRY THOMAS: Okay. So, your  
5 guarantee has changed your opinion because I  
6 believe that the records show that you said  
7 guarantee.

8 MR. MICHAEL MAROUS: I never said a  
9 guarantee, sir.

10 MR. JERRY THOMAS: All right. That's  
11 the only questions that I have for you. Thank  
12 you.

13 MR. MICHAEL MAROUS: Thank you.

14 MR. JERRY THOMAS: Next question,  
15 Mr. Sheehan. We have been jumping back and  
16 forth. On that vegetation that you were talking  
17 about what height would that be put in on that  
18 fence, the maturity wise?

19 MR. SHEEHAN: What's the installed  
20 height, that would be a question for --

21 MR. JERRY THOMAS: Not the adult  
22 height, what height it will be as you install  
23 it.

24 MR. SHEEHAN: That's what I said, the

1 install height. I don't know the answer to that  
2 question right now. We could ask Steve. I  
3 don't know that. He could give you an  
4 approximate of what's typically installed.

5 MR. JERRY THOMAS: Mr. Battaglia.

6 MR. STEVE BATTAGLIA: Yes, just so I  
7 understand the question right here, you are  
8 wondering when the shrubs are planted how large  
9 will they be, correct?

10 MR. JERRY THOMAS: That is correct.

11 MR. STEVE BATTAGLIA: So hang with me  
12 for a second here, sorry.

13 MR. JERRY THOMAS: No problem. I  
14 didn't know if they were going to cover 25  
15 percent of the fence, 50 percent, 75.

16 MR. STEVE BATTAGLIA: So, when they are  
17 installed they will be -- and I am just looking  
18 at our landscape architect's plan here -- they  
19 will be in a number five container. Typically  
20 with shrubs of this size when they are installed  
21 they are installed in a juvenile stage because  
22 they have the greatest likelihood of taking, and  
23 surviving, and growing to maturity at that  
24 point. When you transplant something that's

1 already mature, it increases the risk of that  
2 plant dying. So, a number five container is  
3 what is proposed.

4 MR. JERRY THOMAS: And that is in  
5 height?

6 MR. STEVE BATTAGLIA: I do not know.  
7 It probably varies by height. The number five  
8 container is essentially the size of the pot  
9 that the shrub comes in. So, depending on the  
10 species of the plant it could vary in height. I  
11 don't -- I apologize, I don't have a solid  
12 answer for you on the height of the shrubs when  
13 they are installed.

14 MR. JERRY THOMAS: The vegetation that  
15 you picked what is the annual growth height  
16 amongst the varieties?

17 MR. STEVE BATTAGLIA: That I am also  
18 unaware of the annual growth height. I know  
19 that the mature size of these will range  
20 anywhere from eight to twenty feet, which would  
21 completely cover the eight foot tall fence.

22 MR. JERRY THOMAS: That's the only  
23 questions that I have for you. Thank you very  
24 much.

1           I have one last question. Mr. Sheehan, we  
2           had talked about this, you are going to find  
3           out -- will the panels being used in this  
4           project be the same ones you used in the Road  
5           Runner Project in Texas?

6           MR. SHEEHAN: I don't remember you  
7           asking me that question, but we don't have  
8           our --

9           MR. JERRY THOMAS: You weren't sure,  
10          but you were pretty sure that it was the same  
11          company going to provide them that you used in  
12          your Road Runner Project.

13          MR. SHEEHAN: Yes. Like I said before,  
14          we don't have our suppliers contracted yet. So,  
15          I cannot give you an answer on that. As soon as  
16          I know I would be happy to share that  
17          information. I just do not have it right now.

18          MR. JERRY THOMAS: Okay. That's all of  
19          the questions that I have.

20          CHAIRMAN SIPES: Mr. Thomas, I have a  
21          question for you just so I understand. You are  
22          not actually within the project area, but you  
23          are in Tovey?

24          MR. JERRY THOMAS: I am on the edge of

1 Tovey, but I am in their buffer zone.

2 CHAIRMAN SIPES: So, you are closer  
3 than 100 feet.

4 MR. JERRY THOMAS: I am within a  
5 hundred feet of it. They come up to the low  
6 side of my property.

7 CHAIRMAN SIPES: Okay. I am a little  
8 confused.

9 MR. SHEEHAN: The fence would not be  
10 within --

11 MR. JERRY THOMAS: They have 100 foot  
12 setoff, and I am talking with them, and there is  
13 a possibility of maybe setting that back 300  
14 feet.

15 MR. SHEEHAN: The panels themselves are  
16 328 feet away from his house, but the fence is  
17 on the buffer line of the hundred foot setback  
18 if that makes sense.

19 CHAIRMAN SIPES: So, the fence itself  
20 is going to be closer than a hundred feet?

21 MR. SHEEHAN: No, no, no, it will be  
22 more than a hundred feet away from the house,  
23 the fence will be. That's the minimum distance.

24 CHAIRMAN SIPES: From the house.



1                   MR. SHEEHAN: That's as close as we can  
2 get to the house is 100 feet. So, the fence  
3 will be beyond that hundred foot mark away from  
4 his house.

5                   CHAIRMAN SIPES: So, this overhead  
6 picture here, are you familiar with this  
7 picture?

8                   MR. SHEEHAN: Yes, I provided that to  
9 Mr. Thomas.

10                  CHAIRMAN SIPES: So, where is the fence  
11 going to be?

12                  MR. JERRY THOMAS: Well, actually the  
13 fence is in the green, correct, on the photo you  
14 provided?

15                  MR. SHEEHAN: We can't be any closer  
16 than 100 feet with the fence. That's the  
17 setback. So, the fence will not be any closer  
18 than 100 feet to his property, to the property  
19 line.

20                  CHAIRMAN SIPES: Thank you, Mr. Thomas.  
21 Other interested parties?

22                  MS. KENNA BERTOLDO: I have a question.

23                  CHAIRMAN SIPES: Did you sign up as an  
24 interested party?

1 MS. KENNA BERTOLDO: Yes, I did.

2 CHAIRMAN SIPES: If you would come up  
3 here then, and state your name and spell it,  
4 please.

5 MS. KENNA BERTOLDO: It is Kenna,  
6 K-E-N-N-A, Bertoldo, B-E-R-T-O-L-D-O. I live  
7 directly across the street from Judy Smith.

8 CHAIRMAN SIPES: Do you swear to tell  
9 the truth, the whole truth, and nothing but the  
10 truth?

11 MS. KENNA BERTOLDO: Yes.

12 CHAIRMAN SIPES: Thank you.

13 MS. KENNA BERTOLDO: We live directly  
14 across the street from Judy Smith --

15 MR. SHEEHAN: Okay.

16 MS. KENNA BERTOLDO: -- and my neighbor  
17 as well. We were never approached about any of  
18 this. We got a registered letter regarding this  
19 hearing. That was all we heard. Is there a  
20 reason none of us were kind of let in on this,  
21 that this was coming, and going to be directly  
22 across the street from my house? I have a mess.  
23 My husband is very ill. We worry about the  
24 health risks from this, the temperature changes,

1 the climate changes that come around this. We  
2 just want to know why we were not included in  
3 anything, and we were blind sided by the whole  
4 project. I never heard rumors about it until we  
5 got the letter, and that was it. So, that's  
6 what we were a little bit aggravated about.

7 MR. SHEEHAN: Apologies for that. All  
8 I can say is when I look up information and try  
9 to find people's phone numbers, the way that I  
10 do that is very difficult. And I stopped by  
11 different times, and either catch people or  
12 don't. So, I apologize for that.

13 It wasn't -- there is no intention of  
14 keeping this project a secret, but to a certain  
15 point we don't, sometimes we don't want to go  
16 public until we have land deals done and things  
17 like that.

18 MS. KENNA BERTOLDO: You know how that  
19 makes us feel, like you just slid right in, and  
20 didn't care about the rest of us. That's how it  
21 feels.

22 MR. SHEEHAN: Well, we definitely have  
23 taken into consideration with the screening and  
24 the vegetation plan of taking into account your

1 houses that were there.

2 MS. HOWARD: Which 20 years the trees  
3 and flowers may be growing if they go in at six  
4 inches. It is going to take -- I am still going  
5 to have to see this. And then what's the glint  
6 and the glare and that, the study like from my  
7 home or Mark's house, what are we going to see,  
8 you know, with the panels?

9 MR. SHEEHAN: The glint and glare  
10 analysis, I would be happy to provide you that  
11 information if you would like.

12 MS. KENNA BERTOLDO: I would like that.  
13 And then how far from our driveway across the  
14 street, how far is that fence going to be?  
15 Because I know you are tearing Judy's house  
16 down, correct?

17 MR. SHEEHAN: That is the plan, yes.  
18 If you just give me a second, I have some  
19 information for that. Just a minute. I have  
20 the distance to the house to the panels. I am  
21 not sure which -- is yours the middle one?

22 MS. KENNA BERTOLDO: We are directly  
23 across the street from Judy. Mark is the  
24 middle.

1                   MR. SHEEHAN: Okay. I have that  
2 distance measured from your house to the panels  
3 at 209 feet.

4                   MS. KENNA BERTOLDO: And so you come to  
5 my house, did you say that you tried to get in  
6 contact with us?

7                   MR. SHEEHAN: I don't believe I stopped  
8 by your house.

9                   MS. KENNA BERTOLDO: Is there a reason  
10 why nobody -- I mean Judy -- I mean we are at  
11 our house almost every day. Is there a reason  
12 why you didn't just say hey, you know, we are in  
13 the area, and we are doing these studies and  
14 checked with --

15                  MR. SHEEHAN: I stopped at a few other  
16 houses.

17                  MS. KENNA BERTOLDO: I just feel like  
18 you did the wildlife studies. You did the  
19 airport study, but nobody had the decency to  
20 just approach us and say we are coming into the  
21 area, this is what we want you to know.

22                  MR. SHEEHAN: Yes, I can understand  
23 that, and again apologies for that. My focus  
24 was mainly on getting our land secured with our

1 landowners first.

2 MS. KENNA BERTOLDO: Exactly.

3 MR. SHEEHAN: I can understand how you  
4 feel that way.

5 MS. KENNA BERTOLDO: That's all. Thank  
6 you.

7 CHAIRMAN SIPES: Thank you. Was there  
8 anybody else, interested parties?

9 MR. HARRIS: We have one more,  
10 Mr. Elmore.

11 MR. MARK ELMORE: I don't have anything  
12 to say.

13 MR. HARRIS: We do have one on line.

14 CHAIRMAN SIPES: For public.

15 MR. HARRIS: For public comment, Jody  
16 Carriker.

17 CHAIRMAN SIPES: You don't see her on  
18 there? Let's see if we have got her by phone  
19 because there might be a phone number.

20 MR. HARRIS: I don't have her phone  
21 number.

22 CHAIRMAN SIPES: Okay.

23 MR. HARRIS: J-O-D-Y, C-A-R-R-I-K-E-R.

24 CHAIRMAN SIPES: Carriker.

1 MR. JEFF DURBIN: Carriker.

2 CHAIRMAN SIPES: Miss Carriker, can you  
3 hear me?

4 MS. JODY CARRIKER: Yes, I can hear  
5 you. Can you hear me?

6 CHAIRMAN SIPES: I can. This is Steve  
7 Sipes with the Zoning Board of Appeals,  
8 Chairman. You are being listened to now.

9 You had a public comment towards the solar  
10 farm project?

11 MS. JODY CARRIKER: Yes, I do. First  
12 off I would like to thank you for holding this  
13 meeting because this has been very interesting  
14 to listen to. I would agree with Kenna that I  
15 talked to the Village the last couple of days,  
16 and I had heard from them that yes, they feel  
17 like they are being blind sided with this also.  
18 We went to one meeting at the Village Hall, and  
19 they pretty much told us there is absolutely  
20 nothing that we can do, and we have no say in  
21 the Village whatsoever.

22 So, this meeting was very informational,  
23 but I do have a question about bees because I  
24 notice that your expert talked about birds, and

1       bats, and amphibians, and reptiles; but nobody  
2       asked what happens to the bees in this area, and  
3       if the solar panels have that effect on any, any  
4       effect on bees. And I also know that one person  
5       from your Board asked about chemicals. Some of  
6       the chemicals from the research that I have  
7       found that I would like to note that the panels  
8       have is silver lead arsenic and radiation  
9       activity. If there is any information that we  
10      can get to give to the villagers on that  
11      information because those are things that people  
12      directed to me that they were concerned about.

13               CHAIRMAN SIPES: Where did you find  
14      that information at?

15               MS. JODY CARRIKER: On information that  
16      I had read out of the Sierra Club and websites  
17      off of their website, and then information that  
18      I have googled, and just the research that I  
19      have been doing that I found on the Black  
20      Diamond projects.

21               CHAIRMAN SIPES: Okay, thank you.  
22      Mr. Sheehan, she does bring up something I am  
23      interested in, I guess. Is there -- I know your  
24      expert testified that there was nothing that he



1           knew of in solar panels, correct?

2                   MR. SHEEHAN: Right, as far as to our  
3           knowledge there is not, but we will look into  
4           that, and see what information we can find or  
5           what the manufacturer's specifications note will  
6           give us once we secure our supplier.

7                   CHAIRMAN SIPES: Okay.

8                   MR. SHEEHAN: As far as the bees, was  
9           she asking about bees, like honey bees?

10                  CHAIRMAN SIPES: I think so.

11                  MR. SHEEHAN: I couldn't quite  
12           understand. Well, that's the idea of the  
13           pollinator mix is to help enhance the bees  
14           population in the area, and that's in accordance  
15           with the Illinois Department of Natural  
16           Resources recommendations for that. So, it  
17           should be more of a benefit than a detriment.

18                  MR. BARRY: Maybe Mr. Battaglia could  
19           speak further to that since he prepared the  
20           vegetative management plan.

21                  MR. STEVE BATTAGLIA: Yes. Can you  
22           hear me?

23                  CHAIRMAN SIPES: Yes, we can.

24                  MR. STEVE BATTAGLIA: Daniel,

1 Mr. Sheehan had pretty much hit the nail on the  
2 head there with the pollinator mix. That is the  
3 Illinois Department of Natural Resource  
4 guideline that we are following, and that's  
5 there to enhance the wildlife population.

6 And I would like to provide a clarification  
7 on the hazardous materials. What I was saying  
8 in my earlier testimony I can't confirm or deny  
9 that there has been -- I was saying that I  
10 couldn't confirm or deny the presence of  
11 hazardous materials. I was saying I have not  
12 heard of them being considered hazardous.

13 CHAIRMAN SIPES: Thank you.

14 Mr. Harris, was that all that was --

15 MR. HARRIS: That was all.

16 CHAIRMAN SIPES: -- of the interested  
17 parties, the comments?

18 MR. HARRIS: Yes, sir.

19 CHAIRMAN SIPES: Mrs. Carriker, I  
20 appreciate your time. Thank you.

21 Okay, Mr. Barry, do you have closing  
22 arguments or closing, a closing I guess, not so  
23 much an argument?

24 MR. BARRY: So, let's talk about why we

1 are here tonight. We are here at a public  
2 hearing so that this Board can evaluate the  
3 application for a special use permit for the  
4 Black Diamond Solar Project. Why do I mention  
5 that, because I want to remind everybody what  
6 your role is here. I don't need to remind you,  
7 you do this all of the time, but it is sometimes  
8 useful. And in doing that what I want to do is  
9 point out the provisions in the solar ordinance  
10 because I know you have heard a lot of testimony  
11 tonight. You have heard from expert witnesses  
12 on the applicant's side. You have heard from  
13 some folks who were opponents to the project.  
14 But the role of the Board is to vote on the  
15 application materials and the evidence submitted  
16 as to whether to issue a recommendation to the  
17 Board to grant or not grant a special use  
18 permit. So, the ordinance, the solar ordinance  
19 gives some guidance to that end. It says both  
20 the Board and County Board may include  
21 conditions in the permit. That's a pretty  
22 common thing to do as I am sure you all know.  
23 Then there is a list of things specifically that  
24 the ordinance directs you to consider, not in

1 terms of whether to issue the permit, but  
2 consider the following factors when setting  
3 conditions.

4 One of those items has been addressed  
5 significantly tonight. It states that all State  
6 drainage laws must be followed. I mean that's  
7 axiomatic. If it is a State law, the project  
8 has to follow it, right. So that's something  
9 that the Board is directed to consider. So,  
10 this project will not only have to consider  
11 those laws, it will have to comply with them. I  
12 guess I suspect the project wouldn't have a  
13 problem inviting the Board to impose a condition  
14 like other conditions that the Board will likely  
15 consider, which are again commonly recommended  
16 to make sure that those drainage laws are  
17 followed specifically with respect to any of the  
18 most immediate neighbors to the parcel. I mean  
19 one condition I could think of off the top of my  
20 head is that the project shall comply with the  
21 AIMA standards with respect to non-participating  
22 landowners in the project footprint or adjacent  
23 to the project footprint. I mean that would  
24 seem to be a reasonable condition, and I am sure

1       that the project would agree to follow. Of  
2       course, those AIMA standards require the careful  
3       consideration and mapping and listing GPS  
4       coordinates of drain tiling systems.

5               But I will note that nothing in these, in  
6       the ordinance here says that you can't grant a  
7       special use permit because a neighbor has issues  
8       with their tile system. So, my point is that  
9       there is nothing -- you notice that the project  
10      didn't challenge Mr. Eggimann's testimony  
11      because I mean there is nothing to challenge. I  
12      don't think anybody doubts that there is a  
13      drainage system in place over his neighboring  
14      property, but that's not a reason not to issue a  
15      special use permit here. And in fact, again it  
16      is clearly -- there is nothing in the solar  
17      ordinance that would arguably allow for it.

18              So, let's also talk about the Zoning Code,  
19      the general Zoning Code for the County. It  
20      talks about the standards that a Board of  
21      Appeals shall consider when issuing a special  
22      use permit. Whether the proposed design  
23      location and manner of operation of the proposed  
24      special use will adequately protect the public

1 health, safety, and welfare and the physical  
2 environment. The effect the proposed special  
3 use would have on the value of neighboring  
4 properties and on the County's overall tax base,  
5 and whether there are any facilities near the  
6 proposed special use, schools, hospitals, et  
7 cetera, that requires special protection or  
8 consideration. Again there is nothing in there  
9 in those standards that you are directed to  
10 consider, and that's in Section 1-11-23 of the  
11 Zoning Code, there is nothing in there that says  
12 anything about preventing a recommendation of a  
13 special use because of a neighbor's drain tile  
14 system.

15 So, again I think that imposing a condition  
16 would be a reasonable step, but it shouldn't  
17 prevent you from issuing a recommendation. So,  
18 with that I will say that let's look at the  
19 evidence in the application, the reports that  
20 were submitted in connection with the  
21 application, and then on top of that the expert  
22 witnesses that testified tonight, their  
23 testimony is uncontroverted when it comes to the  
24 standards that are listed in the ordinance. No

1 one presented any other expert witness to say  
2 anything contrary to the evidence that was  
3 submitted by these experts. You are obligated  
4 to consider that evidence. And if you do, I am  
5 confident that you will find that the  
6 application has satisfied the standards in the  
7 ordinance, and that you will vote to issue a  
8 recommendation to the County Board to issue a  
9 special use permit for the Black Diamond Solar  
10 Project.

11 Thank you for your time tonight. I know we  
12 have run late, and it is also kind of hot in  
13 here. So, I certainly appreciate your attention  
14 to this. And if I could reserve 60 seconds for  
15 rebuttal, if you will consider that. We don't  
16 have to decide now. I would appreciate it.  
17 Thank you.

18 CHAIRMAN SIPES: Mr. Yow.

19 MR. YOW: Thank you, appreciate it.  
20 Thank you all for allowing us to be here  
21 tonight, and to put on our case.

22 I do have one question Counsel could answer  
23 at some point for my clients, the actual setback  
24 of a fence from their property line. They

1 thought it was maybe 50 feet, but they are not  
2 sure. If you could let me know at some point, I  
3 appreciate that.

4 MR. BARRY: Okay, sure.

5 MR. YOW: If I understand it right, the  
6 date of the special use permit application was  
7 August 19th, 2020. So, several of the  
8 interested parties talked about the fact that  
9 they just received notice of this hearing. I  
10 would submit that there is a lot of unknowns at  
11 this point. It is only September 22nd. So, a  
12 deferral of this for answers and careful  
13 consideration is not inappropriate I would  
14 submit to the Board.

15 But as far as my clients this is not just a  
16 case of you can't stop this project because the  
17 neighbor has got a tile issue. Well, when you  
18 look at the statute I provided to you, the  
19 drainage laws which has to be taken into  
20 account, Section 28 sets forth how a mutual  
21 drain is created, and there is facts on that in  
22 the record. Clearly mutual drains cross these  
23 lands. Section 2-10 says drains and levies  
24 deemed to be for the mutual benefit of the lands



1 connected or protected shall constitute a  
2 perpetual easement on such lands, okay. So, it  
3 is not just neighbor's land, it is a legal  
4 right. A perpetual easement on such lands and  
5 shall not be filled, obstructed, breached, or  
6 impaired in any way without the consent of the  
7 owners of all such lands. My clients haven't  
8 consented to this. So, we have demonstrated I  
9 think through the evidence here through my  
10 client and the exhibits the establishment of  
11 these mutual drains. We also know that before  
12 you at this present time there is no drainage  
13 tile map. There is no way for you all to  
14 understand exactly the magnitude of what this  
15 project may, the impacts that this project may  
16 have on drainage tiles. I am concerned  
17 obviously with my clients' interest, but there  
18 may be other individuals as well that have  
19 drainage tile issues.

20 The gentleman, the engineer, Mr. Battaglia  
21 he testified that his work was for surface  
22 drainage, not for subsurface drainage, the  
23 tiles. I guess, yes, Counsel is correct the  
24 zoning ordinance or the solar talks about taking

1       into account drainage tile maps. We don't have  
2       one. We don't have before you how they are  
3       actually really going to take care of people  
4       like my clients that are not in this project.

5               The testimony has been they are going to  
6       take care of -- I mean it is my belief the  
7       testimony is we are going to take care of the  
8       drainage tiles for the people that are in this  
9       project. It is not so clear, and it is not in  
10      writing, in that application it talks about  
11      taking care of drainage for the people in the  
12      project, no one else.

13              So, we are suggesting is that, take a step  
14      back here, let's protect other landowners in  
15      this area, okay. Farming has been the life  
16      blood of my clients and this community. You may  
17      find a Solar Project is worthwhile, and it is  
18      appropriate, but if you do, don't sacrifice the  
19      livelihood and the value of the lands of my  
20      clients. Their interests are just as important  
21      as those of the other people that want to  
22      develop this project.

23              So, in my entry of appearance and  
24      objections I have listed a variety of remedies

1           that we would request. And so instead of  
2           reiterating all those, I will tell you they are  
3           in there. So, I appreciate your time this  
4           evening. Thank you.

5                       CHAIRMAN SIPES: Mr. Yow, I have a  
6           question for you. Would the AIMA agreement  
7           cover your clients' interest?

8                       MR. YOW: I don't believe so. The way  
9           it is written, as I read the AIMA agreement it  
10          deals -- the AIMA agreement is an agreement  
11          between the Department, all right, and the  
12          facility owner, okay. I don't know if that's  
13          going to be Black Diamond or whatever. It then  
14          references the facility owner's obligation with  
15          the landowner, and the landowner is a specific  
16          term and it is defined, and the landowner is  
17          someone that has an underlying agreement with  
18          the facility owner. My clients don't have that.  
19          So, I am very concerned that that does not apply  
20          here.

21                      CHAIRMAN SIPES: Mr. Barry.

22                      MR. BARRY: The project will agree to,  
23          the project will agree to include his client  
24          under the definition of the AIMA, can apply the

1        AIMA standards.

2                    CHAIRMAN SIPES:  Is something workable  
3        here?  I am not -- we just went through six  
4        months of heck with you know what, and we have a  
5        fairly small group here that I think is level  
6        headed.  I mean maybe this is a little  
7        unorthodox, I don't know, but is there something  
8        we can do here?

9                    MR. YOW:  My thought would be -- my  
10       clients would like to see some language.

11                   CHAIRMAN SIPES:  Some what?

12                   MR. YOW:  Some language, okay, in the  
13       sense of exactly what is being proposed, okay.  
14       I don't want to commit my clients because they  
15       are very concerned about this --

16                   CHAIRMAN SIPES:  I understand.

17                   MR. YOW:  -- but if we actually can see  
18       some language as to what in a sense a special  
19       permit with conditions would actually say, in  
20       other words, if we had a form language that we  
21       could look and say you know what, we believe  
22       that that does or does not address our concerns.  
23       So, I guess that's my thought.  So, if we have  
24       some perhaps language that could be submitted to

1 us for review.

2 CHAIRMAN SIPES: Well, hang on.

3 MR. BARRY: I mean, Mr. Chairman,  
4 that's -- again the ordinance allows for this.  
5 It allows for --

6 CHAIRMAN SIPES: I understand and it  
7 does. So, how about we take, if the rest of the  
8 Board is in agreement take five minute break for  
9 everybody, you two talk a little bit. I don't  
10 want a big fight on this. So, will you two  
11 talk?

12 MR. YOW: I am happy to talk.

13 MR. BARRY: Yes.

14 CHAIRMAN SIPES: Motion to take a  
15 break.

16 MR. DOZIER: I will.

17 (Whereupon the meeting was in  
18 recess.)

19 CHAIRMAN SIPES: Mr. Barry, are you  
20 guys close?

21 MR. BARRY: I don't know. He had to go  
22 talk to his client.

23 CHAIRMAN SIPES: I have a question to  
24 Mister -- we are back recording, right?

1 MR. JEFF DURBIN: Yes, we are back  
2 recording.

3 CHAIRMAN SIPES: Mr. Sheehan, the  
4 Thomases and the map that you gave them that's  
5 326 feet, is that done?

6 MR. SHEEHAN: That's what the engineer  
7 provided to me based on the site layout that we  
8 have right now, yes.

9 CHAIRMAN SIPES: So, that is a done  
10 deal as far as that being that far back?

11 MR. SHEEHAN: That's where we have the  
12 panels proposed to go, yes.

13 MR. DORR: Can it change?

14 MR. SHEEHAN: I guess it could change.  
15 I don't anticipate that it would. That's the  
16 layout that we have proposed to build.

17 MR. DORR: Could the vegetation change?

18 MR. SHEEHAN: The vegetation could  
19 change. Yes, we would work with the Thomases if  
20 they -- he gave me some suggestions on some  
21 evergreens that he would like to see and that  
22 type of thing. I have our team looking at that  
23 to see if that's something feasible, but I am  
24 happy to work with them on taking their

1 suggestions and seeing if there is something  
2 they like better that would work. We will keep  
3 working together at it. I have no problem with  
4 that.

5 MR. DORR: Okay.

6 MR. SHEEHAN: I will say we will keep  
7 our conversation open and try to come up with  
8 something that's reasonable on our side and  
9 acceptable for you guys.

10 CHAIRMAN SIPES: But the map that you  
11 provided the Thomases last night is the way it  
12 is going to be?

13 MR. SHEEHAN: As far as I know today,  
14 yes.

15 MR. DORR: Can you find out if that  
16 could change?

17 MR. SHEEHAN: I could find -- is it  
18 subject to change. If anything, it would move  
19 farther away. We are not going to move -- we  
20 wouldn't move any closer than that.

21 MR. DORR: Could you keep the Thomases  
22 updated on that?

23 MR. SHEEHAN: Absolutely, would be  
24 happy to do that.

1           CHAIRMAN SIPES:  And Mr. Sheehan, the  
2           solar panels, I know we have touched on this  
3           subject a couple of times about what happens to  
4           solar panels when it is done, when its life use  
5           is done.  What happens then?  Does it get  
6           recycled?  What happens to them?

7           MR. SHEEHAN:  As far as my  
8           understanding goes I mean obviously it would be  
9           up to the project owner at the time.  So, I  
10          hesitate to put -- what my personal  
11          understanding would be that there is places that  
12          do recycle them, and take out the valuable  
13          metals and different things that are inside of  
14          them, and dispose of them in accordance with the  
15          State laws that are in place.  So, they are not  
16          just dumped in a regular landfill.  There is a  
17          method for disposal of them.

18          CHAIRMAN SIPES:  Can Mr. Battaglia, can  
19          he maybe help us with that.

20          MR. SHEEHAN:  He has probably a little  
21          more experience on the decommissioning.

22          CHAIRMAN SIPES:  Mr. Battaglia.

23          MR. STEVE BATTAGLIA:  Can you guys hear  
24          me?



1                   CHAIRMAN SIPES:   Yes.

2                   MR. STEVE BATTAGLIA:   It usually takes  
3                   a couple moments to get my name right.   So,  
4                   don't feel bad.

5                   CHAIRMAN SIPES:   I thought I had it  
6                   earlier, and I lost it.   So, my question is  
7                   when -- the life expectancy of these panels when  
8                   it is done, what happens to these panels?

9                   MR. STEVE BATTAGLIA:   So, there is a  
10                  couple different things.   They can be -- when  
11                  the project is decommissioned, they can be  
12                  removed and disposed of, or they can be kind  
13                  dismantled and parted out; or what we are seeing  
14                  a lot lately is that solar panels that are used  
15                  in the United States are of a high quality that  
16                  they can be resold and salvaged to other  
17                  countries.   Particularly what we are seeing is  
18                  actually countries within Africa that are taking  
19                  used solar panels, and mounting them themselves,  
20                  and using them at a lower efficiency than what  
21                  we would here.

22                  CHAIRMAN SIPES:   Because the panels,  
23                  the panels when you install them here once they  
24                  reach a percentage of their life, you go ahead

1 and take them out because they are no longer  
2 producing enough to make it worthwhile to leave  
3 them in place, correct?

4 MR. STEVE BATTAGLIA: There is a number  
5 of different aspects, but as time goes on  
6 technology is probably more the driver,  
7 technology 20 or 40 or 50 years from now will be  
8 drastically different than what it is today.

9 CHAIRMAN SIPES: Okay. Thank you.

10 MR. BARRY: Mr. Chairman, I think  
11 Counsel and I have come to an agreement on  
12 language for a condition.

13 CHAIRMAN SIPES: Okay.

14 MR. BARRY: And is that fair to say?

15 MR. YOW: We have tried, yes. I think  
16 we have an understanding here, not final  
17 language, but an understanding.

18 MR. BARRY: Right, right, that's true.

19 CHAIRMAN SIPES: Here is what I would  
20 like to propose, okay. I would like to continue  
21 this within two weeks, and you guys are close I  
22 have a feeling. Mr. Thomas I think is closer or  
23 somewhat more satisfied now. Mr. Elmore, we  
24 need to address Mr. Elmore a little bit here,

1       okay.  So, I am sorry if you feel like I put you  
2       through your paces tonight, but I wanted to get  
3       the ball rolling because I don't want this  
4       dragging out forever.

5               MR. BARRY:  Certainly in my opinion it  
6       was not a waste of time.  We made progress.

7               CHAIRMAN SIPES:  Well, that's what I  
8       was hoping.  I have got a list of everybody here  
9       that we needed to somewhat, or satisfy for lack  
10      of a better term, and I think we are close.  I  
11      would like to look, everybody look at their  
12      calendars, and figure out a date here in the  
13      next two weeks.

14              MR. DORR:  Only day that is bad for me  
15      is the 28th.  I have got a township meeting.

16              CHAIRMAN SIPES:  Of this month?

17              MR. DORR:  Yes.

18              MR. HARRIS:  I think if we did it on  
19      the 6th, I don't think there is any, it would be  
20      any conflict with any of the other County  
21      entities that need this machine because we only  
22      have one.

23              CHAIRMAN SIPES:  Okay, Tuesday the 6th  
24      there is none of those committee meetings going

1 on or anything.

2 MR. HARRIS: I don't believe so.

3 CHAIRMAN SIPES: Our meetings are  
4 normally the fourth Tuesday, and the County  
5 Board's meeting is the third Tuesday.

6 MR. HARRIS: The third Tuesday.

7 CHAIRMAN SIPES: The committee meetings  
8 are the week before?

9 MR. HARRIS: Yes.

10 CHAIRMAN SIPES: Is Tuesday, the 6th,  
11 all right with everybody?

12 MR. DORR: It is okay with me. What  
13 about our people on line?

14 CHAIRMAN SIPES: Joann, Jon, is the 6th  
15 all right?

16 MR. ROSENTHAL: That's fine.

17 MS. HOWARD: That's fine.

18 MR. GOODRICH: The 6th is good for me.

19 CHAIRMAN SIPES: Mr. Barry,  
20 Mr. Sheehan?

21 MR. SHEEHAN: We can make it happen.

22 CHAIRMAN SIPES: A little more research  
23 on the panels might be a little helpful as far  
24 as --

1           MR. SHEEHAN: As far as like I said  
2 until we get our suppliers solidified I can get  
3 some general, a little more specific general  
4 information I guess you could say.

5           MR. BARRY: Can I ask a question about  
6 the folks on the phone. Do you think you will  
7 need any or all of them back on the 6th?  
8 Because they are the ones I think are going to  
9 be the hardest to schedule.

10          CHAIRMAN SIPES: I don't know that we  
11 need them back. Does anybody else on the ZBA  
12 board think we will need them?

13          MR. BARRY: They have already  
14 testified. They have been cross examined by  
15 Mr. Yow and other members of the public. So, I  
16 would think that they should be finished.

17          CHAIRMAN SIPES: I would think so.

18          MR. BARRY: Thank you.

19          CHAIRMAN SIPES: Tuesday, the 6th, at 6  
20 o'clock. Is there a motion to continue the  
21 meeting at that time?

22          MR. GOODRICH: Glen Goodrich, ZBA, I  
23 would make a motion that we continue the meeting  
24 on October the 6th at 6:00 P.M.

1 CHAIRMAN SIPES: Is there a second?

2 MR. ROSENTHAL: I will second that  
3 motion.

4 CHAIRMAN SIPES: Roll-call.

5 MR. HARRIS: Glen Goodrich.

6 MR. GOODRICH: Yes.

7 MR. HARRIS: Mark Dozier.

8 MR. DOZIER: Yes.

9 MR. HARRIS: Joe Dorr.

10 MR. DORR: Yes.

11 MR. HARRIS: JoAnn Howard.

12 MS. HOWARD: Yes.

13 MR. HARRIS: Jon Rosenthal.

14 MR. ROSENTHAL: Yes.

15 MR. HARRIS: Chairman Sipes.

16 CHAIRMAN SIPES: Yes.

17 MR. HARRIS: The motion carries.

18 (Which were all of the proceedings  
19 had on this meeting as of this  
20 date.)

21

22

23

24

1 STATE OF ILLINOIS )  
2 COUNTY OF CHRISTIAN ) SS

3

4 I, Sandra K. Haines, a Notary Public and  
5 Certified Shorthand Reporter, associated with  
6 Haines Court Reporting, do hereby certify that  
7 on said September 22, 2020 the foregoing meeting  
8 was taken down stenographically by me and  
9 afterwards reduced to typewritten form by me,  
10 and that the foregoing transcript contains a  
11 true and accurate translation of all such  
12 shorthand notes.

13 Given under my hand and seal this 26th day  
14 of September, 2020 at Taylorville, Illinois.

15

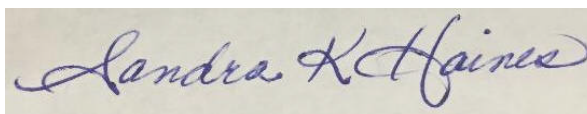
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- \$112,000.00** [1] - 52:22  
**\$151,000.00** [1] - 52:5  
**\$186,000.00** [1] - 51:22  
**\$219,900.00** [1] - 50:15  
**\$302,500.00** [1] - 50:12  
**\$307,000.00** [1] - 17:7  
**\$75,000.00** [1] - 52:24  
**\$9,000.00** [1] - 54:13  
**'08** [1] - 91:13  
**'39** [1] - 101:13  
**'99** [1] - 100:4  
**04** [1] - 36:7  
**06** [1] - 39:6  
**08** [2] - 57:5, 57:7  
**084-002423** [2] - 1:21, 151:23  
**1** [2] - 2:19, 36:19  
**1,200** [2] - 17:14, 42:17  
**1,400** [1] - 52:20  
**1,500** [1] - 50:6  
**1-11-23** [1] - 134:10  
**10** [1] - 23:20  
**100** [12] - 14:21, 24:6, 24:14, 50:7, 112:3, 114:3, 114:13, 120:3, 120:11, 121:2, 121:16, 121:18  
**103** [1] - 43:8  
**104** [1] - 15:12  
**105** [1] - 4:17  
**107** [1] - 4:18  
**108** [1] - 4:18  
**11** [1] - 23:20  
**11th** [1] - 34:16  
**12** [3] - 89:21, 94:12, 94:20  
**13** [2] - 33:5, 43:7  
**14** [2] - 33:19, 89:21  
**15** [12] - 13:2, 23:18, 46:6, 61:1, 90:17, 92:8, 92:18, 94:9, 94:20, 113:12, 114:20, 114:21  
**150** [1] - 114:13  
**160** [1] - 24:5  
**165** [1] - 50:5  
**17** [2] - 51:20, 92:3  
**186,000** [1] - 52:3  
**19** [2] - 4:4, 52:15  
**1900** [2] - 7:2, 7:11  
**1939** [1] - 100:24  
**1960** [1] - 102:2  
**1980** [1] - 47:2  
**1996** [1] - 38:16  
**1998** [3] - 98:15, 98:16, 100:4  
**1999** [1] - 98:15  
**19th** [1] - 136:7  
**2,300** [1] - 13:23  
**2,800** [1] - 50:9  
**2-10** [1] - 136:23  
**2-11** [1] - 103:11  
**2-8** [1] - 103:4  
**20** [7] - 28:23, 29:6, 69:10, 89:5, 113:19, 124:2, 146:7  
**200** [1] - 46:11  
**2000** [1] - 50:8  
**2002** [12] - 89:17, 89:20, 90:12, 90:16, 92:19, 93:1, 94:6, 94:8, 94:19, 95:4, 95:5, 95:16  
**2008** [9] - 91:10, 91:14, 92:10, 92:11, 92:22, 93:2, 93:7, 95:16, 95:19  
**2010** [1] - 50:14  
**2015** [1] - 98:3  
**2017** [1] - 53:17  
**2018** [3] - 50:4, 50:12, 54:24  
**2019** [4] - 33:4, 34:16, 35:5, 53:17  
**2020** [8] - 1:12, 2:3, 5:2, 34:16, 34:20, 136:7, 151:7, 151:14  
**2021** [1] - 14:19  
**209** [1] - 125:3  
**217)245-6177** [1] - 3:3  
**217)527-1280** [1] - 2:20  
**217)824-8558** [1] - 1:21  
**22** [3] - 1:12, 2:3, 151:7  
**225,000** [1] - 53:16  
**22nd** [2] - 5:2, 136:11  
**232** [1] - 3:2  
**25** [2] - 47:10, 117:14  
**26** [1] - 13:12  
**26th** [2] - 35:5, 151:13  
**28** [1] - 136:20  
**28th** [1] - 147:15  
**29.5** [1] - 42:7  
**297** [1] - 113:23  
**299** [4] - 10:7, 11:14, 14:1, 41:21  
**2nd** [1] - 111:21  
**30** [8] - 4:4, 7:18, 29:16, 29:23, 42:3, 42:5, 42:14, 89:7  
**300** [1] - 120:13  
**31** [1] - 4:8  
**326** [1] - 142:5  
**328** [1] - 120:16  
**36** [1] - 4:8  
**362** [1] - 7:11  
**369** [1] - 7:2  
**38** [1] - 4:11  
**4** [6] - 20:23, 20:24, 21:1, 21:4, 36:11  
**4.8** [1] - 42:10  
**40** [8] - 46:16, 50:15, 87:19, 87:20, 88:20, 90:19, 101:8, 146:7  
**410** [1] - 2:19  
**425** [2] - 17:4, 41:16  
**43** [1] - 4:11  
**45** [1] - 4:14  
**45.8** [1] - 42:12  
**48.5** [1] - 17:9  
**485** [1] - 51:22  
**4th** [1] - 34:20  
**5** [1] - 22:9  
**50** [8] - 14:12, 24:9, 24:10, 42:4, 89:8, 117:15, 136:1, 146:7  
**500** [1] - 28:19  
**550** [1] - 3:2  
**56** [1] - 4:14  
**6** [3] - 5:1, 39:10, 149:19  
**6.4** [1] - 42:8  
**60** [4] - 13:12, 33:6, 116:2, 135:14  
**62650** [1] - 3:3  
**62701** [1] - 2:20  
**64** [1] - 47:9  
**641** [1] - 33:6  
**6:00** [2] - 2:4, 149:24  
**6th** [9] - 34:16, 147:19, 147:23, 148:10, 148:14, 148:18, 149:7, 149:19, 149:24  
**70** [1] - 10:2  
**75** [1] - 117:15  
**7th** [1] - 100:24  
**8** [1] - 54:13  
**80** [3] - 12:21, 70:8, 94:1  
**84** [1] - 4:17  
**90** [1] - 116:2  
**98,000** [1] - 53:15  
**9:00** [1] - 109:6  
**A-T-T-A-G-L-I-A** [1] - 20:5  
**able** [6] - 60:12, 60:15, 65:21, 79:18, 109:2, 114:15  
**Absolutely** [1] - 12:4  
**absolutely** [7] - 63:16, 64:1, 64:2, 65:5, 70:21, 127:19, 143:23  
**academic** [1] - 40:3  
**acceptable** [1] - 143:9  
**access** [6] - 14:3, 15:19, 23:8, 23:9, 63:18, 75:22  
**accommodate** [1] - 16:3  
**accordance** [3] - 25:11, 129:14, 144:14  
**according** [1] - 68:17  
**account** [3] - 123:24, 136:20, 138:1  
**accurate** [1] - 151:11  
**Achambach** [3] - 99:14, 99:18, 100:10  
**ACHAMBACH** [1] - 100:13  
**acknowledge** [2] - 70:24, 77:12  
**acquire** [1] - 75:8  
**acre** [3] - 50:6, 54:14, 87:19  
**acres** [7] - 13:23, 36:19, 46:9, 50:9, 70:8, 110:12, 110:21  
**action** [1] - 27:5  
**activities** [1] - 25:6  
**activity** [3] - 75:18, 76:6, 128:9  
**actual** [2] - 49:12, 135:23  
**add** [1] - 42:11  
**addenda** [1] - 47:10  
**additional** [3] - 48:7, 83:6, 92:23  
**address** [6] - 7:2, 7:11, 50:3, 82:3, 140:22, 146:24  
**addressed** [2] - 105:4, 132:4  
**adequately** [1] - 133:24  
**adjacent** [9] - 7:22, 25:16, 64:16, 85:5, 96:11, 112:3, 113:10, 115:2, 132:22  
**Administrator** [1] - 2:13  
**admitted** [2] - 105:9, 105:11  
**adopted** [1] - 34:22  
**adult** [1] - 116:21  
**adverse** [4] - 34:22, 36:3, 103:16  
**adversely** [4] - 25:15, 72:2, 76:3, 77:8  
**advise** [1] - 35:19  
**advised** [1] - 35:7  
**aerial** [1] - 88:14  
**affect** [3] - 48:13, 63:6, 112:4  
**affected** [1] - 72:3  
**affidavit** [2] - 57:2, 57:6  
**Africa** [1] - 145:18  
**afterwards** [1] - 151:9  
**ag** [1] - 54:8  
**age** [1] - 49:9  
**agenda** [2] - 6:16, 9:14  
**agent** [1] - 68:15  
**aggravated** [1] - 123:6  
**aggregate** [2] - 42:22, 48:4  
**aggressive** [1] - 74:8  
**ago** [2] - 45:21, 98:4  
**agree** [5] - 79:12, 127:14, 133:1, 139:22, 139:23  
**Agreement** [1] - 71:10  
**agreement** [12] - 67:23, 71:8, 71:9, 71:19, 76:9, 139:6, 139:9, 139:10, 139:17, 141:8, 146:11  
**agreements** [2] - 71:5, 76:7  
**agricultural** [4] - 24:23, 33:21, 46:9, 48:6  
**Agricultural** [1] - 71:10  
**agriculture** [2] - 47:24, 48:22  
**ahead** [6] - 47:14, 58:2, 60:2, 63:17, 63:21, 145:24  
**ahold** [1] - 75:4  
**AIMA** [15] - 25:11, 64:9, 71:11, 71:16, 71:24, 72:12, 72:16, 73:1, 132:21, 133:2, 139:6, 139:9, 139:10, 139:24, 140:1  
**airport** [1] - 125:19  
**alive** [1] - 95:5  
**ALLEN** [1] - 3:4  
**Allen** [1] - 78:8  
**allow** [2] - 16:11, 133:17  
**allowing** [1] - 135:20  
**allows** [2] - 141:4, 141:5  
**almost** [3] - 8:8, 50:15,



- 125:11  
**alone** [2] - 75:6, 116:1  
**American** [1] - 58:16  
**amphibians** [2] - 32:1, 128:1  
**analysis** [7] - 41:24, 42:5, 49:4, 52:10, 53:7, 61:3, 124:10  
**angle** [1] - 94:2  
**annex** [8] - 32:21, 36:11, 39:6, 39:10, 47:11, 47:15, 57:5, 57:7  
**annexed** [2] - 32:18, 36:7  
**annual** [2] - 118:15, 118:18  
**answer** [12] - 55:16, 55:22, 57:18, 69:6, 71:21, 72:24, 113:15, 117:1, 118:12, 119:15, 135:22  
**answered** [1] - 112:7  
**answers** [1] - 136:12  
**anticipate** [7] - 14:18, 17:12, 24:17, 58:18, 59:23, 80:16, 142:15  
**anticipated** [1] - 23:16  
**anyway** [1] - 62:22  
**apologies** [5] - 12:7, 12:13, 113:17, 123:7, 125:23  
**apologize** [3] - 16:23, 118:11, 123:12  
**APPEALS** [2] - 1:11, 2:2  
**Appeals** [5] - 5:3, 44:21, 105:1, 127:7, 133:21  
**appear** [1] - 103:3  
**appearance** [3] - 48:16, 85:15, 138:23  
**appearances** [1] - 81:11  
**Appearing** [2] - 2:22, 3:5  
**Applicant** [4] - 19:14, 31:13, 38:3, 45:13  
**applicant** [4] - 6:23, 10:5, 10:6, 15:22  
**applicant's** [1] - 131:12  
**application** [18] - 11:5, 20:20, 22:10, 32:19, 34:8, 34:11, 36:8, 39:7, 47:12, 59:11, 105:1, 131:3, 131:15, 134:19, 134:21, 135:6, 136:6, 138:10  
**apply** [4] - 71:11, 73:2, 139:19, 139:24  
**Appraisal** [1] - 47:5  
**appraisal** [3] - 45:22, 112:9, 115:16  
**appraised** [1] - 46:5  
**appraiser** [5] - 46:4, 49:2, 65:8, 65:16, 115:21  
**appreciate** [8] - 72:23, 77:3, 130:20, 135:13, 135:16, 135:19, 136:3, 139:3  
**approach** [5] - 25:9, 25:21, 35:8, 35:20, 125:20  
**approached** [1] - 122:17  
**appropriate** [1] - 138:18  
**approve** [3] - 8:2, 8:4, 8:18  
**approving** [1] - 105:1  
**approximate** [1] - 117:4  
**April** [1] - 34:16  
**architect's** [1] - 117:18  
**area** [30] - 12:18, 12:23, 13:23, 14:6, 17:1, 24:13, 24:14, 28:21, 29:11, 29:13, 29:20, 29:21, 30:1, 48:1, 48:5, 48:22, 49:1, 49:10, 51:1, 54:6, 87:5, 96:8, 98:20, 114:24, 119:22, 125:13, 125:21, 128:2, 129:14, 138:15  
**areas** [2] - 33:24, 51:8  
**arena** [1] - 40:12  
**arguably** [1] - 133:17  
**argue** [1] - 72:15  
**argument** [3] - 106:5, 109:3, 130:23  
**arguments** [1] - 130:22  
**array** [4] - 29:13, 29:19, 50:5, 61:15  
**arsenic** [1] - 128:8  
**article** [1] - 50:20  
**aside** [2] - 28:3, 63:7  
**aspects** [2] - 14:10, 146:5  
**assessed** [1] - 51:5  
**assessment** [3] - 32:12, 33:23, 41:18  
**assessments** [1] - 35:24  
**assessor** [1] - 55:9  
**Assessor** [1] - 50:21  
**assessors** [5] - 55:2, 55:4, 55:8, 56:3  
**assistance** [1] - 26:23  
**associate** [1] - 18:8  
**associated** [3] - 15:23, 16:12, 151:5  
**assumed** [1] - 41:24  
**atop** [1] - 23:1  
**attempt** [1] - 104:21  
**attempting** [1] - 75:8  
**attended** [2] - 34:15, 45:24  
**attention** [1] - 135:13  
**attorney** [3] - 72:7, 107:6, 108:17  
**Attorneys** [2] - 2:18, 3:1  
**atypical** [1] - 79:3  
**audience** [1] - 30:14  
**August** [2] - 94:8, 136:7  
**Austin** [1] - 54:23  
**automatic** [1] - 36:22  
**availability** [2] - 16:17, 48:20  
**available** [1] - 14:14  
**average** [5] - 52:17, 54:13, 113:2, 113:11, 113:18  
**avoid** [2] - 25:15, 26:10  
**avoidance** [2] - 35:13, 36:1  
**avoided** [3] - 25:6, 34:5, 36:18  
**aware** [6] - 62:9, 66:12, 66:16, 78:12, 90:9, 108:4  
**awhile** [2] - 68:14, 98:4  
**axiomatic** [1] - 132:7  
**axis** [1] - 14:3  
**eyes** [1] - 9:11  
**B-E-R-T-O-L-D-O** [1] - 122:6  
**Bachelor's** [1] - 31:21  
**back** [31] - 8:10, 8:14, 18:9, 30:8, 58:2, 60:7, 60:9, 63:10, 65:7, 66:24, 73:19, 92:17, 98:5, 98:6, 98:19, 99:14, 100:17, 101:13, 107:17, 108:14, 108:17, 110:23, 116:15, 120:13, 138:14, 141:24, 142:1, 142:10, 149:7, 149:11  
**background** [6] - 11:17, 12:24, 19:23, 31:19, 38:9, 45:19  
**backwards** [1] - 105:21  
**bad** [2] - 145:4, 147:14  
**bald** [2] - 33:7, 33:17  
**ball** [2] - 60:9, 147:3  
**barbed** [1] - 24:3  
**BARRY** [60] - 2:21, 9:18, 18:11, 18:19, 18:22, 19:1, 19:5, 19:18, 21:3, 22:12, 22:16, 30:10, 30:20, 31:9, 31:17, 32:21, 36:10, 36:23, 37:7, 38:7, 39:9, 39:12, 43:18, 44:1, 44:5, 44:9, 44:15, 44:18, 45:17, 47:14, 56:18, 57:9, 57:16, 64:11, 72:5, 72:9, 72:11, 81:18, 82:5, 82:9, 82:13, 105:14, 106:24, 107:4, 108:20, 109:2, 109:8, 129:18, 130:24, 136:4, 139:22, 141:3, 141:13, 141:21, 146:10, 146:14, 146:18, 149:5, 149:13, 149:18  
**bARRY** [1] - 147:5  
**Barry** [7] - 9:20, 106:22, 107:5, 130:21, 139:21, 141:19, 148:19  
**Barry.....** [5] - 4:4, 4:8, 4:11, 4:14, 4:18  
**base** [2] - 56:6, 134:4  
**based** [11] - 13:1, 20:1, 35:13, 40:4, 41:20, 41:23, 52:7, 56:4, 64:21, 115:24, 142:7  
**basic** [1] - 22:22  
**basis** [1] - 41:20  
**bath** [1] - 50:10  
**bats** [3] - 32:1, 35:14, 128:1  
**Battaglia** [23] - 3:23, 18:13, 19:5, 19:6, 19:19, 19:21, 20:6, 22:5, 22:17, 26:20, 30:11, 61:10, 66:6, 66:7, 69:5, 78:3, 78:7, 81:1, 117:5, 129:18, 137:20, 144:18, 144:22  
**BATTAGLIA** [27] - 4:3, 18:20, 19:9, 19:12, 66:8, 66:11, 69:8, 78:14, 78:19, 79:2, 79:9, 79:16, 80:4, 80:11, 80:14, 80:22, 117:6, 117:11, 117:16, 118:6, 118:17, 129:21, 129:24, 144:23, 145:2, 145:9, 146:4  
**becomes** [1] - 14:14  
**bedroom** [2] - 50:10, 52:1  
**bedtime** [1] - 109:6  
**bees** [7] - 127:23, 128:2, 128:4, 129:8, 129:9, 129:13  
**begin** [1] - 10:14  
**behalf** [3] - 2:22, 3:5, 81:10  
**belief** [1] - 138:6  
**below** [1] - 13:18  
**benefit** [16] - 15:17, 17:18, 18:2, 74:11, 77:22, 91:4, 91:7, 91:20, 96:15, 99:23, 103:5, 103:8, 103:12, 129:17, 136:24  
**benefited** [1] - 91:2  
**benefits** [1] - 43:14  
**BERTOLDO** [14] - 121:22, 122:1, 122:5, 122:11, 122:13, 122:16, 123:18, 124:12, 124:22, 125:4, 125:9, 125:17, 126:2, 126:5  
**Bertoldo** [2] - 3:16, 122:6  
**best** [2] - 27:5, 82:16  
**better** [6] - 7:19, 12:1, 21:21, 77:9, 143:2, 147:10  
**between** [8] - 28:14, 28:23, 29:5, 53:17, 59:16, 102:12, 114:13, 139:11  
**beyond** [1] - 121:3  
**big** [6] - 10:22, 61:6, 62:12, 105:13, 109:19, 141:10  
**bigger** [1] - 51:23  
**biggest** [1] - 99:19  
**billed** [2] - 33:8, 33:11  
**bin** [3] - 6:17, 7:1, 7:16  
**biology** [3] - 31:22, 31:24  
**bird** [2] - 32:10, 33:3  
**birds** [3] - 32:1, 33:6, 127:24  
**bit** [12] - 19:22, 29:7, 31:19, 36:13, 37:4, 38:9, 45:19, 51:23, 106:4, 123:6, 141:9, 146:24  
**Black** [28] - 9:15, 10:5, 12:6, 13:20, 17:8, 20:16, 22:7, 32:9, 35:8, 35:20, 35:22, 39:4, 39:15, 43:13, 47:8, 53:12, 56:13, 57:4, 71:5, 73:5, 77:11, 85:17, 104:19, 104:20, 128:19, 131:4, 135:9, 139:13  
**black** [2] - 33:8, 33:11  
**black-billed** [2] - 33:8, 33:11

- blind** [2] - 123:3, 127:17  
**blood** [1] - 138:16  
**blue** [3] - 86:12, 87:12, 88:18  
**blunt** [1] - 109:7  
**Board** [32] - 5:3, 5:23, 8:10, 8:15, 9:19, 18:5, 30:13, 37:3, 43:21, 44:20, 47:3, 56:22, 58:4, 66:21, 92:22, 93:15, 104:24, 114:22, 127:7, 128:5, 131:2, 131:14, 131:17, 131:20, 132:9, 132:13, 132:14, 133:20, 135:8, 136:14, 141:8  
**BOARD** [3] - 1:11, 2:2, 2:6  
**board** [1] - 149:12  
**Board's** [1] - 148:5  
**boat** [1] - 33:15  
**body** [1] - 46:16  
**book** [5] - 21:6, 21:7, 22:15, 22:16, 92:1  
**Boston** [1] - 13:1  
**bottom** [4] - 29:8, 89:22, 92:11, 98:10  
**boundaries** [1] - 26:15  
**boundary** [4] - 25:24, 63:7, 102:6, 102:12  
**Box** [1] - 3:2  
**boy** [1] - 20:5  
**BRADNEY** [1] - 3:1  
**Branch** [1] - 49:23  
**breached** [1] - 137:5  
**break** [2] - 141:8, 141:15  
**breeding** [2] - 32:10, 33:3  
**Brian** [1] - 3:19  
**brief** [2] - 13:15, 49:17  
**bring** [2] - 58:13, 128:22  
**broke** [1] - 29:11  
**brought** [1] - 113:20  
**brush** [1] - 80:20  
**buckets** [1] - 40:18  
**buffer** [2] - 120:1, 120:17  
**build** [3] - 58:11, 59:2, 142:16  
**building** [5] - 7:19, 16:1, 17:6, 40:11, 58:11  
**built** [3] - 7:1, 50:8, 52:19  
**burrows** [1] - 34:1  
**burying** [1] - 75:13  
**BY** [8] - 2:21, 3:4, 19:18, 31:17, 38:7, 45:17, 84:7, 107:4  
**C-A-R-R-I-K-E-R** [1] - 126:23  
**cable** [2] - 23:6, 26:10  
**cables** [3] - 15:5, 23:4, 26:7  
**calendars** [1] - 147:12  
**Calloway's** [1] - 99:15  
**cannot** [1] - 119:15  
**capacity** [2] - 28:4, 113:3  
**capital** [2] - 40:15, 41:10  
**Capitol** [1] - 2:19  
**care** [7] - 63:13, 105:18, 123:20, 138:3, 138:6, 138:7, 138:11  
**careers** [1] - 13:13  
**careful** [2] - 133:2, 136:12  
**Carolina** [1] - 56:1  
**CAROLYN** [2] - 100:12, 100:15  
**Carolyn** [9] - 3:5, 3:13, 70:5, 73:22, 78:10, 84:17, 94:16, 94:22, 103:22  
**carries** [1] - 150:17  
**Carriker** [5] - 126:16, 126:24, 127:1, 127:2, 130:19  
**CARRIKER** [3] - 127:4, 127:11, 128:15  
**case** [11] - 30:13, 40:22, 56:21, 57:10, 63:19, 70:17, 70:20, 81:5, 85:16, 135:21, 136:16  
**catch** [1] - 123:11  
**categories** [1] - 41:5  
**categorizations** [1] - 29:12  
**caused** [1] - 26:24  
**Center** [1] - 46:23  
**centers** [1] - 46:14  
**central** [1] - 23:5  
**Central** [1] - 9:23  
**certain** [4] - 75:22, 79:17, 86:8, 123:14  
**certainly** [3] - 109:8, 135:13, 147:5  
**Certified** [1] - 151:5  
**certified** [2] - 46:23, 68:16  
**certify** [1] - 151:6  
**cetera** [1] - 134:7  
**chain** [4] - 24:2, 42:21, 43:6, 80:15  
**Chairman** [8] - 2:7, 30:21, 37:10, 44:20, 59:17, 127:8, 141:3, 146:10  
**CHAIRMAN** [158] - 5:1, 5:14, 5:17, 5:21, 6:3, 6:15, 6:24, 7:5, 7:8, 7:13, 7:20, 7:24, 8:5, 8:7, 8:12, 8:20, 8:22, 8:24, 9:12, 9:14, 12:4, 12:9, 18:23, 19:3, 19:6, 19:10, 21:9, 26:19, 27:9, 27:15, 27:18, 28:6, 30:22, 31:3, 31:7, 32:23, 36:12, 37:9, 37:15, 37:19, 39:11, 44:19, 45:1, 45:9, 47:16, 57:8, 57:15, 57:22, 58:1, 60:1, 66:4, 66:7, 66:10, 68:3, 69:13, 69:23, 70:2, 70:6, 70:10, 70:13, 70:18, 72:7, 72:10, 81:2, 81:7, 81:23, 82:7, 82:18, 82:22, 83:3, 83:7, 83:13, 83:17, 97:3, 97:7, 97:11, 105:12, 105:15, 105:24, 106:6, 106:11, 106:22, 109:5, 109:12, 110:10, 110:23, 111:4, 111:7, 111:12, 111:16, 112:10, 112:14, 112:20, 112:24, 119:20, 120:2, 120:7, 120:19, 120:24, 121:5, 121:10, 121:20, 121:23, 122:2, 122:8, 122:12, 126:7, 126:14, 126:17, 126:22, 126:24, 127:2, 127:6, 128:13, 128:21, 129:7, 129:10, 129:23, 130:13, 130:16, 130:19, 135:18, 139:5, 139:21, 140:2, 140:11, 140:16, 141:2, 141:6, 141:14, 141:19, 142:3, 142:9, 143:10, 144:1, 144:18, 144:22, 145:1, 145:5, 145:22, 146:9, 146:13, 146:19, 147:7, 147:16, 147:23, 148:3, 148:7, 148:10, 148:14, 148:19, 148:22, 149:10, 149:17, 149:19, 150:1, 150:4, 150:16  
**chairman** [10] - 6:21, 9:19, 39:9, 57:1, 57:12, 82:14, 82:23, 105:8, 141:23, 150:15  
**Chairman's** [1] - 59:17  
**challenge** [2] - 133:10, 133:11  
**Champaign** [1] - 46:1  
**change** [8] - 24:22, 42:1, 142:13, 142:14, 142:17, 142:19, 143:16, 143:18  
**changed** [2] - 100:18, 116:5  
**changes** [3] - 16:12, 122:24, 123:1  
**changing** [1] - 80:16  
**Chapter** [1] - 47:5  
**characteristics** [2] - 49:9, 55:21  
**check** [1] - 8:13  
**checked** [1] - 125:14  
**chemicals** [3] - 68:11, 128:5, 128:6  
**Chicago** [1] - 47:5  
**China** [1] - 69:21  
**chipping** [1] - 95:20  
**Christian** [11] - 10:8, 11:6, 13:21, 14:19, 16:6, 17:6, 40:23, 41:8, 43:8, 43:14, 46:21  
**CHRISTIAN** [2] - 1:6, 151:2  
**CHRISTIAN** [1] - 2:1  
**chuckling** [1] - 115:5  
**churches** [1] - 14:22  
**cited** [1] - 106:17  
**City** [1] - 112:2  
**civil** [2] - 19:24, 21:8  
**clarification** [1] - 130:6  
**classes** [1] - 38:16  
**clay** [1] - 94:12  
**clean** [2] - 68:11, 68:12, 68:13, 109:24  
**cleaning** [2] - 68:8, 68:15  
**clear** [5] - 18:22, 62:16, 70:7, 106:19, 138:9  
**clearly** [5] - 45:4, 54:9, 75:18, 133:16, 136:22  
**client** [4] - 83:2, 137:10, 139:23, 141:22  
**clients** [23] - 46:16, 70:24, 71:4, 71:11, 73:1, 73:15, 73:18, 76:9, 76:12, 77:4, 77:12, 78:21, 81:11, 106:21, 135:23, 136:15, 137:7, 138:4, 138:16, 138:20, 139:18, 140:10, 140:14  
**clients'** [4] - 76:13, 80:3, 137:17, 139:7  
**climate** [1] - 123:1  
**close** [11] - 26:13, 28:9, 28:21, 33:24, 68:9, 68:20, 113:23, 121:1, 141:20, 146:21, 147:10  
**closely** [3] - 26:16, 27:8, 35:22  
**closer** [7] - 53:21, 120:2, 120:20, 121:15, 121:17, 143:20, 146:22  
**closest** [2] - 69:4, 114:4  
**closing** [5] - 106:4, 109:3, 130:21, 130:22  
**Club** [1] - 128:16  
**coal** [1] - 48:24  
**Code** [5] - 77:22, 102:22, 133:18, 133:19, 134:11  
**code** [1] - 11:7  
**Coles** [2] - 57:3  
**colleague** [1] - 10:9  
**collect** [1] - 22:24  
**collected** [1] - 23:3  
**collection** [4] - 14:4, 14:5, 23:4, 75:15  
**collector** [1] - 15:5  
**colored** [2] - 67:15, 86:8  
**ComEd** [1] - 15:8  
**coming** [2] - 122:21, 125:20  
**comment** [2] - 126:15, 127:9  
**comments** [1] - 130:17  
**Commissioners** [1] - 83:1  
**commit** [1] - 140:14  
**committee** [2] - 147:24, 148:7  
**common** [2] - 33:21, 131:22  
**commonly** [1] - 132:15  
**communities** [1] - 43:15  
**community** [3] - 17:18, 114:17, 138:16  
**companies** [1] - 13:16  
**company** [10] - 9:16, 10:1, 13:1, 13:8, 58:9, 58:17, 95:24, 115:12, 115:21, 119:11

- Company** [1] - 45:21  
**comparable** [3] - 49:6, 49:8, 51:8  
**compared** [2] - 52:3, 55:4  
**complaints** [1] - 55:14  
**completed** [4] - 16:7, 35:23, 49:22, 116:1  
**completely** [2] - 17:4, 118:21  
**completion** [1] - 115:17  
**comply** [2] - 132:11, 132:20  
**components** [4] - 22:19, 22:23, 60:13, 60:16  
**comprised** [2] - 13:3, 13:4  
**comprises** [1] - 13:23  
**concern** [4] - 68:19, 73:2, 77:4, 115:14  
**concerned** [13] - 65:4, 98:23, 103:15, 103:20, 103:22, 104:1, 104:3, 104:5, 112:4, 128:12, 137:16, 139:19, 140:15  
**concerning** [1] - 102:2  
**concerns** [4] - 105:2, 107:9, 108:9, 140:22  
**concluded** [1] - 34:19  
**concludes** [1] - 57:17  
**conclusion** [3] - 48:2, 54:24, 56:3  
**conclusions** [2] - 47:18, 56:10  
**conclusively** [1] - 66:14  
**concrete** [2] - 60:21, 60:23  
**concurrent** [1] - 36:2  
**concurr** [5] - 35:7, 35:19  
**condition** [6] - 115:8, 132:13, 132:19, 132:24, 134:15, 146:12  
**conditions** [5] - 16:10, 131:21, 132:3, 132:14, 140:19  
**conducted** [5] - 33:3, 33:4, 33:13, 33:22, 101:19  
**confident** [1] - 135:5  
**confirm** [2] - 130:8, 130:10  
**confirmed** [1] - 50:21  
**conflict** [1] - 147:20  
**confused** [1] - 120:8  
**connected** [1] - 137:1  
**connection** [4] - 15:8, 39:4, 47:8, 134:20  
**Conner** [20] - 3:6, 70:5, 70:7, 74:22, 75:2, 76:22, 78:11, 84:3, 85:7, 88:15, 94:24, 95:10, 97:13, 99:10, 99:19, 100:3, 104:3, 104:17, 107:23, 107:24  
**Conner's** [11] - 86:17, 87:8, 93:22, 96:1, 96:11, 97:6, 97:8, 98:9, 98:23, 99:9, 103:18  
**Conquest** [1] - 46:7  
**consent** [1] - 137:6  
**consented** [1] - 137:8  
**consider** [9] - 131:24, 132:2, 132:9, 132:10, 132:15, 133:21, 134:10, 135:4, 135:15  
**considerable** [1] - 42:24  
**consideration** [5] - 64:23, 123:23, 133:3, 134:8, 136:13  
**considered** [4] - 65:10, 66:12, 66:17, 130:12  
**consist** [2] - 14:2, 102:21  
**consistent** [1] - 53:19  
**constant** [1] - 42:1  
**constitute** [1] - 137:1  
**construct** [3] - 10:7, 17:4, 60:17  
**constructed** [3] - 13:11, 50:13, 98:7  
**construction** [22] - 14:18, 16:13, 16:18, 17:14, 17:15, 23:14, 25:6, 26:12, 26:22, 35:15, 40:8, 42:18, 42:22, 43:10, 52:18, 52:20, 58:15, 63:3, 76:1, 77:1, 80:7  
**consult** [1] - 46:17  
**consultant** [1] - 46:5  
**consultants** [1] - 14:9  
**consultation** [2] - 34:12, 34:18  
**consultations** [1] - 35:2  
**consulting** [3] - 20:2, 38:15, 45:22  
**contact** [5] - 18:6, 73:15, 73:22, 74:1, 125:6  
**contacts** [1] - 107:20  
**container** [3] - 117:19, 118:2, 118:8  
**contains** [1] - 151:10  
**continue** [4] - 27:19, 146:20, 149:20, 149:23  
**continuity** [1] - 25:19  
**contract** [1] - 71:18  
**contracted** [3] - 61:8, 69:17, 119:14  
**contractor** [1] - 92:15  
**contractor's** [1] - 64:16  
**contrary** [1] - 135:2  
**contributed** [1] - 99:7  
**control** [7] - 20:16, 21:4, 61:23, 62:3, 62:4, 62:7, 115:9  
**conversation** [1] - 143:7  
**conversational** [1] - 55:17  
**convey** [1] - 25:13  
**Cooper** [2] - 107:19, 107:22  
**coordinates** [1] - 133:4  
**Copenbarger** [1] - 5:11  
**copies** [2] - 21:13, 87:3  
**copy** [4] - 57:10, 81:18, 85:16, 105:24  
**corn** [1] - 54:14  
**corner** [4] - 93:2, 98:19, 98:20, 112:1  
**correct** [38] - 49:13, 49:14, 51:15, 51:16, 70:9, 70:17, 71:3, 71:6, 71:14, 72:8, 73:7, 73:8, 75:19, 75:20, 75:23, 75:24, 78:19, 79:15, 79:16, 80:5, 80:11, 84:21, 84:24, 85:24, 86:5, 86:9, 96:16, 97:15, 106:8, 108:10, 110:13, 117:9, 117:10, 121:13, 124:16, 129:1, 137:23, 146:3  
**correctly** [1] - 63:4  
**cost** [5] - 17:2, 17:3, 43:1, 66:23, 99:8  
**costs** [1] - 42:24  
**COUNSEL** [1] - 2:16  
**Counsel** [4] - 72:23, 135:22, 137:23, 146:11  
**counterpart** [1] - 18:7  
**counties** [6] - 55:6, 55:24, 56:1, 56:2  
**countries** [2] - 145:17, 145:18  
**country** [1] - 40:7  
**county** [2] - 114:10, 114:11  
**COUNTY** [3] - 1:6, 2:1, 151:2  
**County** [29] - 8:10, 8:15, 10:3, 10:8, 13:21, 14:20, 16:6, 17:6, 18:4, 40:23, 41:8, 42:11, 43:8, 43:15, 46:22, 48:11, 50:20, 51:2, 51:9, 51:17, 51:18, 55:9, 55:10, 112:2, 131:20, 133:19, 135:8, 147:20, 148:4  
**County's** [2] - 11:6, 134:4  
**couple** [13] - 10:19, 51:13, 60:4, 60:18, 81:10, 106:17, 107:1, 112:7, 113:20, 127:15, 144:3, 145:3, 145:10  
**course** [2] - 27:5, 133:2  
**court** [2] - 45:3, 54:17  
**Court** [1] - 151:6  
**cover** [6] - 12:10, 24:23, 29:10, 117:14, 118:21, 139:7  
**covered** [3] - 6:22, 22:4, 72:4  
**COVID** [3] - 16:15, 60:6, 60:9  
**crayfish** [1] - 34:1  
**created** [4] - 17:15, 77:21, 78:16, 136:21  
**creating** [1] - 17:12  
**crop** [1] - 67:15  
**cross** [6] - 15:18, 21:23, 76:14, 81:4, 136:22, 149:14  
**CROSS** [1] - 107:3  
**Cross** [1] - 4:18  
**cross-examine** [1] - 21:23  
**crossed** [2] - 99:13, 99:17  
**crosses** [1] - 100:5  
**crossing** [1] - 89:18  
**CSR** [3] - 1:21, 3:24, 151:22  
**CTI** [1] - 3:9  
**cuckoos** [2] - 33:8, 33:11  
**culvert** [1] - 109:19  
**current** [2] - 18:1, 35:23  
**Current** [18] - 2:22, 3:10, 9:17, 11:13, 12:24, 13:14, 19:14, 20:3, 25:8, 26:13, 27:3, 30:9, 31:13, 38:3, 45:13, 58:5, 58:8, 77:12  
**cushion** [1] - 60:15  
**cut** [1] - 75:18  
**DALE** [7] - 4:15, 83:10, 83:16, 84:1, 109:18, 109:23, 110:4  
**Dale** [9] - 3:5, 3:11, 70:4, 74:18, 78:9, 82:15, 83:10, 84:10, 109:13  
**damage** [2] - 75:18, 76:3  
**damaged** [2] - 28:4, 104:13  
**Dan** [2] - 27:11  
**Daniel** [9] - 3:10, 10:9, 10:15, 11:12, 18:11, 27:11, 27:13, 42:4, 129:24  
**DANIEL** [1] - 27:14  
**data** [5] - 47:21, 48:1, 49:12, 64:11, 64:12  
**date** [5] - 58:24, 77:18, 136:6, 147:12, 150:20  
**dated** [3] - 34:20, 92:11, 100:24  
**Dave** [1] - 37:7  
**David** [5] - 3:20, 5:11, 37:5, 37:13, 38:11  
**DAVID** [7] - 4:9, 37:6, 37:8, 37:13, 37:14, 37:18, 38:1  
**days** [2] - 116:2, 127:15  
**deal** [2] - 65:2, 142:10  
**dealing** [2] - 79:13, 113:24  
**deals** [2] - 123:16, 139:10  
**debris** [1] - 80:20  
**decency** [1] - 125:19  
**decide** [1] - 135:16  
**decision** [1] - 111:20  
**decommissioned** [3] - 23:14, 28:2, 145:11  
**decommissioning** [3] - 15:23, 16:2, 144:21  
**dedicated** [1] - 26:22  
**deeds** [1] - 77:17  
**deemed** [1] - 136:24  
**deep** [1] - 60:20  
**defer** [1] - 105:1  
**deferral** [1] - 136:12  
**deferring** [1] - 111:20  
**define** [1] - 71:17  
**defined** [1] - 139:16  
**definitely** [2] - 104:18, 123:22  
**definition** [1] - 139:24

- Degree** [2] - 31:21, 31:22  
**delayed** [2] - 60:5, 60:6  
**delaying** [1] - 59:24  
**delays** [1] - 60:14  
**delineated** [1] - 25:4  
**delineation** [1] - 36:15  
**delineations** [1] - 32:13  
**deliver** [1] - 43:13  
**demographics** [1] - 49:3  
**demonstrate** [1] - 11:4  
**demonstrated** [1] - 137:8  
**deny** [2] - 130:8, 130:10  
**Department** [8] - 34:9, 34:13, 35:17, 35:18, 39:24, 129:15, 130:3, 139:11  
**dependent** [1] - 28:24  
**depicts** [1] - 12:15  
**depth** [1] - 61:5  
**design** [1] - 133:22  
**designation** [1] - 47:1  
**destroy** [1] - 76:3  
**destroyed** [1] - 104:13  
**detail** [3] - 14:9, 51:20, 54:2  
**detailed** [3] - 15:13, 15:15, 16:21  
**details** [1] - 22:19  
**determine** [2] - 26:2, 27:5  
**detriment** [1] - 129:17  
**develop** [2] - 40:1, 138:22  
**developed** [4] - 13:11, 22:20, 39:22, 49:21  
**developing** [3] - 11:13, 73:10, 73:24  
**development** [19] - 13:6, 13:10, 18:8, 39:21, 40:6, 48:17, 51:7, 51:19, 53:4, 53:18, 55:6, 55:10, 56:5, 58:6, 58:9, 73:16, 74:22, 77:2, 95:18  
**developments** [3] - 46:13, 46:14, 55:12  
**Diamond** [27] - 9:15, 10:5, 12:6, 13:20, 17:8, 20:16, 22:7, 32:9, 35:8, 35:20, 35:22, 39:4, 39:15, 43:13, 47:8, 53:12, 56:14, 57:4, 71:5, 73:5, 77:11, 104:19, 104:20, 128:20, 131:4, 135:9, 139:13  
**Diamond's** [1] - 85:17  
**difference** [2] - 7:15, 55:22  
**different** [11] - 40:18, 42:12, 55:19, 55:21, 81:24, 106:10, 123:11, 144:13, 145:10, 146:5, 146:8  
**differently** [1] - 51:7  
**difficult** [1] - 123:10  
**DIRECT** [5] - 19:17, 31:16, 38:6, 45:16, 84:6  
**direct** [2] - 42:19, 97:9  
**Direct** [5] - 4:4, 4:7, 4:10, 4:13, 4:16  
**directed** [3] - 128:12, 132:9, 134:9  
**directly** [6] - 23:6, 27:4, 122:7, 122:13, 122:21, 124:22  
**Directors** [1] - 47:4  
**directors** [1] - 13:4  
**directs** [1] - 131:24  
**discuss** [4] - 22:19, 33:1, 39:13, 74:23  
**discussed** [2] - 35:12, 55:11  
**discussion** [1] - 8:1  
**discussions** [1] - 55:18  
**dismantled** [1] - 145:13  
**disposal** [1] - 144:17  
**dispose** [1] - 144:14  
**disposed** [2] - 66:1, 145:12  
**distance** [4] - 69:10, 120:23, 124:20, 125:2  
**district** [1] - 17:10  
**districts** [3] - 42:8, 42:10, 42:12  
**ditch** [4] - 89:22, 109:21, 110:6, 110:18  
**document** [3] - 96:19, 100:21, 101:6  
**documented** [1] - 36:15  
**dollar** [1] - 41:17  
**dollars** [8] - 17:4, 17:9, 42:8, 42:9, 42:10, 42:13, 43:9, 46:6  
**dominant** [1] - 49:1  
**Don** [1] - 94:22  
**done** [31] - 10:19, 10:24, 17:24, 20:10, 21:24, 25:24, 38:20, 38:22, 38:24, 46:16, 50:20, 54:23, 55:23, 60:8, 62:4, 63:17, 64:14, 76:17, 92:22, 92:23, 98:1, 98:14, 106:3, 106:5, 123:16, 142:5, 142:9, 144:4, 144:5, 145:8  
**Dorr** [7] - 2:11, 5:12, 6:4, 8:6, 9:9, 69:15, 150:9  
**DORR** [20] - 5:13, 6:5, 8:3, 8:6, 8:11, 8:19, 9:10, 12:2, 12:5, 69:14, 69:18, 142:13, 142:17, 143:5, 143:15, 143:21, 147:14, 147:17, 148:12, 150:10  
**double** [1] - 8:13  
**double-check** [1] - 8:13  
**doubts** [1] - 133:12  
**down** [6] - 6:22, 88:21, 98:9, 113:20, 124:16, 151:8  
**dozen** [4] - 9:23, 49:15, 113:4, 113:6  
**DOZIER** [48] - 5:10, 6:9, 9:6, 57:24, 58:4, 58:10, 58:16, 58:20, 59:1, 59:5, 59:21, 60:18, 61:1, 61:6, 61:11, 61:21, 62:6, 62:11, 63:1, 63:12, 63:18, 63:23, 64:5, 64:14, 65:1, 65:6, 65:15, 65:23, 66:18, 66:22, 67:11, 67:14, 67:18, 68:1, 69:2, 69:12, 82:12, 109:11, 109:13, 109:21, 110:1, 110:6, 110:12, 110:14, 110:18, 110:21, 141:16, 150:8  
**Dozier** [8] - 2:9, 5:9, 6:8, 9:5, 58:1, 58:4, 73:3, 150:7  
**Dr** [6] - 38:8, 39:2, 39:13, 43:11, 43:19, 48:10  
**drafting** [1] - 74:19  
**dragging** [1] - 147:4  
**drain** [12] - 25:8, 25:10, 27:24, 64:9, 72:21, 79:7, 93:21, 98:19, 102:17, 133:4, 134:13, 136:21  
**Drainage** [3] - 77:22, 92:14, 102:21  
**drainage** [57] - 20:15, 24:15, 25:16, 25:18, 26:23, 74:11, 74:24, 75:19, 76:4, 76:20, 77:9, 77:13, 78:16, 78:22, 79:6, 79:10, 79:11, 79:14, 80:1, 80:13, 80:17, 80:21, 88:7, 89:11, 89:18, 90:10, 91:11, 91:20, 94:8, 96:10, 96:16, 96:23, 97:19, 97:21, 98:17, 99:8, 101:14, 102:1, 103:16, 104:6, 104:11, 104:22, 105:3, 107:9, 132:6, 132:16, 133:13, 136:19, 137:12, 137:16, 137:19, 137:22, 138:1, 138:8, 138:11  
**drained** [2] - 91:18, 98:20  
**draining** [3] - 91:16, 91:17, 98:23  
**drains** [10] - 96:23, 101:2, 103:4, 103:8, 103:12, 104:10, 110:16, 136:22, 136:23, 137:11  
**drastically** [1] - 146:8  
**drew** [1] - 47:18  
**driven** [4] - 23:1, 26:6, 60:20, 60:23  
**driver** [2] - 60:24, 146:6  
**driveway** [1] - 124:13  
**driving** [2] - 33:15, 71:22  
**drop** [1] - 44:16  
**dropped** [2] - 109:18, 110:4  
**due** [6] - 24:22, 26:6, 55:15, 60:5, 60:9, 60:13  
**duly** [5] - 19:15, 31:14, 38:4, 45:14, 84:4  
**dumped** [1] - 144:16  
**duration** [1] - 103:9  
**Durbin** [1] - 3:9  
**DURBIN** [6] - 18:17, 18:21, 112:12, 112:16, 127:1, 142:1  
**during** [6] - 17:15, 26:12, 42:18, 43:9, 46:10, 73:15  
**dying** [1] - 118:2  
**E-G-G-I-M-A-N-N** [2] - 83:11, 84:10  
**e-mail** [2] - 82:2, 82:3  
**eagle** [3] - 32:11, 33:13, 33:17  
**eagles** [1] - 33:8  
**earnings** [1] - 43:9  
**easement** [3] - 103:9, 137:2, 137:4  
**easements** [2] - 77:13, 77:21  
**East** [3] - 7:2, 7:11, 28:19  
**east** [14] - 7:1, 28:18, 28:20, 76:15, 87:22, 88:23, 89:11, 89:13, 90:18, 90:21, 93:12, 93:13, 96:1, 96:12  
**EcoCAT** [2] - 34:8, 34:19  
**economic** [18] - 11:1, 38:14, 38:18, 38:21, 38:22, 39:3, 39:14, 39:21, 40:6, 40:7, 40:10, 40:14, 41:3, 41:7, 41:14, 43:14, 104:16  
**Economic** [1] - 38:14  
**Economics** [1] - 38:12  
**economics** [7] - 38:16, 38:17, 41:2, 46:3, 49:2, 56:5, 115:7  
**economy** [4] - 40:22, 41:12, 51:3, 115:7  
**edge** [6] - 34:4, 69:10, 93:9, 109:19, 110:5, 119:24  
**effect** [7] - 41:6, 41:13, 56:15, 109:4, 128:3, 128:4, 134:2  
**effected** [1] - 77:8  
**efficiency** [1] - 145:20  
**Eggimann** [39] - 3:5, 3:5, 3:11, 3:12, 3:13, 12:20, 70:4, 70:5, 73:22, 74:14, 74:18, 78:10, 82:15, 82:20, 83:7, 83:10, 83:12, 84:8, 84:10, 84:13, 84:17, 85:12, 91:23, 94:22, 97:3, 97:13, 98:22, 100:8, 100:9, 102:1, 102:19, 103:15, 103:22, 104:1, 107:1, 107:5, 108:22  
**EGGIMANN** [10] - 4:15, 70:11, 83:10, 83:16, 84:1, 100:12, 100:15, 109:18, 109:23, 110:4  
**Eggimann's** [2] - 94:16, 133:10  
**Eggimanns** [4] - 70:8, 74:10, 78:1, 84:3  
**Eggimanns'** [1] - 62:19  
**eight** [13] - 13:21, 24:3, 28:23, 29:5, 36:16, 59:7, 59:22, 61:19, 93:7, 99:11, 101:11, 118:20, 118:21  
**either** [7] - 47:23, 65:17, 69:21, 73:21, 79:21, 80:2,

- 123:11  
**electrical** [1] - 14:4  
**eleven** [1] - 55:24  
**Elliott** [2] - 92:13, 94:7  
**ELMORE** [6] - 110:8, 110:11, 110:13, 110:16, 110:20, 126:11  
**elmore** [1] - 146:23  
**Elmore** [4] - 3:15, 110:11, 126:10, 146:24  
**employees** [1] - 17:13  
**empty** [1] - 7:19  
**end** [5] - 22:1, 65:11, 99:8, 110:15, 131:19  
**Energy** [15] - 2:22, 3:10, 11:13, 13:1, 13:14, 19:14, 20:3, 25:9, 27:3, 31:13, 38:3, 39:23, 39:24, 45:13, 46:23  
**energy** [11] - 9:22, 13:6, 20:7, 22:24, 23:3, 23:7, 32:3, 38:17, 40:1, 40:9, 40:10  
**engage** [1] - 34:12  
**engineer** [5] - 19:24, 65:20, 79:4, 137:20, 142:6  
**engineering** [1] - 11:1  
**engineers** [1] - 20:3  
**enhance** [2] - 129:13, 130:5  
**enjoyed** [3] - 103:17, 103:18  
**entails** [1] - 75:13  
**enter** [7] - 20:23, 21:3, 22:12, 32:21, 39:10, 47:15, 57:13  
**entered** [6] - 57:7, 67:22, 71:4, 71:8, 72:17, 81:11  
**entire** [1] - 114:17  
**entities** [2] - 58:24, 147:21  
**entitled** [1] - 101:2  
**entity** [2] - 58:17, 58:19  
**entry** [2] - 85:15, 138:23  
**environment** [2] - 48:16, 134:2  
**environmental** [1] - 32:8  
**EPA** [1] - 68:16  
**equal** [1] - 95:17  
**equipment** [1] - 15:2  
**equivalent** [2] - 64:19, 99:10  
**erosion** [5] - 20:16, 21:4, 78:17, 79:6, 79:10  
**essentially** [3] - 29:20, 36:21, 118:8  
**established** [4] - 62:1, 62:5, 73:4, 73:5  
**establishes** [1] - 14:21  
**establishment** [1] - 137:10  
**estate** [3] - 45:22, 46:6, 50:18  
**estimate** [1] - 17:14  
**estimated** [2] - 14:12, 17:5  
**estimating** [2] - 17:3, 29:15  
**et** [1] - 134:6  
**evaluate** [1] - 131:2  
**evaluated** [1] - 32:2  
**evening** [9] - 6:16, 9:18, 10:14, 19:19, 31:18, 38:8, 45:18, 84:15, 139:4  
**eventually** [2] - 97:1, 97:22  
**evergreens** [1] - 142:21  
**evidence** [7] - 56:24, 57:14, 131:15, 134:19, 135:2, 135:4, 137:9  
**exact** [1] - 87:3  
**exactly** [6] - 76:8, 105:21, 115:22, 126:2, 137:14, 140:13  
**EXAMINATION** [6] - 19:17, 31:16, 38:6, 45:16, 84:6, 107:3  
**examination** [1] - 81:4  
**Examination** [6] - 4:4, 4:7, 4:10, 4:13, 4:16, 4:18  
**examine** [1] - 21:23  
**examined** [7] - 19:16, 31:15, 38:5, 38:18, 45:15, 84:5, 149:14  
**example** [6] - 40:11, 53:14, 76:15, 77:14, 79:8, 114:5  
**examples** [7] - 29:3, 49:15, 51:14, 113:3, 113:9, 113:23, 114:15  
**except** [2] - 85:14, 106:16  
**exception** [1] - 15:7  
**Excuse** [1] - 107:23  
**excuse** [2] - 82:6, 85:1  
**excused** [1] - 5:12  
**execute** [1] - 18:3  
**Exhibit** [32] - 20:19, 20:23, 20:24, 21:1, 21:4, 22:9, 85:16, 85:23, 86:2, 86:5, 86:19, 87:2, 87:7, 87:12, 88:12, 91:24, 92:6, 92:24, 93:15, 93:21, 94:7, 96:18, 97:4, 97:14, 98:5, 100:9, 100:19, 101:24, 102:20, 105:10, 106:16  
**exhibit** [3] - 96:21, 98:12, 102:20  
**exhibits** [6] - 82:24, 85:13, 105:23, 106:2, 106:19, 137:10  
**Exhibits** [1] - 105:9  
**existence** [2] - 53:3, 102:16  
**existing** [5] - 14:15, 15:9, 24:12, 76:3, 104:22  
**expanding** [1] - 95:14  
**expect** [2] - 14:13, 43:8  
**expectancy** [1] - 145:7  
**expected** [4] - 40:15, 42:3, 42:4, 42:14  
**expecting** [1] - 42:17  
**expenditures** [6] - 40:15, 40:16, 40:20, 41:2, 41:10, 41:11  
**expense** [1] - 94:21  
**expensive** [1] - 65:2  
**experience** [7] - 13:5, 13:17, 31:23, 31:24, 55:3, 55:5, 144:21  
**experiencing** [1] - 16:15  
**expert** [8] - 10:16, 18:24, 112:8, 127:24, 128:24, 131:11, 134:21, 135:1  
**expertise** [1] - 47:20  
**experts** [2] - 10:23, 135:3  
**explore** [1] - 77:24  
**explored** [1] - 76:13  
**express** [1] - 108:9  
**extend** [2] - 16:9, 104:12  
**extends** [1] - 12:16  
**extent** [1] - 36:18  
**extra** [6] - 57:9, 59:12, 59:14, 59:15, 81:20, 95:19  
**fabric** [3] - 28:11, 28:13, 28:17  
**facilities** [1] - 134:5  
**facility** [11] - 22:23, 23:12, 49:21, 49:22, 50:8, 50:13, 50:14, 71:19, 139:12, 139:14, 139:18  
**fact** [7] - 56:5, 74:17, 78:12, 95:7, 96:10, 133:15, 136:8  
**factor** [1] - 49:1  
**factors** [2] - 48:13, 132:2  
**factory** [1] - 52:19  
**facts** [2] - 13:19, 136:21  
**fair** [7] - 73:14, 74:8, 76:19, 78:20, 79:5, 79:23, 146:14  
**fairly** [2] - 24:17, 140:5  
**familiar** [3] - 32:7, 34:8, 121:6  
**family** [2] - 51:6, 99:3  
**far** [16] - 75:1, 81:4, 85:18, 90:21, 107:24, 124:13, 124:14, 129:2, 129:8, 136:15, 142:10, 143:13, 144:7, 148:23, 149:1  
**farm** [12] - 49:8, 50:23, 51:6, 62:11, 63:14, 70:8, 74:12, 88:3, 88:5, 99:1, 108:12, 127:10  
**Farm** [2] - 12:6, 46:8  
**farmed** [5] - 29:24, 87:14, 99:2, 99:3, 100:1  
**farming** [3] - 7:17, 88:2, 138:15  
**farmland** [1] - 66:24  
**farms** [4] - 46:20, 55:22, 104:10, 113:10  
**farther** [3] - 52:4, 52:23, 143:19  
**fashion** [1] - 60:17  
**fast** [1] - 54:16  
**feasible** [1] - 142:23  
**fee** [1] - 6:22  
**fees** [2] - 6:18, 17:6  
**feet** [39] - 7:1, 7:16, 14:21, 15:1, 23:18, 23:22, 24:3, 24:9, 24:10, 24:14, 28:23, 29:6, 50:5, 50:9, 51:22, 52:21, 61:1, 61:2, 61:18, 61:19, 69:3, 69:10, 112:3, 114:13, 118:20, 120:3, 120:5, 120:14, 120:16, 120:20, 120:22, 121:2, 121:16, 121:18, 125:3, 136:1, 142:5  
**felt** [1] - 55:3  
**fence** [23] - 14:6, 14:24, 23:11, 24:2, 28:17, 29:21, 69:4, 69:11, 116:18, 117:15, 118:21, 120:9, 120:16, 120:19, 120:23, 121:2, 121:10, 121:13, 121:16, 121:17, 124:14, 135:24  
**fencing** [7] - 24:1, 28:11, 80:9, 80:12, 80:15, 80:19, 80:21  
**few** [8] - 17:19, 46:15, 54:19, 57:24, 65:1, 112:6, 113:1, 125:15  
**field** [4] - 15:19, 25:23, 57:20, 96:24  
**fight** [1] - 141:10  
**figure** [1] - 147:12  
**figuring** [1] - 26:4  
**filed** [3] - 34:8, 55:14  
**fill** [2] - 7:19, 61:16  
**filled** [1] - 137:5  
**final** [1] - 146:16  
**finally** [4] - 33:22, 41:1, 48:6, 102:19  
**finance** [1] - 46:1  
**financed** [1] - 13:11  
**financial** [4] - 15:24, 26:22, 58:14, 95:14  
**fine** [4] - 82:22, 97:12, 148:16, 148:17  
**finish** [2] - 17:5, 59:12  
**finished** [3] - 81:3, 108:23, 149:16  
**firm** [3] - 13:2, 38:15, 45:23  
**first** [26] - 18:12, 19:15, 25:11, 25:22, 29:12, 30:20, 31:14, 38:4, 40:20, 41:5, 42:5, 45:14, 50:2, 50:17, 51:14, 52:18, 58:5, 66:13, 70:19, 84:4, 85:16, 92:20, 92:21, 111:21, 126:1, 127:11  
**Fish** [4] - 35:2, 35:4, 35:6, 35:10  
**five** [11] - 7:1, 7:16, 30:3, 56:1, 61:12, 61:14, 110:21, 117:19, 118:2, 118:7, 141:8  
**flag** [1] - 12:13  
**flat** [2] - 23:23, 24:17  
**floor** [1] - 5:18  
**flow** [6] - 41:4, 42:8, 42:9,

- 62:18, 88:11, 93:11  
**flowers** [1] - 124:3  
**focus** [1] - 125:23  
**folks** [4] - 13:13, 18:15, 131:13, 149:6  
**follow** [3] - 68:22, 132:8, 133:1  
**followed** [2] - 132:6, 132:17  
**following** [7] - 23:14, 25:1, 26:21, 63:3, 67:9, 130:4, 132:2  
**follows** [5] - 19:16, 31:15, 38:5, 45:15, 84:5  
**foot** [10] - 23:20, 24:2, 24:5, 24:6, 30:3, 118:21, 120:11, 120:17, 121:3  
**footprint** [6] - 15:11, 43:16, 56:16, 72:14, 132:22, 132:23  
**foregoing** [2] - 151:7, 151:10  
**foreign** [3] - 58:17, 58:19, 58:24  
**foremost** [1] - 25:11  
**foreseeable** [1] - 14:17  
**forever** [1] - 147:4  
**forgot** [1] - 99:6  
**Fork** [3] - 13:22, 84:20, 85:5  
**form** [3] - 13:8, 140:20, 151:9  
**formal** [1] - 55:13  
**formed** [1] - 13:7  
**forth** [2] - 116:16, 136:20  
**forward** [2] - 62:24, 105:6  
**founded** [1] - 45:21  
**four** [19] - 10:16, 16:10, 17:12, 29:4, 33:8, 43:3, 45:21, 46:24, 50:10, 54:6, 59:2, 59:10, 59:12, 59:19, 61:2, 61:15, 84:12, 99:6, 106:21  
**fourth** [2] - 14:19, 148:4  
**Fowler** [1] - 18:7  
**frame** [2] - 26:17, 100:4  
**Franklin** [1] - 52:16  
**frequently** [1] - 46:18  
**friendly** [1] - 30:6  
**front** [3] - 12:10, 85:12, 91:24  
**full** [5] - 16:2, 23:19, 23:21, 46:4, 79:19  
**fully** [5] - 18:3, 28:22, 29:6, 76:24, 105:4  
**functional** [2] - 28:4, 64:10  
**fund** [4] - 26:21, 27:23, 63:2, 73:4  
**funds** [1] - 16:3  
**further** [7] - 15:15, 30:12, 35:15, 48:1, 50:21, 98:9, 129:19  
**future** [1] - 14:17  
**Gary** [14] - 3:6, 70:5, 70:7, 74:21, 78:10, 84:3, 85:7, 86:17, 87:8, 95:10, 97:6, 97:7, 98:3, 104:3  
**Gary's** [1] - 94:5  
**gather** [1] - 105:16  
**general** [7] - 24:19, 46:23, 50:3, 51:3, 133:19, 149:3  
**generally** [7] - 48:22, 53:17, 54:12, 55:3, 55:17, 61:4, 88:10  
**generate** [1] - 17:8  
**gentleman** [1] - 137:20  
**geotechnical** [1] - 61:3  
**Given** [1] - 151:13  
**given** [2] - 34:20, 113:3  
**gladly** [1] - 60:3  
**glare** [3] - 57:3, 124:6, 124:9  
**glasses** [2] - 85:19, 88:13  
**glen** [1] - 6:12  
**Glen** [6] - 2:8, 5:5, 5:19, 68:5, 149:22, 150:5  
**glint** [3] - 57:3, 124:5, 124:9  
**goals** [1] - 25:15  
**GOODRICH** [11] - 5:6, 5:19, 6:13, 9:2, 22:3, 68:5, 68:19, 81:21, 148:18, 149:22, 150:6  
**Goodrich** [8] - 2:8, 5:5, 5:19, 6:12, 9:1, 68:6, 149:22, 150:5  
**googled** [1] - 128:18  
**GPS** [3] - 64:11, 64:12, 133:3  
**grade** [4] - 23:18, 23:21, 23:22, 99:4  
**grading** [2] - 24:18, 24:20  
**graduated** [1] - 45:24  
**grain** [3] - 6:16, 7:1, 7:16  
**grant** [3] - 131:17, 133:6  
**grants** [1] - 59:11  
**grass** [2] - 25:1, 61:22  
**grassland** [1] - 33:9  
**grasslands** [1] - 33:24  
**gravel** [2] - 23:9, 46:13  
**great** [3] - 37:8, 39:20, 44:9  
**greatest** [1] - 117:22  
**green** [3] - 92:8, 93:1, 121:13  
**grew** [1] - 88:3  
**grid** [2] - 23:8, 60:7  
**ground** [15] - 7:17, 23:2, 23:24, 24:19, 26:1, 60:24, 61:18, 93:9, 99:14, 99:15, 99:16, 100:1, 104:8, 104:21, 109:14  
**group** [1] - 140:5  
**grow** [1] - 29:22  
**growing** [3] - 29:15, 117:23, 124:3  
**grown** [2] - 28:22, 29:6  
**growth** [2] - 118:15, 118:18  
**guarantee** [6] - 114:23, 115:13, 115:18, 116:5, 116:7, 116:9  
**guess** [15] - 58:22, 61:9, 61:21, 65:6, 66:22, 80:22, 81:7, 106:19, 128:23, 130:22, 132:12, 137:23, 140:23, 142:14, 149:4  
**guidance** [1] - 131:19  
**guideline** [1] - 130:4  
**guys** [6] - 29:7, 82:17, 141:20, 143:9, 144:23, 146:21  
**habitat** [10] - 32:12, 33:9, 33:23, 34:2, 34:3, 34:5, 34:6, 35:13, 35:14, 35:23  
**Haines** [5] - 1:20, 3:24, 151:4, 151:6, 151:22  
**half** [5] - 33:14, 33:18, 92:20, 92:21, 115:2  
**halfway** [1] - 90:19  
**Hall** [1] - 127:18  
**hand** [4] - 96:22, 101:7, 102:5, 151:13  
**handout** [1] - 11:19  
**hands** [1] - 100:18  
**Hang** [1] - 110:10  
**hang** [4] - 37:2, 83:13, 117:11, 141:2  
**happy** [7] - 77:6, 77:24, 119:16, 124:10, 141:12, 142:24, 143:24  
**hard** [3] - 11:20, 12:19, 16:22  
**hardest** [1] - 149:9  
**Harris** [4] - 2:13, 6:18, 7:20, 130:14  
**HARRIS** [55] - 5:5, 5:7, 5:9, 5:11, 5:15, 6:4, 6:6, 6:8, 6:10, 6:12, 6:14, 6:21, 7:4, 7:23, 8:23, 9:1, 9:3, 9:5, 9:7, 9:9, 9:11, 11:22, 21:6, 21:11, 21:14, 21:17, 21:19, 21:24, 59:9, 59:15, 78:4, 81:14, 81:16, 82:1, 105:17, 109:9, 111:3, 126:9, 126:13, 126:15, 126:20, 126:23, 130:15, 130:18, 147:18, 148:2, 148:6, 148:9, 150:5, 150:7, 150:9, 150:11, 150:13, 150:15, 150:17  
**hawks** [1] - 33:20  
**hazardous** [10] - 48:19, 65:8, 65:10, 65:19, 66:13, 66:17, 68:10, 130:7, 130:11, 130:12  
**head** [2] - 130:2, 132:20  
**headed** [1] - 140:6  
**Headquarters** [1] - 46:8  
**health** [2] - 122:24, 134:1  
**hear** [24] - 18:17, 18:19, 18:20, 30:17, 30:19, 37:6, 37:7, 44:2, 44:3, 44:4, 44:5, 44:6, 44:7, 44:18, 63:3, 66:9, 69:8, 112:18, 112:20, 127:3, 127:4, 127:5, 129:22, 144:23  
**heard** [13] - 48:10, 65:24, 66:13, 66:15, 107:15, 108:11, 122:19, 123:4, 127:16, 130:12, 131:10, 131:11, 131:12  
**hearing** [3] - 122:19, 131:2, 136:9  
**hearings** [1] - 9:21  
**heavy** [1] - 48:18  
**heck** [1] - 140:4  
**height** [20] - 15:1, 15:2, 15:3, 24:5, 24:7, 28:24, 29:6, 29:16, 61:19, 116:17, 116:20, 116:22, 117:1, 118:5, 118:7, 118:10, 118:12, 118:15, 118:18  
**heights** [3] - 23:16, 23:17  
**held** [1] - 47:1  
**hello** [1] - 44:2  
**help** [4] - 17:22, 93:21, 129:13, 144:19  
**helped** [3] - 10:1, 34:11, 94:20  
**helpful** [1] - 148:23  
**helps** [1] - 74:11  
**herbicides** [1] - 68:24  
**hereby** [1] - 151:6  
**herein** [5] - 19:13, 31:12, 38:2, 45:12, 84:2  
**hesitate** [1] - 144:10  
**hi** [1] - 37:6  
**Hickory** [1] - 46:22  
**high** [2] - 53:16, 145:15  
**higher** [1] - 53:24  
**highlighted** [3] - 86:11, 86:15, 88:17  
**highly** [1] - 79:3  
**highway** [1] - 15:21  
**hired** [2] - 92:15, 108:16  
**hit** [1] - 130:1  
**hold** [3] - 23:1, 63:10, 112:17  
**holding** [1] - 127:12  
**hole** [1] - 63:24  
**home** [1] - 124:7  
**homes** [1] - 56:15  
**honey** [1] - 129:9  
**hook** [1] - 109:15  
**hooked** [1] - 110:2  
**hope** [2] - 54:16, 109:8  
**hopefully** [1] - 10:21  
**hoping** [1] - 147:8  
**hospital** [1] - 40:11  
**hospitals** [1] - 134:6  
**host** [1] - 48:7  
**hot** [1] - 135:12  
**house** [19] - 49:18, 49:20, 50:8, 51:23, 52:4, 111:24, 120:16, 120:22, 120:24, 121:2, 121:4, 122:22, 124:7, 124:15, 124:20, 125:2, 125:5, 125:8, 125:11  
**houses** [10] - 52:2, 52:5,

- 52:17, 53:2, 53:14, 53:21,  
55:18, 114:20, 124:1,  
125:16
- HOWARD** [5] - 6:7, 9:8,  
124:2, 148:17, 150:12
- Howard** [6] - 2:12, 5:12,  
5:22, 6:6, 9:7, 150:11
- hundred** [5] - 120:5, 120:17,  
120:20, 120:22, 121:3
- husband** [1] - 122:23
- idea** [6] - 17:2, 28:1, 61:11,  
61:24, 79:24, 129:12
- ideal** [1] - 64:7
- identify** [2] - 62:23, 74:11
- identifying** [1] - 63:22
- IDNR** [4] - 34:15, 34:19,  
35:23, 35:24
- IDNR's** [1] - 35:24
- ill** [1] - 122:23
- ILLINOIS** [1] - 151:1
- Illinois** [32] - 2:20, 3:3, 9:24,  
20:10, 32:6, 34:9, 34:13,  
35:17, 38:12, 38:15, 38:23,  
39:1, 41:1, 41:9, 41:18,  
42:19, 43:10, 45:23, 46:1,  
46:7, 46:17, 46:24, 48:1,  
51:14, 51:17, 55:10, 55:23,  
77:22, 102:21, 129:15,  
130:3, 151:14
- illustration** [1] - 114:6
- immediate** [1] - 132:18
- immediately** [2] - 28:20,  
48:24
- impact** [22] - 11:1, 26:8, 30:4,  
38:22, 39:3, 46:11, 47:7,  
47:23, 48:3, 48:10, 50:22,  
51:1, 51:4, 52:7, 53:3,  
55:4, 55:7, 56:4, 56:6,  
76:3, 116:3
- Impact** [1] - 71:10
- impacted** [4] - 25:18, 26:9,  
36:20, 115:6
- impacting** [1] - 25:16
- impacts** [20] - 26:4, 26:11,  
34:22, 36:3, 38:18, 38:21,  
39:14, 39:15, 39:22, 40:8,  
40:11, 40:14, 41:14, 41:16,  
42:17, 42:21, 46:19, 47:20,  
103:16, 137:15
- impair** [2] - 80:13, 80:21
- impaired** [1] - 137:6
- impede** [2] - 80:13, 80:20
- IMPLAN** [2] - 40:5, 41:7
- important** [1] - 138:20
- impose** [1] - 132:13
- imposing** [1] - 134:15
- impression** [1] - 65:9
- improving** [1] - 99:8
- IN** [1] - 1:6
- inappropriate** [1] - 136:13
- inch** [15] - 89:21, 90:17, 92:9,  
92:18, 93:8, 94:9, 94:12,  
94:20, 99:11, 99:13, 99:17,  
99:18, 101:10, 101:11
- inches** [3] - 29:16, 29:23,  
124:4
- include** [5] - 42:19, 42:20,  
43:3, 131:20, 139:23
- included** [4] - 43:6, 67:8,  
67:17, 123:2
- includes** [1] - 31:24
- including** [6] - 35:14, 46:8,  
46:12, 48:18, 48:23, 49:18
- income** [1] - 48:7
- increase** [3] - 48:8, 50:16,  
99:20
- increased** [1] - 104:14
- increases** [2] - 51:2, 118:1
- Indiana** [4] - 52:10, 52:14,  
52:16, 55:24
- indicate** [1] - 79:7
- indicated** [4] - 54:9, 54:13,  
71:24, 93:24
- indicating** [3] - 47:22, 51:2,  
53:18
- indication** [1] - 53:2
- individuals** [3] - 13:4, 17:20,  
137:18
- induced** [1] - 43:7
- industrial** [1] - 46:15
- industry** [1] - 40:5
- inflated** [1] - 67:5
- information** [17] - 14:9, 18:6,  
50:3, 53:11, 66:21, 74:2,  
119:17, 123:8, 124:11,  
124:19, 128:9, 128:11,  
128:14, 128:15, 128:17,  
129:4, 149:4
- informational** [1] - 127:22
- infrastructure** [4] - 26:3,  
48:21, 53:22, 54:11
- initial** [3] - 40:14, 48:16,  
57:17
- ink** [1] - 97:14
- inside** [2] - 12:21, 144:13
- install** [4] - 90:14, 116:22,  
117:1, 145:23
- installed** [11] - 15:1, 15:5,  
27:22, 94:19, 100:4,  
116:19, 117:4, 117:17,  
117:20, 117:21, 118:13
- installer** [1] - 64:24
- instance** [5] - 19:13, 31:12,  
38:2, 45:12, 84:2
- instead** [1] - 139:1
- Institute** [1] - 47:5
- intend** [3] - 11:4, 18:3, 76:24
- intending** [1] - 16:3
- intention** [2] - 80:5, 123:13
- interconnection** [4] - 14:16,  
16:12, 60:5, 60:8
- interest** [8] - 17:21, 75:4,  
78:23, 95:13, 95:14,  
109:10, 137:17, 139:7
- interested** [10] - 70:3, 111:1,  
111:19, 112:21, 121:21,  
121:24, 126:8, 128:23,  
130:16, 136:8
- interesting** [3] - 54:18,  
54:24, 127:13
- interests** [3] - 106:10, 138:20
- internal** [3] - 14:3, 27:2,  
80:24
- interrupt** [1] - 113:16
- intersect** [1] - 17:21
- intersects** [2] - 26:5, 101:10
- interview** [1] - 55:1
- introduce** [1] - 18:9
- Introversy** [2] - 59:16, 59:17
- inverter** [3] - 23:5, 23:9
- inverters** [1] - 14:5
- investment** [1] - 41:17
- inviting** [1] - 132:13
- involved** [4] - 13:13, 73:12,  
87:24, 111:24
- involvement** [1] - 94:24
- issuance** [2] - 15:24, 16:8
- issue** [9] - 8:1, 48:10, 87:9,  
131:16, 132:1, 133:14,  
135:7, 135:8, 136:17
- issues** [6] - 11:1, 26:23,  
32:3, 46:19, 133:7, 137:19
- issuing** [2] - 133:21, 134:17
- items** [2] - 115:9, 132:4
- itself** [7] - 27:21, 47:20,  
61:20, 72:16, 114:12,  
115:7, 120:19
- Jacksonville** [1] - 3:3
- JEFF** [10] - 7:7, 7:10, 7:14,  
9:13, 18:17, 18:21, 112:12,  
112:16, 127:1, 142:1
- Jeff** [3] - 3:9, 3:14, 7:7
- jeff** [1] - 7:8
- JERRY** [31] - 111:6, 111:10,  
111:15, 111:18, 113:1,  
113:8, 113:14, 113:17,  
113:22, 114:5, 114:14,  
114:21, 115:10, 115:14,  
115:22, 116:4, 116:10,  
116:14, 116:21, 117:5,  
117:10, 117:13, 118:4,  
118:14, 118:22, 119:9,  
119:18, 119:24, 120:4,  
120:11, 121:12
- Jerry** [2] - 3:17, 111:10
- Joann** [5] - 5:12, 5:22, 6:6,  
148:14, 150:11
- joann** [1] - 2:12
- job** [2] - 42:16, 62:12
- jobs** [7] - 17:14, 39:21,  
42:18, 43:4, 43:6, 43:7
- Jody** [1] - 126:15
- JODY** [4] - 126:23, 127:4,  
127:11, 128:15
- Joe** [7] - 2:11, 5:12, 6:4, 8:6,  
8:8, 69:14, 150:9
- John** [1] - 19:21
- Jon** [6] - 2:10, 5:7, 6:1, 6:10,  
148:14, 150:13
- Judith** [6] - 76:15, 77:14,  
79:8, 89:12, 90:4, 95:15
- Judy** [7] - 88:24, 89:1,  
100:22, 122:7, 122:14,  
124:23, 125:10
- Judy's** [4] - 89:14, 89:15,  
89:19, 124:15
- JULIE** [1] - 70:11
- Julie** [8] - 3:5, 3:12, 70:4,  
74:18, 78:10, 84:13, 94:23,  
104:1
- jumping** [1] - 116:15
- jumps** [1] - 110:19
- June** [1] - 99:15
- jurisdictional** [2] - 36:17,  
36:19
- juvenile** [1] - 117:21
- keep** [7] - 29:16, 64:9, 91:24,  
105:12, 143:2, 143:6,  
143:21
- keeping** [1] - 123:14
- Kenna** [3] - 3:16, 122:5,  
127:14
- KENNA** [15] - 121:22, 122:1,  
122:5, 122:6, 122:11,  
122:13, 122:16, 123:18,  
124:12, 124:22, 125:4,  
125:9, 125:17, 126:2,  
126:5
- kept** [1] - 60:9
- key** [2] - 17:19, 25:9
- kill** [1] - 62:8
- kind** [12] - 10:12, 53:13,  
53:18, 54:7, 59:9, 67:7,  
67:15, 75:18, 93:17,  
122:20, 135:12, 145:12
- Kirtland's** [2] - 32:12, 33:23
- knowledge** [5] - 59:7, 67:23,  
89:21, 96:4, 129:3
- known** [1] - 101:15
- knows** [2] - 65:16, 65:17
- KYLE** [1] - 2:21
- Kyle** [8] - 9:20, 11:11, 11:13,  
18:9, 64:8, 71:14, 71:20,  
107:5
- L-O-O-M-I-S** [1] - 37:14
- label** [2] - 68:17, 68:22
- labor** [2] - 42:19, 42:20
- Labs** [2] - 39:23, 39:24
- lack** [1] - 147:9
- lacks** [1] - 33:9
- lake** [7] - 68:9, 68:20, 89:13,  
109:15, 109:17, 109:22,  
110:3
- Lake** [2] - 12:17, 34:4
- land** [29] - 24:22, 24:23, 39:3,  
46:2, 46:9, 46:18, 65:17,  
66:23, 74:12, 75:8, 84:23,  
85:2, 85:4, 85:9, 86:11,  
87:12, 88:23, 91:2, 91:5,  
91:7, 91:11, 91:18, 92:4,

- 96:1, 123:16, 125:24, 137:3
- landfill** [2] - 66:1, 144:16
- landlocked** [1] - 114:16
- landowner** [5] - 26:1, 71:17, 139:15, 139:16
- landowner's** [1] - 64:17
- landowners** [13] - 26:14, 26:23, 27:4, 27:20, 27:24, 56:7, 63:5, 72:17, 72:20, 78:8, 126:1, 132:22, 138:14
- lands** [16] - 71:12, 86:8, 86:21, 86:23, 87:4, 88:14, 90:7, 103:17, 104:12, 136:23, 136:24, 137:2, 137:4, 137:7, 138:19
- landscape** [1] - 117:18
- landscaping** [3] - 28:15, 28:22, 29:3
- language** [7] - 140:10, 140:12, 140:18, 140:20, 140:24, 146:12, 146:17
- large** [2] - 113:21, 117:8
- larger** [2] - 51:24, 53:23
- LaSalle** [2] - 51:17, 51:18
- last** [7] - 50:4, 54:7, 54:17, 59:6, 119:1, 127:15, 143:11
- late** [1] - 135:12
- lately** [1] - 145:14
- lateral** [1] - 63:10
- laterals** [5] - 28:3, 62:20, 62:22, 80:1, 102:2
- Law** [2] - 2:18, 3:1
- law** [3] - 41:19, 103:3, 132:7
- laws** [5] - 132:6, 132:11, 132:16, 136:19, 144:15
- lawyer** [1] - 9:20
- laydown** [1] - 23:13
- layout** [6] - 12:15, 16:21, 16:24, 67:6, 142:7, 142:16
- lead** [2] - 69:22, 128:8
- leading** [2] - 98:8, 101:14
- leakages** [1] - 41:3
- lease** [2] - 48:8, 67:22
- least** [1] - 73:1
- leave** [1] - 146:2
- left** [4] - 75:6, 95:2, 101:7, 102:5
- left-hand** [2] - 101:7, 102:5
- legal** [1] - 137:3
- less** [2] - 36:19, 50:7
- letter** [3] - 34:19, 122:18, 123:5
- level** [1] - 140:5
- levies** [4] - 103:4, 103:8, 103:12, 136:23
- License** [1] - 151:23
- license** [1] - 46:24
- life** [13] - 14:12, 17:7, 17:10, 42:3, 42:13, 42:14, 65:11, 87:16, 88:1, 138:15, 144:4, 145:7, 145:24
- lights** [2] - 11:21, 58:2
- likelihood** [1] - 117:22
- likely** [6] - 23:20, 24:21, 36:16, 58:13, 103:16, 132:14
- likewise** [1] - 33:17
- limits** [1] - 112:2
- Lincoln** [1] - 10:3
- line** [19] - 7:2, 7:17, 18:14, 30:13, 37:2, 43:20, 55:8, 74:2, 102:6, 102:7, 102:8, 102:9, 102:12, 120:17, 121:19, 126:13, 135:24, 148:13
- lines** [7] - 14:4, 15:7, 15:9, 15:18, 24:11, 75:14, 75:16
- link** [2] - 24:2, 80:15
- links** [1] - 96:12
- list** [6] - 17:23, 18:14, 35:23, 111:2, 131:23, 147:8
- listed** [5] - 13:18, 34:23, 66:24, 134:24, 138:24
- listen** [1] - 127:14
- listened** [1] - 127:8
- listing** [1] - 133:3
- literature** [3] - 40:3, 40:4, 54:18
- little** [29] - 7:15, 11:16, 11:24, 12:19, 12:24, 16:22, 17:8, 19:22, 27:7, 29:7, 31:19, 36:13, 38:9, 45:19, 50:7, 51:23, 51:24, 52:20, 54:21, 106:4, 120:7, 123:6, 140:6, 141:9, 144:20, 146:24, 148:22, 148:23, 149:3
- live** [4] - 78:6, 112:12, 122:6, 122:13
- livelihood** [1] - 138:19
- lives** [1] - 70:11
- living** [1] - 115:1
- LLC** [2] - 10:5, 38:14
- LLP** [1] - 2:18
- local** [7] - 40:20, 40:22, 41:12, 41:23, 43:9, 43:15, 50:20
- locally** [2] - 42:23, 43:2
- locate** [2] - 25:23, 104:21
- located** [9] - 13:20, 15:18, 34:3, 45:23, 56:15, 76:20, 92:4, 94:15, 114:15
- location** [12] - 28:10, 28:12, 28:13, 29:24, 74:23, 78:22, 79:7, 80:1, 94:9, 115:7, 115:8, 133:23
- locations** [5] - 24:20, 26:11, 28:8, 28:16, 64:13
- log** [1] - 74:16
- Logan** [1] - 10:2
- look** [19] - 15:14, 40:7, 41:9, 42:16, 48:13, 48:16, 49:2, 49:3, 57:10, 74:16, 100:19, 123:8, 129:3, 134:18, 136:18, 140:21, 147:11
- looked** [11] - 40:22, 40:23, 41:15, 49:12, 52:5, 67:7, 67:8, 103:1, 106:13, 106:14
- looking** [12] - 33:23, 40:13, 48:15, 49:4, 49:5, 53:1, 66:4, 96:18, 98:5, 110:1, 117:17, 142:22
- looks** [3] - 67:2, 79:20, 93:6
- Loomis** [1] - 3:20, 37:5, 37:9, 37:14, 38:8, 38:11, 39:2, 39:13, 43:11, 43:19, 48:10
- LOOMIS** [6] - 4:9, 37:6, 37:8, 37:13, 37:18, 38:1
- lose** [1] - 115:18
- loss** [2] - 104:16, 114:23
- lost** [1] - 145:6
- loud** [1] - 18:22
- low** [5] - 29:15, 36:3, 53:15, 96:23, 120:5
- lower** [1] - 145:20
- M-A-R-O-U-S** [1] - 44:24
- machine** [1] - 147:21
- magnitude** [1] - 137:14
- MAI** [1] - 47:1
- mail** [2] - 82:2, 82:3
- main** [8] - 25:15, 49:4, 59:5, 69:22, 89:21, 90:17, 101:10, 115:14
- mains** [12] - 25:13, 25:18, 25:23, 26:2, 26:10, 28:3, 62:16, 63:8, 63:13, 63:21, 64:19, 65:1
- maintain** [6] - 26:13, 26:21, 27:23, 62:18, 63:2, 115:3
- maintaining** [1] - 25:12
- maintenance** [8] - 22:6, 22:13, 27:24, 29:17, 40:16, 41:11, 43:4, 76:2
- major** [1] - 50:7
- majority** [3] - 33:20, 34:2, 69:21
- management** [1] - 129:20
- Manager** [1] - 11:12
- manager** [1] - 32:16
- manner** [1] - 133:23
- manufacturer's** [1] - 129:5
- manufacturers** [1] - 69:22
- manufacturing** [1] - 60:14
- map** [23] - 10:13, 12:15, 12:20, 16:21, 54:4, 54:15, 67:1, 67:7, 85:17, 85:24, 86:1, 86:2, 86:7, 94:8, 100:14, 100:22, 101:8, 105:13, 110:2, 137:13, 142:4, 143:10
- mapped** [1] - 34:3
- mapping** [2] - 79:19, 133:3
- maps** [5] - 15:13, 15:15, 26:1, 79:17, 138:1
- March** [2] - 50:4, 50:11
- margins** [1] - 33:12
- MARK** [3] - 2:9, 3:15, 6:8
- Mark** [6] - 110:8, 110:11, 110:13, 110:16, 110:20, 126:11
- mark** [6] - 5:9, 58:4, 110:11, 121:3, 124:23, 150:7
- Mark's** [1] - 124:7
- marked** [2] - 87:12, 88:12
- market** [4] - 47:7, 47:21, 48:1, 52:6
- marketability** [1] - 48:9
- Marous** [18] - 3:22, 44:2, 44:19, 44:23, 45:1, 45:18, 45:20, 47:6, 47:17, 48:12, 53:5, 56:13, 56:19, 112:8, 112:10, 112:11, 112:14
- MAROUS** [23] - 4:12, 44:4, 44:7, 44:11, 44:17, 44:23, 45:8, 45:11, 112:18, 112:22, 113:6, 113:13, 113:15, 113:18, 114:2, 114:9, 114:18, 115:5, 115:11, 115:20, 115:23, 116:8, 116:13
- married** [1] - 84:13
- Maryland** [1] - 56:2
- Massachusetts** [1] - 13:2
- Master's** [1] - 31:22
- matched** [10] - 49:5, 49:16, 49:17, 49:24, 51:16, 52:9, 52:14, 53:7, 53:20, 113:6
- material** [2] - 65:10, 82:11
- materials** [13] - 16:14, 42:23, 43:1, 48:19, 65:9, 65:19, 66:13, 66:16, 81:19, 106:18, 130:7, 130:11, 131:15
- MATTER** [1] - 1:6
- mature** [2] - 118:1, 118:19
- maturity** [2] - 116:18, 117:23
- maximum** [5] - 23:18, 23:19, 24:5, 24:6, 29:16
- mayor** [1] - 17:19
- MCGUIRE** [1] - 2:18
- mean** [19] - 51:6, 61:12, 65:24, 72:4, 72:5, 72:15, 74:7, 104:9, 106:13, 125:10, 132:6, 132:18, 132:22, 133:11, 138:6, 140:6, 141:3, 144:8
- means** [1] - 78:1
- meant** [1] - 21:1
- measurable** [2] - 55:7, 56:4
- measured** [1] - 125:2
- measures** [3] - 34:21, 35:12, 36:2
- medium** [2] - 23:3, 26:7
- meeting** [14] - 5:3, 5:18, 5:20, 35:4, 127:13, 127:18, 127:22, 141:17, 147:15, 148:5, 149:21, 149:23,



- 150:19, 151:7  
**meetings** [4] - 34:15, 147:24, 148:3, 148:7  
**meets** [1] - 11:5  
**mega** [1] - 113:2  
**megawatt** [8] - 10:2, 10:7, 11:14, 41:20, 50:7, 113:11, 113:19, 113:24  
**megawatts** [3] - 14:1, 41:21, 114:3  
**Members** [3] - 5:23, 9:19, 43:21  
**members** [8] - 13:15, 30:13, 37:2, 37:3, 43:21, 56:21, 56:22, 149:15  
**mention** [1] - 131:4  
**mentioned** [4] - 14:23, 70:23, 94:6, 95:22  
**Meredith** [4] - 3:21, 30:16, 30:17, 30:24  
**MEREDITH** [6] - 4:6, 30:18, 30:24, 31:1, 31:6, 31:11  
**mess** [2] - 26:20, 122:22  
**message** [1] - 107:12  
**metals** [1] - 144:13  
**method** [1] - 144:17  
**methodology** [1] - 39:19  
**Michael** [2] - 44:1, 44:23  
**michael** [1] - 3:22  
**MICHAEL** [23] - 4:12, 44:4, 44:7, 44:11, 44:17, 44:23, 45:8, 45:11, 112:18, 112:22, 113:6, 113:13, 113:15, 113:18, 114:2, 114:9, 114:18, 115:5, 115:11, 115:20, 115:23, 116:8, 116:13  
**microwave** [1] - 24:4  
**middle** [8] - 40:19, 54:5, 90:22, 93:8, 94:1, 96:24, 124:21, 124:24  
**Midwest** [1] - 46:21  
**might** [12] - 7:10, 7:14, 11:24, 16:4, 55:3, 57:21, 65:21, 78:4, 100:11, 108:11, 126:19, 148:23  
**Mike** [2] - 44:3, 49:23  
**mike** [1] - 78:5  
**mile** [3] - 33:14, 33:18, 115:2  
**miles** [1] - 13:21  
**million** [10] - 17:4, 17:9, 41:16, 42:7, 42:9, 42:10, 42:13, 43:9, 46:6, 103:1  
**millions** [1] - 46:9  
**mind** [2] - 59:10, 106:4  
**mine** [1] - 82:8  
**minimization** [3] - 34:21, 35:12, 36:2  
**minimum** [7] - 14:24, 15:2, 24:9, 24:14, 29:17, 69:10, 120:23  
**Minneapolis** [3] - 20:2, 49:19, 114:6  
**Minnesota** [5] - 20:2, 49:24, 51:3, 113:21, 114:3  
**minus** [1] - 14:13  
**minute** [6] - 8:9, 10:8, 95:3, 110:24, 124:19, 141:8  
**misprint** [1] - 7:11  
**Miss** [4] - 31:18, 32:24, 34:7, 36:23  
**miss** [4] - 9:7, 30:22, 36:4, 127:2  
**missed** [1] - 19:3  
**Mister** [2] - 26:19, 141:24  
**Mitigation** [1] - 71:10  
**mix** [7] - 24:24, 29:15, 29:22, 30:3, 61:22, 129:13, 130:2  
**mixed** [2] - 46:14, 67:1  
**model** [6] - 39:22, 40:1, 40:2, 40:5  
**modest** [1] - 52:17  
**mom** [9] - 85:4, 87:4, 87:17, 88:4, 88:14, 89:10, 100:11, 103:17, 104:17  
**mom's** [16] - 88:11, 88:20, 89:18, 89:23, 90:3, 90:19, 90:23, 92:4, 96:12, 97:22, 101:4, 101:5, 101:8, 101:14, 101:20, 102:13  
**moment** [1] - 81:3  
**moments** [1] - 145:3  
**money** [5] - 28:2, 41:3, 56:7, 63:10, 108:19  
**month** [2] - 18:5, 147:16  
**months** [1] - 140:4  
**most** [5] - 10:1, 53:16, 58:13, 85:13, 132:18  
**mostly** [1] - 9:23  
**mother** [2] - 84:17, 95:5  
**mother's** [1] - 86:14  
**motion** [10] - 5:18, 5:20, 8:1, 8:3, 8:18, 141:14, 149:20, 149:23, 150:3, 150:17  
**mounting** [1] - 145:19  
**move** [5] - 7:15, 111:7, 143:18, 143:19, 143:20  
**moving** [1] - 13:19  
**mowing** [1] - 62:3  
**MR** [454] - 2:21, 3:4, 5:5, 5:6, 5:7, 5:9, 5:10, 5:13, 5:15, 5:19, 6:1, 6:4, 6:5, 6:6, 6:8, 6:9, 6:10, 6:11, 6:13, 6:14, 6:21, 7:10, 7:14, 7:23, 8:3, 8:6, 8:11, 8:19, 8:21, 8:23, 9:1, 9:2, 9:4, 9:5, 9:6, 9:7, 9:9, 9:10, 9:11, 9:13, 9:18, 11:11, 11:22, 11:24, 12:2, 12:5, 12:7, 18:11, 18:17, 18:19, 18:20, 18:21, 18:22, 19:5, 19:9, 19:18, 21:3, 21:6, 21:7, 21:11, 21:12, 21:14, 21:16, 21:17, 21:18, 21:19, 21:21, 21:24, 22:3, 22:15, 22:16, 27:7, 27:13, 27:17, 27:20, 30:10, 30:20, 31:9, 31:17, 32:21, 36:10, 36:23, 37:6, 37:8, 37:13, 38:7, 39:9, 39:12, 43:18, 44:1, 44:4, 44:5, 44:7, 44:9, 44:17, 44:18, 45:8, 45:17, 47:14, 56:18, 57:9, 57:16, 57:24, 58:4, 58:8, 58:10, 58:13, 58:16, 58:18, 58:20, 58:22, 59:1, 59:4, 59:5, 59:9, 59:14, 59:15, 59:21, 59:23, 60:3, 60:18, 60:22, 61:1, 61:2, 61:6, 61:7, 61:11, 61:13, 61:21, 61:24, 62:6, 62:9, 62:11, 62:15, 63:1, 63:6, 63:12, 63:16, 63:18, 63:20, 63:23, 64:1, 64:5, 64:7, 64:11, 64:12, 64:14, 64:18, 65:1, 65:5, 65:6, 65:12, 65:15, 65:20, 65:23, 66:2, 66:6, 66:8, 66:11, 66:18, 66:20, 66:22, 67:10, 67:11, 67:13, 67:14, 67:16, 67:18, 67:19, 68:1, 68:5, 68:15, 68:19, 68:21, 69:2, 69:5, 69:8, 69:12, 69:14, 69:16, 69:18, 69:20, 70:1, 70:4, 70:9, 70:15, 70:21, 71:2, 71:3, 71:6, 71:7, 71:13, 71:16, 71:20, 71:23, 72:2, 72:5, 72:9, 72:11, 72:23, 73:8, 73:9, 73:12, 73:14, 73:17, 73:20, 74:1, 74:7, 74:13, 74:17, 74:20, 74:21, 75:1, 75:7, 75:10, 75:13, 75:15, 75:17, 75:20, 75:21, 75:24, 76:1, 76:5, 76:8, 76:10, 76:11, 76:16, 76:19, 76:23, 77:3, 77:6, 77:11, 77:16, 77:19, 77:23, 78:3, 78:4, 78:14, 78:15, 78:19, 78:20, 79:2, 79:9, 79:12, 79:16, 79:23, 80:4, 80:8, 80:11, 80:12, 80:14, 80:18, 81:1, 81:4, 81:9, 81:14, 81:15, 81:16, 81:18, 81:20, 81:21, 82:1, 82:5, 82:9, 82:12, 82:13, 82:14, 82:20, 82:23, 83:4, 83:10, 83:12, 83:16, 83:19, 84:7, 97:9, 97:12, 100:17, 105:8, 105:14, 105:16, 105:17, 105:19, 105:22, 106:2, 106:9, 106:15, 106:24, 107:4, 108:3, 108:20, 109:1, 109:2, 109:8, 109:9, 109:11, 109:13, 109:21, 110:1, 110:4, 110:6, 110:8, 110:11, 110:12, 110:13, 110:16, 110:18, 110:20, 110:21, 111:3, 111:6, 111:10, 111:18, 112:12, 112:16, 112:18, 112:22, 113:1, 113:6, 113:8, 113:13, 113:15, 113:17, 113:18, 113:22, 114:2, 114:9, 114:18, 114:21, 115:5, 115:11, 115:14, 115:20, 115:22, 115:23, 116:4, 116:8, 116:10, 116:13, 116:14, 116:19, 116:24, 117:5, 117:6, 117:10, 117:11, 117:13, 117:16, 118:6, 118:14, 118:17, 118:22, 119:6, 119:9, 119:13, 119:18, 119:24, 120:4, 120:9, 120:11, 120:15, 120:21, 121:8, 121:12, 121:15, 122:15, 123:7, 123:22, 124:9, 124:17, 125:1, 125:7, 125:15, 125:22, 126:3, 126:9, 126:11, 126:13, 126:15, 126:20, 126:23, 127:1, 129:2, 129:11, 129:18, 129:21, 129:24, 130:15, 130:18, 130:24, 135:19, 136:5, 139:8, 139:22, 140:9, 140:12, 140:17, 141:3, 141:12, 141:13, 141:16, 141:21, 142:1, 142:6, 142:11, 142:13, 142:14, 142:17, 142:18, 143:5, 143:6, 143:13, 143:15, 143:17, 143:21, 143:23, 144:7, 144:20, 144:23, 145:2, 145:9, 146:4, 146:10, 146:14, 146:15, 146:18, 147:5, 147:14, 147:17, 147:18, 148:2, 148:6, 148:9, 148:12, 148:16, 148:18, 148:21, 149:1, 149:5, 149:13, 149:18, 149:22, 150:2, 150:5, 150:6, 150:7, 150:8, 150:9, 150:10, 150:11, 150:13, 150:14, 150:15, 150:17  
**MS** [22] - 6:7, 9:8, 30:18, 30:24, 70:11, 100:12, 100:15, 121:22, 122:1, 122:13, 122:16, 123:18, 124:2, 124:22, 125:4, 125:9, 126:2, 126:5, 127:11, 128:15, 148:17, 150:12  
**multiple** [2] - 52:13, 114:11  
**multiplier** [2] - 41:6, 41:12  
**multipliers** [2] - 41:7, 41:8  
**must** [1] - 132:6  
**mutual** [1] - 77:21, 79:7, 96:15, 99:22, 103:4, 103:8, 103:12, 136:20, 136:22, 136:24, 137:11  
**nail** [1] - 130:1

- name** [21] - 7:6, 9:19, 19:3, 19:4, 19:20, 20:4, 27:11, 30:23, 37:11, 37:13, 44:21, 46:15, 58:3, 78:7, 83:9, 84:9, 95:7, 107:5, 111:8, 122:3, 145:3
- names** [1] - 78:12
- National** [2] - 39:23, 47:3
- nationwide** [1] - 36:21
- native** [3] - 24:24, 29:15, 61:22
- Natural** [6] - 34:10, 34:13, 35:18, 35:19, 129:15, 130:3
- natural** [1] - 34:23
- navigate** [1] - 23:10
- near** [6] - 24:4, 28:19, 43:15, 56:16, 114:16, 134:5
- nearby** [1] - 48:23
- nearest** [2] - 50:5, 53:12
- necessarily** [1] - 15:3
- necessary** [1] - 60:16
- need** [21] - 8:5, 17:21, 27:10, 37:10, 37:15, 44:21, 45:5, 59:2, 62:24, 63:9, 64:21, 72:10, 82:1, 85:19, 131:6, 146:24, 147:21, 149:7, 149:11, 149:12
- needed** [1] - 147:9
- needs** [1] - 109:23
- negative** [9] - 47:22, 48:3, 51:1, 51:4, 52:6, 53:2, 55:4, 56:14, 116:3
- negotiated** [1] - 59:16
- neighbor** [3] - 122:16, 133:7, 136:17
- neighbor's** [2] - 134:13, 137:3
- neighborhood** [4] - 15:20, 17:3, 53:1, 114:19
- neighboring** [3] - 72:20, 133:13, 134:3
- neighbors** [1] - 132:18
- nest** [2] - 32:11, 33:13
- nesting** [1] - 33:10
- nests** [3] - 33:16, 33:17, 33:19
- never** [6] - 10:20, 73:18, 107:21, 116:8, 122:17, 123:4
- new** [8] - 14:14, 40:11, 40:12, 42:18, 43:9, 55:11, 63:24, 101:11
- newer** [2] - 50:9, 53:21
- next** [27] - 9:14, 16:20, 18:5, 18:9, 23:15, 24:8, 24:15, 25:7, 25:20, 26:2, 26:9, 26:18, 28:7, 29:2, 29:10, 29:19, 30:16, 33:22, 37:5, 40:13, 41:14, 42:16, 44:1, 63:24, 103:7, 116:14, 147:13
- nice** [1] - 12:10
- night** [2] - 5:3, 143:11
- nine** [1] - 55:24
- nobody** [3] - 125:10, 125:19, 128:1
- noise** [1] - 48:17
- non** [6] - 24:11, 41:1, 62:17, 63:11, 63:14, 132:21
- non-participating** [5] - 24:11, 62:17, 63:11, 63:14, 132:21
- non-regional** [1] - 41:1
- none** [2] - 122:20, 147:24
- noon** [2] - 107:13, 108:5
- Norma** [5] - 95:8, 95:9, 95:10, 99:10, 99:19
- normally** [1] - 148:4
- North** [8] - 2:19, 7:2, 7:11, 28:19, 49:19, 49:23, 56:1, 114:19
- north** [6] - 15:11, 15:12, 15:20, 49:19, 102:6, 110:15
- northeast** [2] - 93:22, 97:17
- northwest** [2] - 101:20, 112:1
- Notary** [2] - 151:4, 151:22
- note** [6] - 5:22, 62:23, 66:20, 128:7, 129:5, 133:5
- noted** [1] - 64:8
- notes** [1] - 151:12
- nothing** [17] - 19:8, 31:4, 37:17, 45:6, 79:22, 83:15, 108:7, 111:13, 122:9, 127:20, 128:24, 133:5, 133:9, 133:11, 133:16, 134:8, 134:11
- notice** [3] - 127:24, 133:9, 136:9
- notices** [2] - 7:21, 7:22
- November** [1] - 100:24
- number** [18] - 25:4, 28:10, 32:18, 32:22, 36:11, 38:20, 39:10, 47:11, 53:6, 67:5, 67:8, 67:10, 117:19, 118:2, 118:7, 126:19, 126:21, 146:4
- numbers** [4] - 74:3, 74:5, 123:9
- o'clock** [2] - 5:1, 149:20
- oath** [5] - 19:15, 31:14, 38:4, 45:14, 84:4
- objection** [1] - 105:14
- objections** [3] - 6:19, 81:11, 138:24
- objectors** [1] - 6:19
- obligated** [1] - 135:3
- obligation** [1] - 139:14
- obstructed** [1] - 137:5
- obtain** [1] - 10:1
- obviously** [8] - 13:20, 48:19, 53:21, 62:20, 70:22, 86:24, 137:17, 144:8
- occupied** [1] - 14:22
- occur** [2] - 26:11, 53:6
- October** [1] - 149:24
- odor** [1] - 48:18
- OF** [5] - 1:6, 1:11, 2:2, 151:1, 151:2
- Office** [1] - 59:18
- old** [5] - 84:11, 94:12, 99:5, 100:22, 101:9
- Old** [1] - 2:19
- once** [7] - 68:13, 91:1, 93:10, 102:16, 116:1, 129:6, 145:23
- one** [61] - 5:22, 9:22, 21:11, 21:12, 21:14, 21:16, 21:17, 22:3, 24:2, 25:15, 28:10, 28:12, 28:16, 32:18, 32:22, 36:16, 39:24, 41:14, 44:16, 49:4, 51:14, 51:24, 52:2, 52:3, 52:18, 52:21, 52:22, 56:24, 59:6, 60:4, 60:11, 63:8, 65:3, 68:5, 69:2, 69:14, 75:3, 81:20, 83:6, 85:14, 94:1, 96:20, 101:9, 102:8, 109:24, 111:4, 113:21, 114:2, 119:1, 124:21, 126:9, 126:13, 127:18, 128:4, 132:4, 132:19, 135:1, 135:22, 138:2, 138:12, 147:22
- ones** [5] - 27:21, 53:23, 85:14, 119:4, 149:8
- ongoing** [1] - 40:16
- open** [5] - 5:18, 5:20, 33:24, 109:21, 143:7
- operated** [1] - 13:11
- operation** [1] - 133:23
- operations** [7] - 13:10, 17:13, 40:8, 40:16, 41:11, 43:3, 58:15
- opinion** [7] - 47:21, 115:12, 115:24, 116:3, 116:5, 147:5
- opponents** [1] - 131:13
- opportunity** [3] - 21:22, 76:24, 81:6
- opposed** [1] - 54:19
- option** [1] - 77:24
- options** [1] - 75:12
- orange** [3] - 86:15, 93:3, 93:6
- order** [3] - 16:11, 91:24, 105:20
- ordinance** [14] - 11:6, 14:20, 16:6, 131:9, 131:18, 131:24, 133:6, 133:17, 134:24, 135:7, 137:24, 141:4
- original** [2] - 83:1, 105:22
- ourselves** [1] - 60:15
- outcome** [1] - 34:17
- outlined** [1] - 97:14
- output** [1] - 14:1
- outside** [5] - 29:20, 41:4, 49:18, 63:7, 72:14
- overall** [5] - 11:4, 32:5, 33:6, 33:8, 134:4
- overhead** [2] - 15:6, 121:5
- overly** [1] - 74:8
- overview** [5] - 10:11, 10:15, 11:17, 14:11, 22:18
- own** [11] - 13:7, 13:8, 74:12, 78:24, 84:20, 84:24, 85:2, 85:9, 86:24, 88:15, 96:4
- owned** [5] - 58:24, 87:11, 89:2, 95:24
- owner** [6] - 58:6, 70:7, 71:19, 139:12, 139:18, 144:9
- owner's** [1] - 139:14
- owners** [2] - 7:22, 137:7
- ownership** [1] - 86:21
- owns** [7] - 85:4, 87:4, 87:17, 87:19, 88:4, 88:23, 89:10
- P.C** [1] - 3:1
- P.M** [2] - 2:4, 149:24
- P.O** [1] - 3:2
- paces** [1] - 147:2
- package** [2] - 17:18, 18:2
- packet** [1] - 13:9
- packets** [1] - 106:7
- page** [13] - 11:18, 16:20, 47:9, 50:2, 53:9, 54:4, 54:22, 85:16, 86:4, 92:3, 98:11, 100:14, 103:8
- Page** [2] - 51:20, 52:15
- pages** [3] - 47:10, 54:1, 102:20
- paid** [8] - 6:18, 56:7, 95:6, 95:17, 99:10, 99:19, 99:20
- pain** [1] - 16:15
- pair** [5] - 49:5, 49:24, 51:17, 52:10, 53:7
- pairs** [5] - 49:16, 49:17, 52:14, 53:20, 113:7
- Pana** [1] - 7:3
- panel** [11] - 23:17, 24:8, 29:20, 52:2, 52:21, 61:6, 61:13, 68:6, 69:3, 69:4, 69:11
- panels** [42] - 14:2, 16:22, 16:24, 22:24, 23:2, 27:22, 28:14, 29:14, 29:18, 48:7, 49:11, 52:8, 52:19, 60:12, 61:15, 64:4, 65:7, 65:10, 65:17, 66:12, 68:8, 68:12, 69:15, 69:19, 119:3, 120:15, 124:8, 124:20, 125:2, 128:3, 128:7, 129:1, 142:12, 144:2, 144:4, 145:7, 145:8, 145:14, 145:19, 145:22, 145:23, 148:23
- paper** [1] - 7:21
- papers** [1] - 103:1
- paperwork** [1] - 108:19
- parallel** [2] - 23:23, 93:8
- parcel** [9] - 12:20, 62:17,

- 63:8, 63:11, 67:2, 76:10, 87:19, 132:18
- parcels** [5] - 25:8, 27:22, 62:19, 76:7
- Park** [1] - 45:23
- parks** [1] - 46:15
- part** [21] - 50:19, 51:3, 67:20, 71:1, 73:9, 74:9, 74:18, 74:22, 75:7, 77:1, 78:13, 80:2, 81:8, 81:12, 81:16, 85:15, 95:6, 96:7, 96:22, 97:18, 99:20
- parted** [1] - 145:13
- participate** [5] - 32:14, 35:1, 72:18, 73:23, 75:12
- participating** [8] - 24:11, 62:17, 63:5, 63:11, 63:14, 75:5, 76:6, 132:21
- particular** [3] - 38:17, 41:15, 58:12
- particularly** [1] - 145:17
- parties** [6] - 70:3, 111:1, 121:21, 126:8, 130:17, 136:8
- partly** [1] - 94:16
- partner** [1] - 58:14
- parts** [3] - 75:23, 79:17, 95:17
- partway** [1] - 79:21
- party** [2] - 112:21, 121:24
- past** [6] - 13:17, 20:8, 22:1, 47:4, 59:19, 59:21
- patience** [1] - 10:18
- patterns** [1] - 80:17
- pay** [1] - 94:21
- payable** [1] - 17:6
- peer** [3] - 40:3, 54:20, 54:21
- peninsula** [1] - 12:17
- penumbra** [1] - 72:19
- people** [10] - 13:3, 72:1, 73:6, 123:11, 128:11, 138:3, 138:8, 138:11, 138:21, 148:13
- people's** [1] - 123:9
- per** [2] - 14:19, 54:13
- percent** [3] - 50:16, 117:15
- percentage** [1] - 145:24
- perfectly** [1] - 10:20
- perform** [3] - 36:5, 39:2, 47:7
- performed** [3] - 20:7, 32:8, 32:10
- perhaps** [1] - 140:24
- perimeter** [7] - 14:6, 14:24, 23:11, 24:1, 28:11, 29:19, 69:11
- period** [3] - 46:10, 50:16, 50:18
- permanent** [1] - 33:24
- permission** [1] - 90:13
- permit** [25] - 9:15, 10:2, 10:6, 12:6, 16:1, 16:10, 17:6, 20:20, 22:9, 32:18, 36:7, 36:21, 36:22, 39:6, 47:12, 131:3, 131:18, 131:21, 132:1, 133:7, 133:15, 133:22, 135:9, 136:6, 140:19
- permitting** [1] - 9:21
- perpetual** [4] - 77:13, 77:20, 137:2, 137:4
- person** [1] - 128:4
- personal** [1] - 144:10
- persons** [1] - 109:9
- pesticides** [1] - 68:24
- petitioner** [1] - 7:3
- phase** [1] - 77:2
- phone** [15] - 10:17, 10:21, 11:3, 44:10, 44:12, 50:22, 56:21, 74:16, 75:3, 107:12, 123:9, 126:18, 126:19, 126:20, 149:6
- photo** [1] - 121:13
- photographs** [1] - 53:14
- photovoltaic** [1] - 14:2
- physical** [1] - 134:1
- picked** [1] - 118:15
- picture** [7] - 12:10, 12:12, 50:11, 51:11, 121:6, 121:7
- pictures** [1] - 54:2
- piece** [2] - 56:24, 97:5
- pile** [3] - 26:10, 60:23, 60:24
- piles** [3] - 23:1, 26:6, 61:5
- pilings** [1] - 60:20
- pink** [1] - 86:17
- pipes** [1] - 104:22
- PJM** [2] - 13:24, 60:7
- place** [7] - 15:10, 16:2, 82:16, 105:5, 133:13, 144:15, 146:3
- placed** [2] - 80:9, 85:13
- places** [1] - 144:11
- plan** [26] - 15:23, 16:2, 20:16, 20:19, 21:4, 21:8, 21:18, 21:20, 22:6, 22:9, 22:13, 73:10, 73:24, 74:9, 74:19, 74:23, 76:16, 78:17, 78:18, 79:6, 79:10, 102:1, 117:18, 123:24, 124:17, 129:20
- planning** [1] - 16:13
- plans** [3] - 22:19, 35:8, 105:4
- plant** [3] - 48:24, 118:2, 118:10
- Plant** [1] - 49:19
- planted** [1] - 117:8
- plants** [1] - 46:12
- plat** [3] - 92:1, 100:14, 101:2
- Plaza** [1] - 2:19
- plus** [4] - 14:12, 46:6, 46:16, 47:10
- point** [16] - 21:10, 28:5, 49:16, 53:15, 53:16, 57:13, 91:8, 108:16, 109:4, 117:24, 123:15, 131:9, 133:8, 135:23, 136:2, 136:11
- Point** [1] - 46:22
- points** [2] - 33:5, 53:19
- poles** [1] - 24:6
- pollinator** [6] - 29:22, 30:3, 30:6, 62:8, 129:13, 130:2
- population** [2] - 129:14, 130:5
- portion** [2] - 98:8, 101:5
- portions** [1] - 102:21
- position** [1] - 23:23
- positive** [3] - 48:10, 56:6, 56:8
- possibility** [1] - 120:13
- possible** [6] - 36:18, 58:23, 62:1, 62:5, 64:5, 64:8
- possibly** [1] - 111:19
- post** [1] - 26:12
- posted** [1] - 16:3
- poster** [1] - 12:22
- posts** [2] - 59:7, 59:22
- pot** [1] - 118:8
- potential** [4] - 33:11, 34:2, 35:13, 35:14
- potentially** [1] - 82:10
- power** [7] - 13:10, 13:12, 15:9, 15:18, 46:12, 49:16, 57:13
- powered** [1] - 14:14
- practice** [2] - 59:19, 59:21
- practices** [1] - 68:23
- pre** [1] - 35:15
- pre-construction** [1] - 35:15
- prefab** [1] - 52:19
- preliminary** [6] - 21:19, 73:10, 73:24, 74:9, 74:19, 78:17
- prepare** [4] - 15:22, 20:15, 22:5, 34:11
- prepared** [4] - 46:10, 46:19, 57:3, 129:19
- presence** [2] - 78:22, 130:10
- PRESENT** [2] - 2:16, 3:8
- present** [7] - 5:22, 6:20, 10:16, 70:19, 75:11, 113:5, 137:12
- presentation** [5] - 10:13, 15:16, 57:13, 57:17, 65:13
- presented** [3] - 75:2, 113:4, 135:1
- presenter** [1] - 18:10
- presenting** [1] - 16:19
- president** [2] - 38:13, 47:4
- President** [1] - 45:20
- pretty** [5] - 8:13, 119:10, 127:19, 130:1, 131:21
- prevent** [1] - 134:17
- prevented** [2] - 108:7, 108:13
- preventing** [1] - 134:12
- previous** [1] - 68:6
- previously** [2] - 32:2, 71:23
- price** [4] - 53:15, 53:16, 53:19, 67:5
- prices** [1] - 54:8
- primarily** [2] - 26:6, 46:6
- print** [1] - 16:23
- priorities** [1] - 25:10
- private** [1] - 15:19
- proactive** [1] - 25:21
- probe** [1] - 62:13
- probing** [2] - 26:1, 62:16
- problem** [7] - 63:19, 68:10, 78:1, 82:5, 117:13, 132:13, 143:3
- problems** [1] - 10:22
- proceed** [7] - 7:9, 10:14, 31:8, 57:19, 58:3, 83:18, 111:17
- proceedings** [2] - 81:13, 150:18
- process** [7] - 16:13, 17:15, 25:22, 27:3, 34:13, 34:18, 74:18
- procure** [1] - 60:15
- procurement** [1] - 16:14
- produce** [1] - 114:15
- producing** [1] - 146:2
- professional** [1] - 64:23
- Professional** [1] - 20:1
- professionals** [1] - 40:6
- Professor** [1] - 38:12
- progress** [1] - 147:6
- project** [149] - 10:7, 10:11, 11:1, 11:14, 11:17, 12:16, 12:19, 12:22, 13:23, 14:1, 14:6, 14:12, 14:13, 14:16, 15:1, 16:7, 16:14, 17:1, 17:2, 17:3, 17:5, 17:8, 17:11, 17:16, 22:22, 23:17, 24:1, 24:13, 24:16, 25:14, 25:19, 25:24, 26:3, 26:5, 26:15, 26:24, 27:21, 28:1, 28:8, 28:10, 28:19, 28:21, 29:11, 30:1, 30:5, 32:16, 33:9, 33:12, 33:14, 33:16, 33:18, 33:19, 34:9, 34:22, 35:13, 36:1, 36:5, 36:20, 41:16, 41:18, 41:19, 41:21, 42:2, 42:3, 42:13, 42:15, 47:22, 48:2, 54:6, 58:7, 59:3, 60:13, 63:7, 63:15, 67:3, 67:12, 67:20, 67:21, 67:22, 69:1, 69:4, 71:1, 72:1, 72:3, 72:15, 72:18, 73:7, 73:11, 73:16, 75:5, 75:13, 75:23, 76:22, 77:5, 78:9, 78:13, 79:1, 79:18, 79:20, 80:2, 80:10, 80:16, 80:24, 85:17, 85:24, 86:2, 86:7, 96:8, 100:5, 104:12, 105:6, 107:6, 107:7, 107:20, 108:4, 108:9, 111:23, 112:3, 113:24, 114:12, 114:16, 115:17, 116:1, 119:4, 119:22,

- 123:4, 123:14, 127:10, 131:13, 132:7, 132:10, 132:12, 132:20, 132:22, 132:23, 133:1, 133:9, 136:16, 137:15, 138:4, 138:9, 138:12, 138:22, 139:22, 139:23, 144:9, 145:11
- Project** [22] - 9:16, 10:2, 11:12, 13:20, 20:17, 22:7, 32:9, 35:9, 35:21, 39:4, 39:15, 43:13, 47:8, 56:14, 57:4, 100:6, 103:19, 119:5, 119:12, 131:4, 135:10, 138:17
- project's** [3] - 22:18, 43:16, 56:16
- projected** [1] - 39:14
- projects** [18] - 9:22, 13:12, 20:7, 32:3, 32:5, 32:6, 38:19, 38:21, 38:23, 39:1, 40:9, 40:10, 41:23, 46:12, 69:19, 113:11, 128:20
- Projects** [1] - 46:7
- pronouncing** [1] - 83:8
- properties** [18] - 25:14, 25:17, 48:6, 48:9, 49:8, 51:5, 52:10, 54:3, 55:20, 76:14, 78:24, 79:1, 80:3, 87:4, 104:14, 134:4
- property** [87] - 7:2, 7:16, 7:22, 11:2, 17:9, 24:11, 41:15, 47:7, 47:24, 48:4, 48:14, 48:15, 49:6, 51:8, 51:21, 56:15, 70:7, 76:15, 76:22, 77:15, 79:8, 84:20, 85:10, 86:20, 87:8, 87:9, 87:17, 87:24, 88:8, 88:11, 89:10, 89:12, 89:19, 89:24, 90:3, 90:4, 90:18, 90:23, 93:13, 93:22, 94:5, 94:14, 94:17, 94:18, 95:15, 96:2, 96:11, 96:12, 96:13, 97:5, 97:14, 97:18, 97:22, 98:9, 98:24, 99:9, 99:12, 100:3, 100:5, 101:4, 101:5, 101:15, 101:16, 101:20, 101:22, 102:3, 102:13, 102:14, 109:16, 110:9, 110:15, 112:5, 114:23, 115:4, 115:6, 115:8, 115:13, 115:15, 115:16, 115:18, 120:6, 121:18, 133:14, 135:24
- property's** [1] - 80:2
- proposals** [1] - 75:11
- propose** [2] - 25:17, 146:20
- proposed** [26] - 12:15, 13:19, 15:3, 16:21, 17:1, 24:4, 24:16, 24:20, 25:5, 26:3, 26:10, 28:23, 29:3, 29:5, 36:1, 49:7, 75:22, 80:15, 118:3, 133:22, 133:23, 134:2, 134:6, 140:13, 142:12, 142:16
- proposing** [3] - 25:20, 29:14, 29:22
- protect** [4] - 72:1, 72:17, 133:24, 138:14
- protected** [3] - 34:23, 71:15, 137:1
- protecting** [1] - 105:3
- protection** [2] - 72:20, 134:7
- protects** [1] - 73:6
- provide** [11] - 22:18, 25:18, 49:15, 53:11, 64:11, 64:12, 66:21, 115:12, 119:11, 124:10, 130:6
- provided** [6] - 49:17, 121:8, 121:14, 136:18, 142:7, 143:11
- provides** [2] - 50:2, 72:19
- providing** [3] - 10:15, 26:22, 113:13
- provisions** [1] - 131:9
- proximate** [8] - 49:6, 49:10, 51:21, 51:24, 52:2, 52:18, 52:21, 52:23
- proximity** [8] - 28:9, 28:21, 51:5, 52:7, 54:10, 55:12, 55:15, 55:19
- Public** [2] - 151:4, 151:22
- public** [15] - 24:10, 37:3, 43:22, 46:16, 48:20, 48:21, 50:15, 56:23, 123:16, 126:14, 126:15, 127:9, 131:1, 133:24, 149:15
- published** [1] - 47:2
- pull** [3] - 15:13, 39:17, 64:4
- purchased** [6] - 42:23, 43:2, 67:3, 67:19, 67:21
- purple** [1] - 67:15
- purpose** [1] - 98:17
- purposes** [3] - 14:7, 16:18, 23:12
- put** [18] - 7:21, 23:8, 63:24, 65:1, 70:17, 80:23, 81:5, 90:17, 92:9, 92:16, 92:18, 93:1, 105:23, 114:24, 116:17, 135:21, 144:10, 147:1
- PV** [1] - 22:24
- PV12.13.16** [1] - 40:2
- quality** [3] - 52:18, 54:9, 145:15
- quarter** [3] - 14:19, 102:8, 102:10
- questions** [29] - 22:1, 30:12, 30:14, 36:24, 37:4, 43:22, 56:19, 56:22, 57:18, 57:21, 57:23, 60:19, 61:22, 68:2, 68:4, 69:13, 69:23, 70:14, 70:16, 70:19, 82:10, 106:23, 107:1, 108:21, 112:6, 113:2, 116:11, 118:23, 119:19
- queue** [2] - 13:24
- quick** [1] - 107:1
- quickly** [1] - 62:1
- quite** [3] - 54:19, 113:7, 129:11
- quorum** [1] - 5:16
- R-O-D-R-I-G-U-E-Z** [1] - 31:2
- rack** [3] - 61:14, 61:16, 61:20
- racking** [1] - 26:7
- radiation** [1] - 128:8
- rail** [1] - 48:19
- RAMMELKAMP** [1] - 3:1
- ran** [1] - 93:7
- ranch** [2] - 52:1, 52:17
- range** [3] - 23:20, 113:19, 118:19
- raptor** [4] - 32:11, 33:13, 33:16, 33:19
- rate** [1] - 25:2
- rates** [2] - 41:23, 41:24
- re** [3] - 14:14, 50:24, 64:21
- re-powered** [1] - 14:14
- re-sales** [1] - 50:24
- re-sized** [1] - 64:21
- reach** [3] - 73:17, 74:13, 145:24
- reached** [1] - 74:3
- read** [2] - 128:16, 139:9
- reading** [1] - 72:11
- ready** [3] - 18:16, 57:18, 81:8
- real** [5] - 45:22, 46:6, 50:18, 67:4, 87:7
- realize** [1] - 11:20
- really** [3] - 54:8, 105:5, 138:3
- reason** [9] - 59:5, 60:11, 68:7, 68:12, 122:20, 125:9, 125:11, 133:14
- reasonable** [3] - 132:24, 134:16, 143:8
- reasons** [1] - 60:4
- rebar** [1] - 42:22
- rebuttal** [2] - 106:23, 135:15
- receive** [1] - 107:11
- received** [1] - 136:9
- recent** [1] - 54:4
- recently** [1] - 10:1
- recess** [1] - 141:18
- recession** [1] - 50:19
- recommend** [1] - 35:15
- recommendation** [4] - 131:16, 134:12, 134:17, 135:8
- recommendations** [2] - 68:18, 129:16
- recommended** [2] - 68:22, 132:15
- reconnaissance** [1] - 79:19
- record** [17] - 13:9, 19:20, 21:5, 22:14, 32:22, 33:16, 33:17, 33:19, 36:11, 39:10, 47:15, 57:7, 57:14, 81:12, 81:17, 84:9, 136:22
- recorded** [3] - 33:6, 33:7, 77:17
- recording** [3] - 77:20, 141:24, 142:2
- records** [1] - 116:6
- recycle** [1] - 144:12
- recycled** [1] - 144:6
- red** [3] - 33:20, 93:4, 93:5
- red-tailed** [1] - 33:20
- reduced** [2] - 24:22, 151:9
- reduces** [1] - 25:2
- reductions** [1] - 55:15
- reference** [1] - 94:11
- references** [1] - 139:14
- referencing** [1] - 65:14
- refers** [3] - 72:12, 72:13
- reflected** [1] - 53:24
- regard** [1] - 46:18
- regarding** [2] - 105:3, 122:18
- regards** [3] - 16:16, 89:9, 102:19
- regimen** [1] - 30:7
- regional** [1] - 41:1
- registered** [1] - 122:18
- regular** [2] - 5:2, 144:16
- regulations** [1] - 60:10
- reiterating** [1] - 139:2
- relationship** [1] - 26:14
- relative** [1] - 42:24
- relatively** [4] - 52:16, 55:11, 61:19, 113:20
- relevant** [2] - 67:4, 102:22
- relied** [1] - 39:21
- relocate** [1] - 25:17
- relocating** [1] - 26:9
- remain** [1] - 24:16
- remaining** [1] - 24:13
- remedies** [1] - 138:24
- remember** [1] - 119:6
- remind** [2] - 131:5, 131:6
- remove** [1] - 64:4
- removed** [1] - 145:12
- renewable** [3] - 9:22, 13:5, 40:9
- Renewable** [1] - 39:23
- repair** [8] - 25:10, 25:21, 27:23, 63:2, 63:10, 64:13, 72:13, 103:13
- repaired** [1] - 26:17
- repairing** [1] - 27:6
- replace** [1] - 64:18
- replacing** [1] - 24:24
- report** [6] - 49:14, 51:20, 52:15, 53:21, 54:3, 56:11
- reporter** [2] - 45:3, 54:17
- Reporter** [1] - 151:5
- Reporting** [1] - 151:6
- reports** [2] - 32:18, 134:19
- represent** [2] - 70:23, 78:8
- representative** [2] - 52:13, 53:13
- representing** [2] - 10:4, 70:3

- reptiles** [2] - 32:1, 128:1  
**request** [3] - 16:19, 35:24, 139:1  
**requesting** [1] - 16:8  
**requests** [1] - 16:6  
**require** [1] - 133:2  
**required** [1] - 16:4  
**requirement** [1] - 64:8  
**requirements** [1] - 114:8  
**requires** [1] - 134:7  
**reroute** [2] - 63:21, 64:20  
**resale** [2] - 49:18, 50:2  
**Research** [1] - 38:14  
**research** [4] - 38:14, 128:6, 128:18, 148:22  
**researched** [1] - 52:6  
**reserve** [1] - 135:14  
**residence** [1] - 114:13  
**residences** [5] - 14:21, 24:12, 28:9, 28:20, 52:1  
**resident** [1] - 115:1  
**residential** [5] - 47:23, 48:4, 53:12, 54:4, 55:13  
**resold** [2] - 49:21, 145:16  
**Resource** [1] - 130:3  
**Resources** [5] - 34:10, 34:14, 35:18, 35:19, 129:16  
**resources** [1] - 34:23  
**respect** [4] - 16:5, 75:6, 132:17, 132:21  
**respond** [1] - 60:2  
**rest** [3] - 94:17, 123:20, 141:7  
**restating** [1] - 56:11  
**restoration** [1] - 25:1  
**restore** [1] - 28:3  
**result** [1] - 47:19  
**results** [3] - 33:1, 36:14, 60:7  
**retreats** [1] - 34:2  
**reverbing** [1] - 44:13  
**review** [2] - 54:18, 141:1  
**reviewed** [5] - 32:4, 40:3, 40:4, 54:20, 54:21  
**reviews** [1] - 20:7  
**Richard** [1] - 57:2  
**Ridge** [1] - 45:23  
**right-hand** [1] - 96:22  
**right-of-ways** [1] - 24:10  
**risk** [2] - 36:3, 118:1  
**risks** [1] - 122:24  
**Road** [5] - 7:3, 7:12, 28:19, 119:4, 119:12  
**road** [10] - 10:13, 15:19, 24:10, 42:9, 90:21, 93:8, 99:17, 109:19, 109:20, 110:5  
**roads** [5] - 14:3, 23:10, 67:9, 75:22, 76:2  
**Rodrigues** [1] - 3:21  
**Rodriguez** [9] - 30:17, 30:22, 31:1, 31:18, 32:24, 34:7, 36:4, 36:24  
**RODRIGUEZ** [5] - 4:6, 30:18, 30:24, 31:6, 31:11  
**role** [2] - 131:6, 131:14  
**roll** [5] - 5:4, 5:16, 6:3, 8:22, 150:4  
**roll-call** [5] - 5:4, 5:16, 6:3, 8:22, 150:4  
**rolling** [2] - 60:9, 147:3  
**room** [2] - 7:18, 111:1  
**roosting** [1] - 35:14  
**Rosenthal** [6] - 2:10, 5:7, 6:2, 6:10, 9:3, 150:13  
**ROSENTHAL** [8] - 5:8, 6:1, 6:11, 8:21, 9:4, 148:16, 150:2, 150:14  
**rounds** [1] - 33:5  
**Route** [1] - 15:12  
**route** [1] - 64:21  
**routed** [1] - 23:4  
**rule** [1] - 80:18  
**rumors** [3] - 108:6, 108:11, 123:4  
**run** [5] - 24:21, 25:2, 25:3, 63:8, 135:12  
**run-off** [3] - 24:21, 25:2, 25:3  
**Runner** [2] - 119:5, 119:12  
**running** [3] - 64:19, 65:3, 109:14  
**runs** [2] - 23:6, 94:2  
**rural** [3] - 47:23, 48:3, 48:22  
**S-H-E-E-H-A-N** [1] - 27:14  
**sacrifice** [1] - 138:18  
**safe** [1] - 49:10  
**safety** [2] - 48:21, 134:1  
**sale** [3] - 49:18, 50:1, 50:4  
**sales** [8] - 49:6, 49:12, 50:24, 52:16, 53:11, 53:12, 54:4  
**salvaged** [1] - 145:16  
**sample** [1] - 52:13  
**sandpiper** [1] - 33:10  
**sandpipers** [1] - 33:7  
**Sandra** [4] - 1:20, 3:24, 151:4, 151:22  
**sandra.k.haines@aol.com** [1] - 1:22  
**Sangchris** [2] - 12:17, 34:4  
**sat** [1] - 47:3  
**satisfied** [2] - 135:6, 146:23  
**satisfy** [1] - 147:9  
**save** [1] - 22:1  
**scan** [1] - 82:3  
**SCE** [2] - 26:21, 63:2  
**schedule** [2] - 16:11, 149:9  
**school** [3] - 42:8, 46:1, 99:4  
**schools** [3] - 46:15, 48:21, 134:6  
**scope** [2] - 72:16, 72:22  
**Scott** [3] - 3:14, 7:7, 7:8  
**SCOTT** [4] - 7:7, 7:10, 7:14, 9:13  
**screen** [5] - 29:8, 40:19, 44:14, 45:2, 49:24  
**screening** [7] - 22:6, 22:13, 28:8, 28:11, 28:13, 28:17, 123:23  
**seal** [1] - 151:13  
**second** [14] - 5:24, 6:1, 8:20, 8:21, 11:18, 11:19, 28:18, 46:21, 83:13, 112:17, 117:12, 124:18, 150:1, 150:2  
**secondly** [1] - 25:12  
**seconds** [1] - 135:14  
**secret** [1] - 123:14  
**Section** [5] - 92:3, 103:4, 103:11, 134:10, 136:20  
**section** [4] - 102:7, 102:8, 102:11, 136:23  
**secure** [2] - 60:12, 129:6  
**secured** [1] - 125:24  
**security** [5] - 14:7, 14:23, 14:24, 15:24, 23:11  
**see** [20] - 11:20, 12:16, 13:8, 16:22, 17:20, 22:21, 29:7, 40:18, 42:7, 59:1, 82:17, 124:5, 124:7, 126:17, 126:18, 129:4, 140:10, 140:17, 142:21, 142:23  
**seed** [3] - 29:15, 29:22, 30:3  
**seeded** [1] - 30:4  
**seeding** [2] - 30:2, 30:7  
**seeing** [4] - 56:4, 143:1, 145:13, 145:17  
**seeking** [1] - 10:6  
**seem** [1] - 132:24  
**select** [2] - 28:12  
**send** [1] - 82:2  
**sense** [4] - 79:21, 120:18, 140:13, 140:18  
**sent** [2] - 7:22, 101:21  
**separate** [2] - 29:12, 40:17  
**SEPTEMBER** [2] - 1:12, 2:3  
**September** [8] - 5:2, 34:16, 34:20, 35:5, 111:21, 136:11, 151:7, 151:14  
**service** [1] - 74:6  
**Service** [4] - 35:3, 35:5, 35:6, 35:11  
**services** [2] - 48:20, 53:22  
**Services** [1] - 20:1  
**set** [8] - 10:11, 11:10, 28:2, 60:21, 60:22, 82:24, 105:4, 105:17  
**setback** [5] - 24:9, 114:7, 120:17, 121:17, 135:23  
**setbacks** [3] - 14:21, 24:8, 24:11  
**setoff** [1] - 120:12  
**sets** [1] - 136:20  
**setting** [2] - 120:13, 132:2  
**seven** [5] - 23:22, 24:2, 38:24, 47:11, 47:15  
**seventeen** [1] - 110:12  
**several** [4] - 73:18, 78:8, 85:13, 136:7  
**shade** [1] - 29:17  
**shall** [4] - 132:20, 133:21, 137:1, 137:5  
**shape** [1] - 54:12  
**share** [1] - 119:16  
**Shaw** [3] - 94:23, 95:22, 99:16  
**SHEEHAN** [108] - 11:11, 11:24, 12:7, 12:12, 21:7, 21:12, 21:16, 22:15, 27:7, 27:13, 27:17, 27:20, 58:8, 58:13, 58:18, 58:22, 59:4, 59:14, 59:23, 60:3, 60:22, 61:2, 61:7, 61:13, 61:24, 62:9, 62:15, 63:6, 63:16, 63:20, 64:1, 64:7, 64:12, 64:18, 65:5, 65:12, 65:20, 66:2, 66:6, 66:20, 67:10, 67:13, 67:16, 67:19, 68:15, 68:21, 69:5, 69:16, 69:20, 71:2, 71:6, 71:13, 71:20, 72:2, 73:8, 73:12, 73:17, 74:1, 74:13, 74:20, 75:1, 75:10, 75:15, 75:20, 75:24, 76:5, 76:10, 76:16, 76:23, 77:6, 77:16, 77:23, 108:3, 116:19, 116:24, 119:6, 119:13, 120:9, 120:15, 120:21, 121:1, 121:8, 121:15, 122:15, 123:7, 123:22, 124:9, 124:17, 125:1, 125:7, 125:15, 125:22, 126:3, 129:2, 129:8, 129:11, 142:6, 142:11, 142:14, 142:18, 143:6, 143:13, 143:17, 143:23, 144:7, 144:20, 148:21, 149:1  
**Sheehan** [23] - 3:10, 10:10, 11:9, 11:12, 21:9, 27:9, 27:13, 60:1, 70:22, 107:7, 107:11, 107:12, 108:8, 108:14, 111:22, 112:6, 116:15, 119:1, 128:22, 130:1, 142:3, 144:1, 148:20  
**sheet** [1] - 26:20  
**shopping** [1] - 46:14  
**Shorthand** [1] - 151:5  
**shorthand** [1] - 151:12  
**show** [10] - 43:12, 56:13, 88:12, 92:7, 94:4, 101:13, 101:18, 102:16, 110:6, 116:6  
**showing** [4] - 29:2, 52:15, 53:13, 94:8  
**shown** [4] - 92:24, 93:20, 101:5, 101:6  
**shows** [6] - 29:8, 54:5, 88:14, 92:3, 92:8  
**shrub** [2] - 29:3, 118:9

- shrubs** [6] - 28:15, 28:22, 29:9, 117:8, 117:20, 118:12
- side** [16] - 11:15, 15:11, 15:12, 15:21, 28:13, 28:16, 28:18, 70:8, 90:18, 90:21, 90:22, 102:5, 110:20, 120:6, 131:12, 143:8
- sided** [2] - 123:3, 127:17
- sides** [1] - 110:17
- Sierra** [1] - 128:16
- sign** [1] - 121:23
- significant** [3] - 24:20, 43:14, 51:18
- significantly** [1] - 132:5
- silver** [1] - 128:8
- similar** [7] - 49:9, 51:8, 55:19, 55:20, 83:5, 106:10
- simple** [1] - 54:24
- simply** [3] - 49:5, 53:10, 56:10
- simulates** [1] - 5:16
- single** [2] - 14:3, 51:6
- single-axis** [1] - 14:3
- Sipes** [9] - 2:7, 5:14, 5:15, 6:14, 8:23, 37:10, 44:20, 127:7, 150:15
- SIPES** [159] - 5:1, 5:14, 5:17, 5:21, 6:3, 6:15, 6:24, 7:5, 7:8, 7:13, 7:20, 7:24, 8:5, 8:7, 8:12, 8:20, 8:22, 8:24, 9:12, 9:14, 12:4, 12:9, 18:23, 19:3, 19:6, 19:10, 21:9, 26:19, 27:9, 27:15, 27:18, 28:6, 30:22, 31:3, 31:7, 32:23, 36:12, 37:9, 37:15, 37:19, 39:11, 44:19, 45:1, 45:9, 47:16, 57:8, 57:15, 57:22, 58:1, 60:1, 66:4, 66:7, 66:10, 68:3, 69:13, 69:23, 70:2, 70:6, 70:10, 70:13, 70:18, 72:7, 72:10, 81:2, 81:7, 81:23, 82:7, 82:18, 82:22, 83:3, 83:7, 83:13, 83:17, 97:3, 97:7, 97:11, 105:12, 105:15, 105:24, 106:6, 106:11, 106:22, 109:5, 109:12, 110:10, 110:23, 111:4, 111:7, 111:12, 111:16, 112:10, 112:14, 112:20, 112:24, 119:20, 120:2, 120:7, 120:19, 120:24, 121:5, 121:10, 121:20, 121:23, 122:2, 122:8, 122:12, 126:7, 126:14, 126:17, 126:22, 126:24, 127:2, 127:6, 128:13, 128:21, 129:7, 129:10, 129:23, 130:13, 130:16, 130:19, 135:18, 139:5, 139:21, 140:2, 140:11, 140:16, 141:2, 141:6, 141:14, 141:19, 141:23, 142:3, 142:9, 143:10, 144:1, 144:18, 144:22, 145:1, 145:5, 145:22, 146:9, 146:13, 146:19, 147:7, 147:16, 147:23, 148:3, 148:7, 148:10, 148:14, 148:19, 148:22, 149:10, 149:17, 149:19, 150:1, 150:4, 150:16
- sit** [4] - 23:1, 61:14, 79:24, 82:21
- site** [23] - 7:19, 17:12, 21:8, 21:18, 21:19, 23:10, 23:11, 24:17, 24:18, 25:5, 33:5, 42:20, 43:5, 58:6, 60:16, 69:9, 73:10, 73:24, 74:9, 74:19, 74:22, 78:17, 142:7
- siting** [3] - 11:6, 34:5, 36:18
- sitting** [1] - 61:19
- situation** [1] - 49:7
- six** [10] - 14:24, 23:22, 38:24, 55:23, 61:2, 61:12, 61:19, 101:10, 124:3, 140:3
- sixty** [2] - 84:12, 99:6
- sixty-four** [2] - 84:12, 99:6
- size** [9] - 41:20, 51:24, 61:7, 61:9, 61:16, 113:11, 117:20, 118:8, 118:19
- sized** [1] - 64:21
- sizes** [1] - 53:23
- skids** [3] - 23:5, 23:6, 23:9
- slid** [1] - 123:19
- slide** [16] - 11:19, 13:9, 23:15, 24:8, 24:15, 25:7, 25:20, 26:18, 28:7, 29:2, 29:10, 33:22, 39:18, 40:13, 41:14, 42:16
- slides** [6] - 10:11, 11:10, 22:21, 39:16, 39:17, 53:6
- slightly** [2] - 23:2, 69:6
- slowly** [1] - 45:4
- small** [6] - 13:2, 16:23, 29:7, 48:23, 113:21, 140:5
- smaller** [1] - 52:4
- Smith** [13] - 88:24, 89:1, 89:12, 89:24, 90:18, 94:17, 100:23, 101:15, 101:21, 102:3, 102:13, 122:7, 122:14
- Smith's** [9] - 76:15, 77:14, 79:8, 90:4, 93:13, 93:14, 95:15, 109:14, 109:16
- Smiths** [4] - 89:3, 90:9, 90:13, 110:3
- Smiths'** [1] - 91:4
- smoothing** [1] - 24:19
- snake** [2] - 32:12, 33:23
- soil** [2] - 54:10, 61:4
- Solar** [21] - 9:15, 10:2, 10:5, 13:20, 20:16, 22:7, 32:9, 35:9, 35:21, 39:4, 39:15, 43:13, 46:22, 47:8, 49:19, 56:14, 100:6, 103:19, 131:4, 135:9, 138:17
- solar** [70] - 9:22, 10:7, 11:6, 11:14, 13:5, 16:22, 20:7, 22:23, 22:24, 23:2, 23:17, 24:8, 26:6, 29:13, 29:19, 32:3, 32:4, 32:5, 32:6, 38:19, 38:21, 40:1, 43:4, 46:12, 46:20, 48:8, 49:8, 49:10, 49:21, 50:5, 50:8, 50:12, 50:14, 50:23, 51:6, 51:19, 52:2, 52:7, 52:19, 52:21, 53:3, 53:13, 54:21, 55:3, 55:5, 55:10, 55:15, 55:19, 55:22, 56:5, 61:6, 65:7, 65:9, 65:17, 66:12, 68:6, 68:11, 108:12, 113:10, 127:9, 128:3, 129:1, 131:9, 131:18, 133:16, 137:24, 144:2, 144:4, 145:14, 145:19
- sold** [10] - 49:20, 50:11, 50:13, 51:22, 52:3, 52:4, 52:22, 52:23, 53:17, 58:11
- solid** [1] - 118:11
- solidified** [1] - 149:2
- solution** [2] - 68:8, 68:23
- someone** [3] - 65:3, 71:18, 139:17
- sometimes** [3] - 80:19, 123:15, 131:7
- somewhat** [3] - 53:19, 146:23, 147:9
- somewhere** [1] - 114:12
- soon** [2] - 50:11, 119:15
- sorry** [10] - 7:6, 8:17, 19:4, 20:24, 69:2, 83:14, 97:11, 107:23, 117:12, 147:1
- sounds** [1] - 44:13
- sources** [1] - 34:1
- South** [3] - 13:22, 84:20, 85:5
- south** [13] - 10:3, 12:18, 12:21, 62:20, 70:8, 87:18, 87:20, 87:22, 99:8, 102:7, 110:14, 110:20, 110:22
- southeast** [8] - 76:21, 85:10, 94:2, 97:1, 98:8, 98:21, 100:3, 101:19
- soybean** [1] - 54:15
- spacing** [1] - 29:9
- speaking** [3] - 18:23, 61:4, 88:10
- special** [16] - 9:15, 10:6, 59:11, 131:3, 131:17, 133:7, 133:15, 133:21, 133:24, 134:2, 134:6, 134:7, 134:13, 135:9, 136:6, 140:18
- specialization** [1] - 46:2
- specialties** [1] - 14:11
- species** [5] - 29:1, 29:4, 33:6, 33:21, 118:10
- specific** [6] - 41:6, 41:9, 61:9, 79:10, 139:15, 149:3
- specifically** [4] - 71:22, 78:9, 131:23, 132:17
- specifications** [1] - 129:5
- spell** [10] - 20:4, 27:12, 30:23, 37:11, 44:22, 83:9, 84:9, 100:9, 111:9, 122:3
- spent** [3] - 40:21, 40:24, 108:19
- spoken** [1] - 47:2
- spot** [3] - 28:17, 28:18, 96:23
- spray** [1] - 62:7
- Springfield** [2] - 2:20, 9:20
- square** [1] - 101:7
- SS** [1] - 151:1
- stabilized** [1] - 116:2
- stage** [1] - 117:21
- stand** [4] - 57:16, 57:17, 62:1, 62:5
- standard** [2] - 40:5, 64:16
- standardized** [1] - 41:18
- standards** [10] - 11:5, 64:15, 64:17, 132:21, 133:2, 133:20, 134:9, 134:24, 135:6, 140:1
- standing** [1] - 104:14
- stapled** [1] - 21:13
- Star** [2] - 49:19, 114:19
- start** [4] - 11:16, 17:5, 40:14, 108:12
- starting** [4] - 14:18, 22:22, 22:23, 51:20
- starts** [1] - 105:6
- state** [13] - 19:20, 27:11, 30:23, 34:23, 37:11, 44:21, 58:3, 83:8, 84:9, 111:8, 114:8, 114:10, 122:3
- State** [19] - 2:19, 3:2, 34:23, 38:12, 38:16, 40:24, 41:4, 41:9, 42:18, 43:10, 46:7, 46:8, 46:17, 46:24, 103:3, 132:5, 132:7, 144:15
- STATE** [1] - 151:1
- statements** [3] - 86:20, 87:3, 87:8
- states** [3] - 13:12, 47:1, 132:5
- States** [2] - 13:6, 145:15
- stations** [1] - 46:13
- status** [1] - 30:6
- statute** [1] - 136:18
- statutes** [2] - 103:3, 106:16
- stay** [2] - 30:13, 43:20
- steel** [3] - 23:1, 60:20, 61:5
- stenographically** [1] - 151:8
- step** [6] - 25:21, 92:17, 98:6, 134:16, 138:13
- Stephanie** [1] - 18:7
- Steve** [17] - 3:23, 5:14, 5:15, 18:12, 18:18, 18:19, 19:4,

- 20:4, 37:10, 44:20, 61:10, 65:20, 66:6, 69:5, 78:5, 117:2, 127:6
- STEVE** [26] - 18:20, 19:9, 19:12, 66:8, 66:11, 69:8, 78:14, 78:19, 79:2, 79:9, 79:16, 80:4, 80:11, 80:14, 80:22, 117:6, 117:11, 117:16, 118:6, 118:17, 129:21, 129:24, 144:23, 145:2, 145:9, 146:4
- STEVE** [1] - 4:3
- Steven** [3] - 2:7, 6:14, 19:21
- stick** [3] - 43:20, 56:21, 57:20
- still** [6] - 23:23, 29:21, 74:5, 95:5, 95:20, 124:4
- stood** [1] - 82:19
- stop** [1] - 136:16
- stopped** [3] - 123:10, 125:7, 125:15
- story** [2] - 50:10, 52:1
- Strategic** [1] - 38:13
- stream** [1] - 36:16
- Streator** [1] - 51:17
- street** [5] - 122:7, 122:14, 122:22, 124:14, 124:23
- Street** [1] - 3:2
- structure** [2] - 23:16
- stuck** [1] - 23:7
- studies** [14] - 32:8, 32:15, 32:17, 33:2, 35:11, 38:23, 46:11, 54:20, 54:21, 60:5, 60:7, 60:8, 125:13, 125:18
- study** [26] - 10:24, 11:2, 35:7, 36:5, 36:7, 36:14, 39:3, 39:20, 43:12, 46:22, 47:7, 47:9, 47:11, 47:18, 47:19, 48:14, 49:5, 50:20, 54:22, 55:23, 56:13, 57:4, 124:6, 125:19
- stuff** [2] - 66:23, 81:14
- style** [1] - 52:1
- subject** [3] - 41:5, 143:18, 144:3
- submit** [6] - 36:10, 57:1, 57:2, 57:5, 136:10, 136:14
- submitted** [6] - 81:10, 106:20, 131:15, 134:20, 135:3, 140:24
- substation** [6] - 14:5, 14:15, 15:10, 15:17, 24:5, 24:6
- substation/switchyard** [1] - 23:7
- subsurface** [4] - 79:11, 79:14, 94:7, 137:22
- Subsurface** [1] - 92:14
- suggesting** [1] - 138:13
- suggestions** [2] - 142:20, 143:1
- suitable** [3] - 33:9, 34:3, 34:5
- Suite** [1] - 2:19
- summarize** [2] - 43:12, 56:12
- summarized** [1] - 54:22
- summary** [3] - 49:17, 53:11, 93:17
- summer** [1] - 33:4
- sunk** [1] - 59:7
- SUP** [1] - 16:8
- supervisor** [1] - 43:5
- supplier** [3] - 61:8, 69:17, 129:6
- suppliers** [2] - 119:14, 149:2
- supply** [4] - 16:16, 42:21, 43:6, 60:12
- support** [2] - 27:23, 53:22
- supportive** [2] - 35:11, 36:1
- supports** [1] - 48:2
- surface** [8] - 24:15, 24:21, 25:16, 79:10, 79:14, 80:13, 80:16, 137:21
- surround** [1] - 54:7
- surrounded** [1] - 114:19
- surrounding** [6] - 23:10, 24:14, 25:14, 47:24, 48:5, 62:19
- survey** [1] - 63:22
- surveys** [8] - 31:24, 32:11, 33:4, 33:5, 33:14, 33:15, 35:16
- surviving** [1] - 117:23
- suspect** [1] - 132:12
- sustainability** [1] - 48:17
- swear** [14] - 19:2, 19:7, 27:10, 27:15, 30:21, 31:3, 37:15, 37:16, 45:5, 72:6, 83:14, 111:12, 122:8
- Swift** [18] - 2:22, 3:10, 9:16, 11:12, 12:24, 13:13, 19:14, 20:3, 25:8, 26:13, 27:3, 30:9, 31:13, 38:3, 45:13, 58:5, 58:8, 77:11
- Switchyard** [1] - 15:8
- sworn/affirmed** [5] - 19:15, 31:14, 38:4, 45:14, 84:4
- system** [4] - 105:3, 133:8, 133:13, 134:14
- systems** [1] - 133:4
- T-H-O-M-A-S** [1] - 111:11
- tailed** [1] - 33:20
- talks** [5] - 17:19, 18:1, 133:20, 137:24, 138:10
- tall** [2] - 61:18, 118:21
- taller** [1] - 29:23
- targeting** [1] - 30:6
- tax** [10] - 41:16, 41:23, 41:24, 55:13, 56:6, 86:20, 87:3, 87:7, 87:8, 134:4
- taxable** [1] - 41:22
- taxes** [1] - 17:10
- taxing** [1] - 42:12
- Taylorville** [2] - 13:22, 151:14
- teaching** [1] - 38:16
- team** [4] - 13:7, 13:15, 30:9, 142:22
- tearing** [1] - 124:15
- technicians** [1] - 43:5
- technology** [3] - 14:14, 146:6, 146:7
- temperature** [1] - 122:24
- temporary** [1] - 23:13
- ten** [9] - 31:23, 32:4, 32:5, 46:20, 50:9, 61:1, 61:12, 99:12, 99:17
- tend** [1] - 48:13
- term** [4] - 17:13, 43:3, 139:16, 147:10
- terms** [4] - 72:11, 72:12, 72:17, 132:1
- Terri** [1] - 3:18
- testified** [12] - 19:16, 31:15, 38:5, 45:15, 78:15, 80:8, 84:5, 95:19, 128:24, 134:22, 137:21, 149:14
- testify** [3] - 66:14, 82:17, 83:2
- testifying** [1] - 11:3
- testimony** [6] - 130:8, 131:10, 133:10, 134:23, 138:5, 138:7
- Texas** [2] - 54:23, 119:5
- THE** [1] - 1:6
- their's** [1] - 59:18
- themselves** [2] - 120:15, 145:19
- thereafter** [1] - 53:15
- thinking** [1] - 68:7
- third** [3] - 29:24, 148:5, 148:6
- thirteen** [1] - 56:2
- THOMAS** [31] - 111:6, 111:10, 111:15, 111:18, 113:1, 113:8, 113:14, 113:17, 113:22, 114:5, 114:14, 114:21, 115:10, 115:14, 115:22, 116:4, 116:10, 116:14, 116:21, 117:5, 117:10, 117:13, 118:4, 118:14, 118:22, 119:9, 119:18, 119:24, 120:4, 120:11, 121:12
- Thomas** [8] - 3:17, 3:18, 111:10, 112:23, 119:20, 121:9, 121:20, 146:22
- Thomases** [5] - 111:3, 142:4, 142:19, 143:11, 143:21
- three** [23] - 20:14, 28:20, 29:12, 32:6, 33:4, 40:17, 49:17, 50:10, 50:17, 52:1, 54:1, 61:13, 61:15, 67:2, 67:6, 67:19, 70:3, 81:21, 82:1, 102:20, 106:7, 106:20, 112:16
- throughout** [5] - 13:6, 13:12, 46:17, 46:20, 53:20
- tie** [1] - 91:10
- tile** [55] - 25:8, 25:10, 25:12, 25:18, 25:21, 25:23, 26:1, 26:10, 27:24, 62:11, 62:12, 63:2, 63:10, 63:24, 64:9, 64:23, 72:13, 74:11, 76:4, 76:21, 78:23, 79:17, 79:19, 90:10, 90:14, 91:21, 92:9, 92:16, 92:18, 93:8, 93:18, 93:20, 94:9, 94:12, 94:20, 95:14, 98:1, 98:7, 98:18, 99:21, 99:24, 100:2, 101:2, 101:10, 101:14, 102:1, 104:6, 109:14, 133:8, 134:13, 136:17, 137:13, 137:19, 138:1
- tiles** [19] - 27:6, 71:12, 72:14, 72:21, 74:24, 75:19, 76:13, 77:13, 80:1, 88:8, 89:11, 89:18, 91:11, 102:2, 102:17, 104:11, 137:16, 137:23, 138:8
- tiling** [3] - 64:15, 133:4
- tilings** [2] - 26:4, 26:5
- tilt** [2] - 23:19, 23:21
- timeline** [1] - 16:9
- timeliness** [1] - 16:17
- timely** [1] - 60:17
- title** [3] - 77:18, 115:11, 115:20
- titled** [2] - 39:18, 54:4
- to-wit** [5] - 19:16, 31:15, 38:5, 45:15, 84:5
- today** [4] - 79:24, 80:4, 143:13, 146:8
- together** [2] - 13:7, 143:3
- tomorrow** [1] - 82:4
- tonight** [10] - 10:4, 16:20, 106:20, 131:1, 131:11, 132:5, 134:22, 135:11, 135:21, 147:2
- took** [4] - 41:6, 98:21, 99:16, 99:18
- top** [6] - 24:3, 96:22, 97:17, 101:7, 132:19, 134:21
- total** [6] - 13:24, 24:3, 41:17, 42:7, 43:7, 59:14
- totals** [1] - 42:12
- touch** [3] - 12:10, 26:24, 109:16
- touched** [1] - 144:2
- touring** [1] - 53:1
- Tovey** [11] - 11:15, 17:17, 17:20, 28:14, 28:16, 48:23, 112:1, 115:2, 119:23, 120:1
- towards** [5] - 89:11, 89:12, 89:13, 109:15, 127:9
- towers** [1] - 24:4
- Town** [1] - 28:14
- towns** [3] - 48:23, 53:23, 54:11
- township** [2] - 51:9, 147:15
- Township** [3] - 13:22, 84:20, 85:5
- townships** [2] - 42:9, 48:11

- track** [1] - 13:9  
**tracked** [1] - 50:19  
**trackers** [1] - 14:3  
**tracking** [1] - 50:23  
**tract** [1] - 97:4  
**trade** [1] - 19:24  
**traditionally** [1] - 53:24  
**traffic** [3] - 48:18, 48:19  
**transcript** [1] - 151:10  
**transect** [1] - 62:16  
**transfer** [1] - 46:13  
**translation** [1] - 151:11  
**transmission** [1] - 15:7  
**transplant** [1] - 117:24  
**transportation** [1] - 42:24  
**treat** [1] - 62:23  
**treated** [1] - 62:24  
**trees** [1] - 124:2  
**trend** [1] - 48:17  
**trends** [1] - 53:18  
**tried** [5] - 73:17, 74:13, 75:5, 125:5, 146:15  
**truck** [1] - 48:18  
**true** [4] - 66:3, 87:2, 146:18, 151:11  
**trust** [2] - 94:22, 95:11  
**trustee** [1] - 95:10  
**truth** [23] - 19:7, 19:8, 27:16, 31:4, 31:5, 37:16, 37:17, 45:6, 45:7, 83:14, 83:15, 111:13, 111:14, 122:9, 122:10  
**try** [5] - 11:22, 62:4, 97:9, 123:8, 143:7  
**trying** [2] - 17:23, 60:14  
**Tuesday** [6] - 147:23, 148:4, 148:5, 148:6, 148:10, 149:19  
**turbine** [1] - 12:11  
**turn** [9] - 10:9, 11:8, 11:22, 18:8, 30:8, 58:2, 86:4, 100:8, 103:7  
**turned** [2] - 56:8, 99:16  
**twelve** [3] - 61:18, 99:18, 101:9  
**twenty** [3] - 61:12, 87:13, 118:20  
**two** [25] - 16:7, 20:14, 28:16, 33:7, 41:5, 50:9, 52:15, 54:5, 57:1, 59:3, 59:11, 59:14, 59:15, 61:18, 67:2, 67:8, 67:10, 67:16, 69:22, 106:12, 141:9, 141:10, 146:21, 147:13  
**type** [6] - 17:24, 60:10, 74:24, 77:5, 89:17, 142:22  
**types** [1] - 76:2  
**typewritten** [1] - 151:9  
**typical** [3] - 29:9, 61:5, 61:13  
**typically** [4] - 42:22, 43:2, 117:4, 117:19  
**typo** [3] - 12:5, 12:7, 12:13  
**U.S** [6] - 35:2, 35:6, 35:10, 36:17, 39:24, 69:22  
**ultimately** [1] - 58:22  
**unaware** [2] - 77:23, 118:18  
**unchanged** [1] - 24:16  
**uncontroverted** [1] - 134:23  
**uncovered** [1] - 77:17  
**under** [11] - 34:19, 50:9, 63:1, 63:14, 65:9, 71:9, 72:4, 77:22, 109:20, 139:24, 151:13  
**underground** [4] - 14:4, 15:6, 26:8, 75:15  
**underlying** [2] - 71:9, 139:17  
**understandable** [1] - 68:21  
**unforeseeable** [1] - 16:11  
**ungravel** [1] - 54:12  
**United** [2] - 13:6, 145:15  
**University** [3] - 38:13, 45:24, 54:23  
**unknowns** [2] - 16:16, 136:10  
**unlikely** [1] - 34:24  
**unmute** [1] - 18:15  
**unmuted** [1] - 112:19  
**unorthodox** [1] - 140:7  
**up** [35] - 12:16, 14:1, 15:13, 17:12, 18:2, 22:4, 22:21, 23:2, 23:8, 26:20, 30:16, 37:5, 39:17, 42:11, 44:1, 50:11, 61:16, 67:1, 88:3, 90:18, 93:2, 94:5, 96:12, 99:14, 105:16, 109:6, 110:23, 111:7, 120:5, 121:23, 122:2, 123:8, 128:22, 143:7, 144:9  
**updated** [1] - 143:22  
**upland** [3] - 33:7, 33:10, 34:6  
**upsized** [1] - 99:12  
**urban** [1] - 46:2  
**useful** [1] - 131:8  
**utilized** [2] - 53:20, 74:1  
**utilizing** [1] - 68:23  
**vaguely** [1] - 93:23  
**valid** [1] - 74:4  
**valuable** [1] - 144:12  
**valuation** [1] - 46:18  
**value** [20] - 11:2, 41:19, 41:22, 46:11, 46:19, 47:20, 48:8, 51:1, 54:13, 55:15, 65:17, 115:4, 115:6, 115:13, 115:15, 115:19, 134:3, 138:19  
**values** [9] - 47:7, 47:24, 48:4, 48:14, 49:3, 53:24, 56:15, 112:5, 112:9  
**valuing** [1] - 55:18  
**variance** [6] - 6:16, 6:24, 8:2, 8:4, 8:14, 16:9  
**variances** [1] - 8:9  
**varies** [3] - 69:6, 69:9, 118:7  
**varieties** [1] - 118:16  
**variety** [4] - 25:7, 75:10, 113:7, 138:24  
**various** [8] - 14:10, 23:9, 24:19, 28:7, 40:9, 46:11, 54:11, 75:23  
**vary** [3] - 61:7, 114:9, 118:10  
**vast** [1] - 69:20  
**vegetation** [5] - 116:16, 118:14, 123:24, 142:17, 142:18  
**vegetative** [4] - 22:6, 22:13, 29:10, 129:20  
**verify** [1] - 74:6  
**verifying** [1] - 86:20  
**versus** [1] - 75:8  
**via** [1] - 25:24  
**viable** [1] - 14:16  
**view** [1] - 13:15  
**Village** [8] - 17:17, 17:20, 18:3, 115:1, 115:3, 127:15, 127:18, 127:21  
**villagers** [1] - 128:10  
**Vince** [2] - 2:13, 8:16  
**visual** [1] - 28:8  
**voltage** [2] - 23:3, 26:7  
**voluntary** [1] - 34:21  
**vote** [3] - 18:5, 131:14, 135:7  
**wait** [1] - 95:2  
**walk** [1] - 53:7  
**walked** [1] - 104:20  
**wants** [1] - 57:10  
**waste** [2] - 46:13, 147:6  
**water** [10] - 24:21, 25:2, 25:13, 25:16, 34:1, 62:18, 88:11, 90:2, 101:21, 104:14  
**waters** [6] - 36:17, 36:19, 90:6, 91:17, 93:11, 101:19  
**ways** [1] - 24:10  
**web** [1] - 44:12  
**website** [1] - 128:17  
**websites** [1] - 128:16  
**weed** [2] - 61:23, 62:3  
**weeds** [2] - 62:4, 62:7  
**week** [2] - 74:14, 148:8  
**weeks** [2] - 146:21, 147:13  
**welfare** [1] - 134:1  
**west** [4] - 11:14, 28:13, 28:16, 48:24  
**West** [1] - 3:2  
**Westwood** [2] - 20:1, 21:7  
**wet** [2] - 98:20, 104:7  
**wetland** [5] - 30:2, 32:12, 36:5, 36:14, 36:15  
**wetlands** [6] - 25:4, 25:5, 30:1, 30:5, 36:16, 36:17  
**whatsoever** [1] - 127:21  
**whoever's** [1] - 65:13  
**whole** [11] - 19:7, 27:16, 31:4, 37:16, 45:6, 51:1, 59:22, 83:15, 111:13, 122:9, 123:3  
**wife** [3] - 84:24, 85:2, 111:18  
**wife's** [1] - 86:21  
**Wilbur** [1] - 3:19  
**wildlife** [10] - 10:24, 31:23, 32:2, 32:7, 32:17, 33:1, 35:7, 35:20, 125:18, 130:5  
**Wildlife** [4] - 35:2, 35:5, 35:6, 35:10  
**William** [1] - 94:23  
**willing** [1] - 114:24  
**Wind** [1] - 12:6  
**wind** [5] - 12:11, 13:5, 46:12, 51:18, 54:19  
**wire** [1] - 24:3  
**Wisconsin** [1] - 56:1  
**wise** [1] - 116:18  
**wishes** [1] - 75:6  
**wit** [5] - 19:16, 31:15, 38:5, 45:15, 84:5  
**witness** [9] - 19:13, 21:22, 31:12, 38:2, 45:12, 82:16, 84:2, 106:3, 135:1  
**WITNESSES** [1] - 4:1  
**witnesses** [6] - 10:16, 70:16, 82:10, 108:24, 131:11, 134:22  
**wonder** [1] - 21:21  
**wondering** [1] - 117:8  
**WOODS** [1] - 2:18  
**words** [2] - 90:20, 140:20  
**work** [21] - 8:15, 17:23, 19:24, 26:9, 73:20, 73:23, 74:10, 77:7, 77:18, 90:10, 90:12, 92:23, 95:19, 97:24, 98:1, 98:14, 137:21, 142:19, 142:24, 143:2  
**workable** [1] - 140:2  
**worked** [3] - 13:16, 32:5, 35:22  
**working** [6] - 11:18, 17:17, 26:16, 27:4, 78:2, 143:3  
**worry** [1] - 122:23  
**worth** [1] - 17:9  
**worthwhile** [2] - 138:17, 146:2  
**wrapped** [1] - 109:6  
**writing** [3] - 115:1, 115:3, 138:10  
**written** [3] - 6:19, 106:17, 139:9  
**yard** [2] - 23:13, 67:6  
**year** [9] - 42:3, 42:14, 59:3, 59:6, 59:8, 59:11, 59:22, 63:24, 95:3  
**years** [21] - 7:18, 9:23, 14:12, 16:7, 16:10, 31:23, 42:4, 42:6, 45:21, 50:17, 59:2, 59:12, 59:13, 59:15, 59:20, 87:13, 89:5, 89:7, 89:8, 124:2, 146:7  
**yesterday** [4] - 74:15, 107:13, 108:5, 108:18



**YOW** <sup>[71]</sup> - 3:4, 21:18, 21:21,  
70:1, 70:4, 70:9, 70:15,  
70:21, 71:3, 71:7, 71:16,  
71:23, 72:23, 73:9, 73:14,  
73:20, 74:7, 74:17, 74:21,  
75:7, 75:13, 75:17, 75:21,  
76:1, 76:8, 76:11, 76:19,  
77:3, 77:11, 77:19, 78:3,  
78:7, 78:15, 78:20, 79:5,  
79:12, 79:23, 80:8, 80:12,  
80:18, 81:1, 81:4, 81:9,  
81:15, 81:20, 82:14, 82:20,  
82:23, 83:4, 83:12, 83:19,  
84:7, 97:9, 97:12, 100:17,  
105:8, 105:16, 105:19,  
105:22, 106:2, 106:9,  
106:15, 109:1, 135:19,  
136:5, 139:8, 140:9,  
140:12, 140:17, 141:12,  
146:15

**yow** <sup>[2]</sup> - 81:2, 149:15

**Yow** <sup>[5]</sup> - 69:24, 78:8,  
108:23, 135:18, 139:5

**yow**..... <sup>[1]</sup> - 4:17

**ZBA** <sup>[11]</sup> - 5:19, 37:10, 57:23,  
58:2, 58:4, 68:4, 68:6,  
69:15, 69:24, 149:11,  
149:22

**zero** <sup>[1]</sup> - 75:4

**zone** <sup>[1]</sup> - 120:1

**ZONING** <sup>[2]</sup> - 1:11, 2:2

**zoning** <sup>[3]</sup> - 2:6, 11:7, 137:24

**Zoning** <sup>[8]</sup> - 2:13, 5:3, 44:20,  
104:24, 127:7, 133:18,  
133:19, 134:11