

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
Amendments to 35 Ill. Adm. Code,) No. R22-17
Part 203: Major Stationary)
Sources Construction and)
Modification, 35 Ill. Adm. Code)
Part 204: Prevention of)
Significant Deterioration, and)
Part 232: Toxic Air Contaminants)

REPORT OF THE PROCEEDINGS held in the
above-entitled cause before HEARING OFFICER DANIEL
PAULEY, called by the Illinois Pollution Control
Board, 100 West Randolph Street, Chicago, Illinois,
on the 17th day of February, 2022, commencing at
the hour of 9:00 a.m.

Reported By: Raelene Stamm, CSR

License No.: 084-004445

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APPEARANCES:

MR. DANIEL PAULEY, Hearing Officer (via video)

MS. CHLOE SALK (via video)

MS. CYNTHIA SANTOS, Board Member

MS. JENNIFER VAN WIE, Board Member

MS. ANASTASIA PALIVOS, Board Member

MR. ANAND RAO, Board Member

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

BY: MS. SALLY CARTER (via video)

MR. JASON SCHNEPP (via video)

1021 North Grand Avenue East

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(217) 782-5544

On behalf of the Illinois

Environmental Protection Agency;

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APPEARANCES: (Continued)

HEPLER BROOM, LLC

BY: MS. MELISSA BROWN (via video)

MR. ALEX DAVIS

MS. LADONNA DRIVER

4340 Acer Grove Drive

Springfield, Illinois 62711

(217) 993-6077

On behalf of the Illinois

Environmental Regulatory Group.

ALSO PRESENT:

MR. COLIN CAMPBELL

1 HEARING OFFICER PAULEY: Good morning and
2 welcome to the Illinois Pollution Control Board
3 hearing. My name is Daniel Pauley, and I am the
4 hearing officer for the rulemaking proceedings
5 entitled, Amendments to Part 203, Major Stationary
6 Courses Construction and Modification; 204,
7 Prevention of Significant Deterioration; and 232,
8 Toxic Air Contaminants of Forced Air Pollution.
9 The board docket number for this rulemaking is
10 R22-17.

11 Also present today from the board here in
12 Springfield, we have Board Member Michelle Gibson
13 and Attorney Advisor Chloe Salk. In Chicago we
14 have Board Member Anastasia Palivos, assigned board
15 member, Advisor Attorney Carlie Leoni, and Anand
16 Rao, Board's technical unit, as well as Vanessa
17 Horton, advisor to the chair.

18 And I don't think -- am I missing anybody,
19 Anand?

20 MR. RAO: No.

21 HEARING OFFICER PAULEY: This hearing is
22 governed by the board's procedural rules. All
23 information that is relevant is not --

24 (Reporter clarification.)

1 HEARING OFFICER PAULEY: This hearing is
2 governed by the Board's procedural rules. All
3 information that is relevant and that is not
4 repetitious or privileged will be admitted into the
5 record. Please bear in mind that any questions
6 posed today by the Board and its staff are intended
7 solely to help develop a clear and complete record
8 for the Board's decision and do not reflect any
9 decision on the proposal estimate.

10 For the sake of our court reporter, please
11 speak clearly and avoid speaking at the same time
12 as another person so that we can produce a clear
13 transcript.

14 The Illinois Environmental Regulatory
15 Group, or IERG, filed this rulemaking proposal to
16 the Board on August 16th of 2021.

17 MR. RAO: Danny, are we losing you?

18 HEARING OFFICER PAULEY: I was hearing a lot of
19 rustling, so I was waiting for a second.

20 In mid December 2021, the Board published
21 notice of this hearing in eleven newspapers across
22 the state. December 10, 2021, the hearing officer
23 directed participants intending to testify at this
24 hearing to prefile their testimony by January 6,

1 2022. On that day the Board received prefiled
2 testimony on behalf of IERG by Alec Davis and Colin
3 Campbell. No other participants prefiled
4 testimony.

5 January 27 with the hearing officer order,
6 the Board attached 31 questions with the hope of
7 expediting a hearing without requiring a written
8 response or setting a deadline for one.

9 February 15, 2022, IERG prefiled answers
10 to the Board's questions.

11 Next we will begin with IERG's prefiled
12 testimony of Alec Davis.

13 (Reporter clarification.)

14 HEARING OFFICER PAULEY: Section 104.424F of
15 the Board's procedural rules provides that this
16 prefiled testimony will be entered into the record
17 as if read.

18 IERG and Mr. Davis may begin with your
19 brief introduction or summary if they wish to do
20 so. We'll then turn to questions for Mr. Davis.
21 Following this, we will move to the second IERG
22 witness prefiled testimony, Mr. Colin Campbell, and
23 also will be entered into the record as if read.
24 Mr. Campbell may begin with a brief introduction or

1 summary if he wishes to do so. We will then turn
2 to questions for Mr. Campbell.

3 As time allows, we can determine whether
4 anyone wishes to offer a public comment.

5 Hearing and seeing none, we will continue.

6 So IERG -- will the court reporter please
7 swear in the first IERG witness, Mr. Davis?

8 (WHEREUPON, the witness was
9 duly sworn.)

10 HEARING OFFICER PAULEY: As mentioned earlier,
11 the prefiled testimony is entered into the record
12 as if read. This is prefiled testimony exhibit?

13 MS. BROWN: Yes, please.

14 HEARING OFFICER PAULEY: Thank you.

15 Does IERG or Mr. Davis wish to offer a
16 brief introduction or summary?

17 MR. DAVIS: My name is Alec Davis, executive
18 director at the Illinois Environmental Regulatory
19 Group, or IERG, IERG is an Illinois nonprofit
20 corporation affiliated with the Illinois Chamber of
21 Commerce. It is comprised of 50 member companies
22 that are regulated by governmental agencies that
23 promulgate, enforce or administer environmental
24 laws, rules, regulations or other policies. IERG

1 was founded in 1985 and is a frequent participant
2 in regulatory development and rulemakings that have
3 the potential to impact businesses in Illinois.

4 In this rulemaking IERG proposes to amend
5 the Pollution Control Board's review regulations at
6 35 Illinois Administrative Code, Part 203. IERG's
7 proposal intended to make the Board's nonattainment
8 new source review regulations up to date and
9 consistent with the federal nonattainment resource
10 review regulation. Part 203 was last amended in
11 1998, and significant amendments to the federal
12 regulations have been made since that time.

13 As such, not only does IERG's proposal
14 make Part 203 language more consistent with the
15 federal regulatory language, but also provisions
16 are present in the federal regulations but are not
17 in the current Part 203 regulations. Amendments
18 are also intended to make --

19 (Reporter clarification.)

20 MR. DAVIS: The proposed amendments are also
21 intended to make the nonattainment new source
22 review regulations at Part 203 as consistent as
23 possible with the regulatory structure and language
24 used in the prevention of significant deterioration

1 rules at 35 Illinois Administrative Code, Part 204.

2 Thank you.

3 HEARING OFFICER PAULEY: All right. I'd also
4 like to make a note that Member Van Wie has joined
5 the meeting or hearing.

6 As I stated earlier, IERG prefiled answers
7 to the Board's questions on February 15, 2022. If
8 there's no objection, we will enter Mr. Davis's
9 answers into the record as if read.

10 Thank you.

11 If Mr. Davis is ready, we'll proceed to
12 any questions. If any member of the audience has a
13 question, raise your hand, get my attention, and
14 we'll go from there.

15 All right. Without hearing anybody asking
16 any questions, we'll move on to the next witness.

17 Thank you, Mr. Davis.

18 MR. RAO: Danny, I thought you were waiting for
19 the audience to ask questions. I have one
20 follow-up.

21 HEARING OFFICER PAULEY: Sorry. Go ahead.
22 Sorry, I was including you in that statement. I'm
23 sorry.

24 MR. RAO: No worries.

1 hearing exhibit?

2 MS. BROWN: Yes.

3 HEARING OFFICER PAULEY: Thank you.

4 Does IERG or Mr. Campbell wish to offer a
5 brief introduction or summary?

6 MR. CAMPBELL: No, thank you.

7 HEARING OFFICER PAULEY: As stated early, IERG
8 prefiled questions to the Board's questions on
9 February 15, 2022. If there's no objection, we
10 will enter Mr. Campbell's answers into the record
11 as if read.

12 And if Mr. Campbell is ready we'll proceed
13 to any further questions that people may have.

14 MR. RAO: I don't have any questions.

15 HEARING OFFICER PAULEY: Thank you.

16 That's it for Mr. Campbell then. Nobody
17 has questions.

18 Is there anybody who wishes to offer a
19 public comment?

20 So let me take a moment to address the
21 issue of an economic impact statement. Section 27B
22 of the Environmental Protection Act provides that
23 the Board must request that the Department of
24 Commerce and Economic Opportunity, DCEO, conduct an

1 economic impact study of proposed rules before the
2 Board adopts the rules.

3 The Board must make either the economic
4 impact study or the department's explanation for
5 not conducting one available to the public at least
6 20 days before a public hearing.

7 In a letter dated September 9, 2021, the
8 Board's chair, Barbara Flynn Currie, requested that
9 DCEO conduct an economic impact study of this
10 rulemaking proposal.

11 November 22, 2021, the Board received a
12 letter from the DCEO declining to conduct an
13 economic impact study.

14 Is there anyone present today who would
15 like to testify regarding the Board's request for a
16 study and DCEO's response?

17 We'll go off the record for a minute.

18 (WHEREUPON, a short recess was
19 taken.)

20 HEARING OFFICER PAULEY: All right. So we went
21 off the record to discuss procedural issues. The
22 pre-filing deadline for the second hearing is
23 March 10, 2022, for the April 7, 2022, hearing held
24 between Springfield and Chicago.

1 A copy of the transcripts of today's
2 hearing are expected to be later no later than
3 Thursday, February 24, 2022. Promptly after the
4 Board receives the transcript it will be posted to
5 COOL, our online clerk system, from which it can be
6 viewed and printed.

7 Are there any other matters that need to
8 be addressed at this time?

9 MS. CARTER: This is the Illinois EPA,
10 Sally Carter. The agency does intend on
11 posthearing comments, so I just wanted to make the
12 Board aware of that. So I don't know if you guys
13 would like a date that those would qualify or what
14 you're looking for. I wanted to make you aware of
15 that.

16 HEARING OFFICER PAULEY: Thank you. Did you
17 guys have a date in mind that you would -- can we
18 go off the record for just a minute?

19 (WHEREUPON, a discussion was had
20 off the record.)

21 HEARING OFFICER PAULEY: All right. So we just
22 discussed IERG filing post hearing comments, and
23 they are going to file at least two weeks before
24 the next hearing which again is April 7, 2022.

1 MS. CARTER: You said IERG.

2 HEARING OFFICER PAULEY: I apologize. IEPA is
3 to file the posthearing comments.

4 All right. So are there any other matters
5 that need to be addressed at this time?

6 Seeing none, I would like to thank
7 everyone for participating today. This first
8 hearing is adjourned.

9 (WHEREUPON, these were all the
10 proceedings had at this time.)

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1 STATE OF ILLINOIS)
2) SS:
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5 RAELENE STAMM being first duly sworn, on
6 oath says that she is a court reporter doing
7 business in the City of Chicago; and that she
8 reported in shorthand the proceedings of said
9 hearing, and that the foregoing is a true and
10 correct transcript of her shorthand notes so taken
11 as aforesaid, and contains the proceedings given at
12 said hearing.

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Certified Shorthand Reporter

<p style="text-align: center;">A</p> <p>a.m 1:19 above-entitled 1:15 Acer 3:7 Act 11:22 address 11:20 addressed 13:8 14:5 adjourned 14:8 Adm 1:5,8 administer 7:23 Administrative 8:6 9:1 admitted 5:4 adopts 12:2 advisor 4:13,15 4:17 affiliated 7:20 aforsaid 15:11 agencies 7:22 agency 2:10,18 13:10 ahead 9:21 Air 1:11 4:8,8 Alec 6:2,12 7:17 10:1 ALEX 3:5 allows 7:3 amend 8:4 amended 8:10 amendments 1:5 4:5 8:11,17,20 Anand 2:8 4:15 4:19 Anastasia 2:7 4:14 answer 10:5 answers 6:9 9:6,9 10:2 11:10 anybody 4:18 9:15 11:18 apologize 14:2 APPEARANCES 2:1 3:1</p>	<p>April 12:23 13:24 asking 9:15 assigned 4:14 attached 6:6 attention 9:13 Attorney 4:13,15 audience 9:12,19 August 5:16 available 12:5 Avenue 2:13 avoid 5:11 aware 13:12,14</p> <p style="text-align: center;">B</p> <p>B 10:8 Barbara 12:8 basically 10:7 bear 5:5 behalf 2:17 3:10 6:2 board 1:1,17 2:5,6 2:7,8 4:2,9,11 4:12,14,14 5:6 5:16,20 6:1,6 10:3 11:23 12:2 12:3,11 13:4,12 board's 4:16,22 5:2,8 6:10,15 8:5,7 9:7 11:8 12:8,15 Box 2:14 brief 6:19,24 7:16 11:5 BROOM 3:3 BROWN 3:4 7:13 10:13 11:2 business 15:7 businesses 8:3</p> <p style="text-align: center;">C</p> <p>C 15:3 called 1:16 Campbell 3:15 6:3,22,24 7:2 10:18 11:4,6,12 11:16</p>	<p>Campbell's 11:10 Carlie 4:15 Carter 2:11 13:9 13:10 14:1 cause 1:15 Certified 15:15 chair 4:17 12:8 Chamber 7:20 Chicago 1:17 4:13 12:24 15:7 Chloe 2:4 4:13 City 15:7 clarification 4:24 6:13 8:19 clear 5:7,12 clearly 5:11 clerk 13:5 Code 1:5,8 8:6 9:1 Colin 3:15 6:2,22 commencing 1:18 comment 7:4 11:19 comments 13:11 13:22 14:3 Commerce 7:21 11:24 companies 7:21 complete 5:7 comprised 7:21 conduct 11:24 12:9,12 conducting 12:5 consistent 8:9,14 8:22 Construction 1:7 4:6 contains 15:11 Contaminants 1:11 4:8 continue 7:5 Continued 3:1 Control 1:1,16 4:2 8:5 COOL 13:5 copy 13:1</p>	<p>corporation 7:20 correct 15:10 COUNTY 15:3 Courses 4:6 court 5:10 7:6 10:16 15:6 CSR 1:23 current 8:17 Currie 12:8 CYNTHIA 2:5</p> <p style="text-align: center;">D</p> <p>Daniel 1:15 2:3 4:3 Danny 5:17 9:18 database 10:9 date 8:8 13:13,17 dated 12:7 Davis 3:5 6:2,12 6:18,20 7:7,15 7:17,17 8:20 9:11,17 Davis's 9:8 day 1:18 6:1 days 12:6 DCEO 11:24 12:9 12:12 DCEO's 12:16 deadline 6:8 12:22 December 5:20,22 decision 5:8,9 declining 12:12 Department 11:23 department's 12:4 detailed 10:2 deterioration 1:10 4:7 8:24 determine 7:3 develop 5:7 development 8:2 directed 5:23 director 7:18</p>	<p>discuss 12:21 discussed 13:22 discussion 13:19 docket 4:9 doing 15:6 Drive 3:7 DRIVER 3:6 duly 7:9 10:20 15:5</p> <p style="text-align: center;">E</p> <p>earlier 7:10 9:6 10:22 early 11:7 East 2:13 economic 11:21 11:24 12:1,3,9 12:13 either 12:3 eleven 5:21 enforce 7:23 enter 9:8 11:10 entered 6:16,23 7:11 10:23 entitled 4:5 environmental 2:10,18 3:11 5:14 7:18,23 11:22 EPA 13:9 estimate 5:9 executive 7:17 exhibit 7:12 11:1 expected 13:2 expediting 6:7 explanation 12:4</p> <p style="text-align: center;">F</p> <p>February 1:18 6:9 9:7 11:9 13:3 federal 8:9,11,15 8:16 file 13:23 14:3 filed 5:15 filing 13:22 first 7:7 14:7 15:5</p>
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Flynn 12:8 follow-up 9:20 10:3,6 Following 6:21 Forced 4:8 foregoing 15:9 founded 8:1 frequent 8:1 further 11:13	IEPA 14:2 IERG 5:15 6:2,9 6:18,21 7:6,7,15 7:19,19,24 8:4 9:6 10:12,17 11:4,7 13:22 14:1 IERG's 6:11 8:6 8:13 10:7	laws 7:24 Leoni 4:15 letter 12:7,12 License 1:24 LLC 3:3 looking 13:14 losing 5:17 lot 5:18	number 4:9	post 13:22 posted 13:4 posthearing 13:11 14:3 potential 8:3 pre-filing 12:22 prefile 5:24 prefiled 6:1,3,9,11 6:16,22 7:11,12 9:6 10:22,24 11:8 present 3:13 4:11 8:16 12:14 prevention 1:9 4:7 8:24 printed 13:6 privileged 5:4 procedural 4:22 5:2 6:15 12:21 proceed 9:11 11:12 proceedings 1:14 4:4 14:10 15:8 15:11 produce 5:12 Promptly 13:3 promulgate 7:23 proposal 5:9,15 8:7,13 12:10 proposed 8:20 12:1 proposes 8:4 Protection 2:10 2:18 11:22 provided 10:2 provides 6:15 11:22 provisions 8:15 public 7:4 11:19 12:5,6 published 5:20 put 10:14	
<hr/> G <hr/> Gibson 4:12 given 15:11 go 9:14,21 12:17 13:18 going 13:23 Good 4:1 governed 4:22 5:2 governmental 7:22 Grand 2:13 Group 3:11 5:15 7:19 Grove 3:7 guys 13:12,17	Ill 1:5,8 Illinois 1:1,16,17 2:10,15,17 3:8 3:10 4:2 5:14 7:18,19,20 8:3,6 9:1 13:9 15:1 image 10:9 impact 8:3 11:21 12:1,4,9,13 including 9:22 information 4:23 5:3 10:9,10,12 intend 13:10 intended 5:6 8:7 8:18,21 intending 5:23 introduction 6:19 6:24 7:16 11:5 inventory 10:9,10 issue 11:21 issues 12:21	<hr/> M <hr/> Major 1:6 4:5 March 12:23 MATTER 1:3 matters 13:7 14:4 meeting 9:5 MELISSA 3:4 member 2:5,6,7,8 4:12,14,15 7:21 9:4,12 mentioned 7:10 10:22 Michelle 4:12 mid 5:20 mind 5:5 13:17 minute 12:17 13:18 missing 4:18 Modification 1:8 4:6 moment 11:20 morning 4:1 10:1 move 6:21 9:16	<hr/> O <hr/> O 15:3,3 oath 15:6 objection 9:8 11:9 offer 7:4,15 11:4 11:18 officer 1:15 2:3 4:1,4,21 5:1,18 5:22 6:5,14 7:10 7:14 9:3,21 10:16,21 11:3,7 11:15 12:20 13:16,21 14:2 online 13:5 Opportunity 11:24 order 6:5	<hr/> P <hr/> Palivos 2:7 4:14 part 1:6,9,11 4:5 8:6,10,14,17,22 9:1 10:11 participant 8:1 participants 5:23 6:3 participating 14:7 Pauley 1:16 2:3 4:1,3,21 5:1,18 6:14 7:10,14 9:3 9:21 10:16,21 11:3,7,15 12:20 13:16,21 14:2 people 11:13 person 5:12 10:5 please 5:5,10 7:6 7:13 10:17 PO 2:14 policies 7:24 Pollution 1:1,16 4:2,8 8:5 posed 5:6 possible 8:23 10:11	<hr/> Q <hr/> qualify 13:13
<hr/> H <hr/> hand 9:13 hearing 1:15 2:3 4:1,3,4,21,21 5:1,1,18,18,21 5:22,24 6:5,7,14 7:5,10,14 9:3,5 9:15,21 10:16,21 11:1,3,7,15 12:6 12:20,22,23 13:2 13:16,21,22,24 14:2,8 15:9,12 held 1:14 12:23 help 5:7 HEPLER 3:3 hope 6:6 Horton 4:17 hour 1:19	<hr/> J <hr/> January 5:24 6:5 JASON 2:12 JENNIFER 2:6 joined 9:4	<hr/> N <hr/> name 4:3 7:17 need 13:7 14:5 new 8:8,21 newspapers 5:21 nonattainment 8:7,9,21 nonprofit 7:19 North 2:13 note 9:4 notes 15:10 notice 5:21 November 12:11			
<hr/> I <hr/>	<hr/> K <hr/> K 15:3 kind 10:8 know 10:4 13:12	<hr/> L <hr/> LADONNA 3:6 language 8:14,15 8:23			

<p>question 9:13 10:4 questions 5:5 6:6 6:10,20 7:2 9:7 9:12,16,19 10:8 11:8,8,13,14,17</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>R22-17 1:5 4:10 Raelene 1:23 15:5 raise 9:13 Randolph 1:17 Rao 2:8 4:16,20 5:17 9:18,24 10:15 11:14 read 6:17,23 7:12 9:9 10:23 11:11 ready 9:11 11:12 received 6:1 12:11 receives 13:4 recess 12:18 record 5:5,7 6:16 6:23 7:11 9:9 10:11,13,14,23 11:10 12:17,21 13:18,20 reference 10:4 referred 10:8 reflect 5:8 regarding 12:15 regulated 7:22 regulation 8:10 regulations 7:24 8:5,8,12,16,17 8:22 regulatory 3:11 5:14 7:18 8:2,15 8:23 relevant 4:23 5:3 repetitious 5:4 REPORT 1:14 reported 1:23 15:8 reporter 4:24 5:10 6:13 7:6 8:19</p>	<p>10:17 15:6,15 request 11:23 12:15 requested 12:8 requiring 6:7 resource 8:9 response 6:8 10:7 12:16 review 8:5,8,10,22 right 9:3,15 12:20 13:21 14:4 rulemaking 4:4,9 5:15 8:4 12:10 rulemakings 8:2 rules 4:22 5:2 6:15 7:24 9:1 12:1,2 rustling 5:19</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>sake 5:10 Salk 2:4 4:13 Sally 2:11 13:10 SANTOS 2:5 says 15:6 SCHNEPP 2:12 second 5:19 6:21 10:17 12:22 Section 6:14 11:21 seeing 7:5 14:6 September 12:7 setting 6:8 short 12:18 shorthand 15:8 15:10,15 significant 1:10 4:7 8:11,24 solely 5:7 sorry 9:21,22,23 source 8:8,21 Sources 1:7 speak 5:11 speaking 5:11 Springfield 2:15</p>	<p>3:8 4:12 12:24 SS 15:2 staff 5:6 Stamm 1:23 15:5 state 5:22 15:1 stated 9:6 11:7 statement 9:22 11:21 Stationary 1:6 4:5 Street 1:17 structure 8:23 study 12:1,4,9,13 12:16 submit 10:12 summary 6:19 7:1 7:16 11:5 swear 7:7 10:17 sworn 7:9 10:20 15:5 system 13:5</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>take 11:20 taken 12:19 15:10 technical 4:16 testify 5:23 12:15 testimony 5:24 6:2,4,12,16,22 7:11,12 10:22,24 thank 7:14 9:2,10 9:17 10:1,15,21 11:3,6,15 13:16 14:6 think 4:18 thought 9:18 Thursday 13:3 time 5:11 7:3 8:12 10:14 13:8 14:5 14:10 today 4:11 5:6 12:14 14:7 today's 13:1 Toxic 1:11 4:8 transcript 5:13 13:4 15:10</p>	<p>transcripts 13:1 true 15:9 turn 6:20 7:1 two 13:23</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>unit 4:16</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>Van 2:6 9:4 Vanessa 4:16 video 2:3,4,11,12 3:4 viewed 13:6</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>waiting 5:19 9:18 wanted 13:11,14 we'll 6:20 9:11,14 9:16 11:12 12:17 we're 10:9 weeks 13:23 welcome 4:2 went 12:20 West 1:17 Wie 2:6 9:4 wish 6:19 7:15 11:4 wishes 7:1,4 11:18 witness 6:22 7:7,8 9:16 10:17,19 witness's 10:24 wondering 10:10 worries 9:24 written 6:7</p> <hr/> <p style="text-align: center;">X</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p style="text-align: center;">Z</p> <hr/> <p style="text-align: center;">0</p> <hr/> <p>084-004445 1:24</p> <hr/> <p style="text-align: center;">1</p>	<p>10 5:22 12:23 100 1:17 1021 2:13 104.424F 6:14 14A 10:4,8 15 6:9 9:7 11:9 16th 5:16 17th 1:18 19276 2:14 1985 8:1 1998 8:11</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>20 12:6 2021 5:16,20,22 12:7,11 2022 1:18 6:1,9 9:7 11:9 12:23 12:23 13:3,24 203 1:6 4:5 8:6,10 8:14,17,22 204 1:9 4:6 9:1 217 2:16 3:9 22 12:11 232 1:11 4:7 24 13:3 27 6:5 27B 11:21</p> <hr/> <p style="text-align: center;">3</p> <hr/> <p>31 6:6 35 1:5,8 8:6 9:1</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>4340 3:7</p> <hr/> <p style="text-align: center;">5</p> <hr/> <p>50 7:21</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>6 5:24 62711 3:8 62794 2:15</p> <hr/> <p style="text-align: center;">7</p> <hr/> <p>7 12:23 13:24</p>
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