Page 1
BEFORE THE ILLINOIS POLLUTION CONTROL BOARD.

IN THE MATTER OF:

)
AMENDMENTS TO

) No. R18-23

35 ILL. ADM. CODE 620
)
SUBTITLE C: WATER POLLUTION )

REPORT OF THE PROCEEDINGS held in the above-entitled cause before Hearing Officer

TIMOTHY FOX, called by the Illinois Pollution

Control Board, taken by Raelene Stamm, CSR, for the State of Illinois, 100 West Randolph Street,

Chicago, Illinois, on the 17th day of March, 2022, commencing at the hour of 10:00 a.m.

Reported By: Raelene Stamm, CSR

License No.: 084-004445

		Page 2			
1	APPEARANCES:				
2					
3	MR. TIMOTHY FOX, Hearing Officer				
4	MS. JENNIFER VAN WIE, Member				
5	MS. CYNTHIA SANTOS, Member				
6					
7	ILLINOIS ENVIRONMENTAL PROTECTION AGENCY				
8	BY: MS. STEFANIE DIERS (via video)				
9	MR. SCOTT TWAIT (via video)				
10	MR. NICK KONDELIS, (via video)				
11	1021 North Grand Avenue East				
12	PO Box 19276				
13	Springfield, Illinois 62794				
14	(217) 782-5544				
15	On behalf of the Illinois				
16	Environmental Protection Agency;				
17					
18	HEPLER BROOM, LLC				
19	BY: MS. MELISSA BROWN (via video)				
20	4340 Acer Grove Drive				
21	Springfield, Illinois 62711				
22	(217) 993-6077				
23	On behalf of the Illinois				
24	Environmental Regulatory Group.				

			Page	3
1	ALSO	PRESENT:		
2				
3		MR. BRANT FLEMING (via video)		
4		MR. MARK LISKA (via video)		
5		MS. YETUNDE AGBESOLA (via video)		
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Page 4

HEARING OFFICER FOX: Good morning and welcome to this Illinois Pollution Control Board hearing.

My name is Tim Fox, and Mark Kaminski and I are the assigned hearing officers for this rulemaking entitled, Amendments to 35 Illinois Administrative Code, Subtitle C, Water Pollution. The Board Docket Number for this rulemaking is R18-23.

First, introductions, present today here in Chicago from the Board are Members Cynthia

Santos at my right and Jennifer Van Wie at my left, the two assigned Board members to this rulemaking.

I saw in Chicago that our fiscal officer Bruce

Bennett was there. He's not visible in camera, but I believe he was planning on staying for the hearing.

Secondly, some background on this docket.

January 10, 2018, the Illinois Environmental

Protection Agency filed a rulemaking proposal under the governor's Executive Order Number 16-13. That order directed state agencies to review regulations to identify those that are either outdated, repetitive, confusing, unnecessary or harmful to the state's economy, and the order directed agencies to amend or repeal those regulations as

Page 5

necessary.

IEPA's proposal included numerous changes to these Subtitle C regulations. At the same time the Board had begun its own review of its rules, and on March 22, 2018, the Board opened this docket specifically to address its Subtitle C.

On November 4 of 2021, the Board adopted a proposal for public comment which requested comment both generally and on 41 specific matters. IEPA filed detailed responses on December 30 of 2021.

The Board held its first hearing on the proposal on January 6 of 2022, and originally schedule A second hearing on February 3 of this year, but it was necessary to cancel and reschedule that hearing because of unusually severe winter weather and a disaster proclamation by the governor.

So today is of course our rescheduled second hearing. The Board published notice on February 4, 2022, in both the Chicago Sun Times and the Springfield Journal Register.

A hearing officer ordered directed participants intending to testify at this hearing to prefile their testimony by Thursday, March 10 of

Page 6

2022, but the Board did not receive any prefiled testimony for this video hearing. Any document to be offered as a hearing exhibit must have been received by the Board's clerk at least 24 hours before our scheduled start date. The Board of course did not receive any exhibits either. However, the rules specifically allow a participant to file a document that's not allowed as a hearing exhibit as a public comment at a later date.

Some quick housekeeping, this hearing is governed by the Board's procedural rules. All information that is relevant and that is not repetitious or privileged will be admitted into the record. Please bear in mind that any questions that may be posed today by the Board members or staff are intended solely to help develop a clear and complete record for the Board's decisions and do not reflect any decision on the proposal, the testimony or any comments.

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

Finally, our proposed order today, we can

Page 7 1 begin with any persons who indicate that they would 2 like to offer a public comment on the Board's 3 November 4 proposal. There's a sign-in sheet at or near the entrance to each of the two Board hearing 4 5 rooms. Please note that public comments can also 6 be submitted electronically through the clerk's 7 office online or COOL. Next we would ordinarily turn to prefiled 8 9 testimony. As I of course mentioned, we did not receive any. We then can see whether there is 10 11 anyone who did not prefile testimony, but would 12 like to testify here today as the Board's rules 13 allow. Fourth, we'll then address the Board's 14 15 request that the Department of Commerce and 16 Economic Opportunity, or DCEO, conduct an economic impact study. And then before we adjourn we can 17 18 again quickly determine whether there is anyone 19 else who would like to offer a public comment. 20 Any questions about that proposed order of 21 proceeding today? MS. DIERS: Here in Springfield, none. 22 23 HEARING OFFICER FOX: Miss Diers, thank you. 24 Since we, as I mentioned of course, did

Page 8 not receive prefiled testimony, let me quickly 1 2. determine whether there's anyone there in 3 Springfield or here in Chicago that did not prefile 4 testimony, but would like to testify today. 5 Neither seeing, nor hearing any indication 6 that there is, we can move on to the issue of the 7 economic impact study. Section 27(b) of the Environmental 8 Protection Act provides that the Board must request 9 the DCEO conduct an economic study of proposed 10 11 rules before the Board adopts them. The Board then 12 must make either the study or DCEO's explanation 13 for not conducting one available to the public at least 20 days before a public hearing. 14 15 In a letter dated October 26 of 2021, the 16 Board's chair Barbara Flynn Currie requested the 17 DCEO conduct an economic impact study of this 18 proposal. The Board specifically requested a 19 response no later than December 10 of 2021. 20 On November 17 of last year, the Board received a response from the acting director of 21 DCEO which respectfully declined the request to 22 23 perform an economic impact study. 24 Is there anyone who would like to testify

Page 9 1 regarding either the Board's request or DCEO's 2. response? 3 Neither seeing, nor hearing any in Springfield or in Chicago, let me quickly determine 4 5 whether there is anyone who would like to offer a 6 public comment on the Board's proposal. In Chicago 7 I can see that our sign-in sheet does not include a 8 name. 9 Miss Diers, if I may ask you, is there 10 anyone who appears to wish to offer a comment 11 there? There's no one in Springfield. 12 MS. DIERS: 13 HEARING OFFICER FOX: I am not surprised by Thanks for your help on that detail. 14 that answer. 15 I think we're ready to adjourn pretty 16 fairly quickly. The court reporter indicates that 17 our transcript of this lengthy hearing should be available no later than Thursday, March 24. 18 19 I'd propose is the standard 14-day comment deadline 20 with posthearing comments due on Thursday, April 7. Is there anyone there in Springfield that 21 would have any objection to that proposed date or 22 23 propose another date?

MS. DIERS: April 2 is fine with the agency.

24

Page 10 1 HEARING OFFICER FOX: I'm sorry. I may not 2 have been clear, Miss Diers, April 7. 3 MS. DIERS: I'm sorry. Okay. We're fine on 4 April 7, right? Yes, we can do April 7. 5 HEARING OFFICER FOX: Excellent. That's again 6 allowing one week to receive the transcript and 7 then two weeks for the posthearing comments, and I'm fairly certain that works out to be Thursday, 8 April 7. 9 MS. DIERS: Perfect. Thank you. 10 11 HEARING OFFICER FOX: I'm glad you said 2nd, 12 Miss Diers. That let me give you effectively five 13 extra days. Thank you. I love it. 14 MS. DIERS: 15 HEARING OFFICER FOX: No worries at all. 16 Then hearing no other proposed date or no 17 objection, the posthearing comments will be due on 18 Thursday, April 7. Please note that filing such as 19 these posthearing comments must also be served on 20 the hearing officer and on participants that are on the Board's service list. Before filing, please 21 22 check with COOL or with the Board's clerk by 23 telephone to ensure that you have the most recent 24 version of the Board's service list.

Page 11 1 Miss Diers or Miss Brown, are there any 2 other issues or matters that need to be addressed 3 before we adjourn? 4 MS. BROWN: Not on behalf of EIRG, no. 5 MS. DIERS: Not on behalf of the agency. 6 HEARING OFFICER FOX: Miss Brown, I should've 7 asked you, if you don't mind, just to identify yourself for the record. 8 (Reporter clarification.) 9 10 HEARING OFFICER FOX: Miss Brown, I'm sorry for 11 the interruption, for the record if you just could 12 identify yourself for the record. 13 MS. BROWN: Absolutely. Melissa Brown, M-e-l-i-s-s-a, last name Brown, B-r-o-w-n, outside 14 15 counsel for the Illinois Environmental Regulatory 16 Group also known as EIRG, I-E-R-G. 17 HEARING OFFICER FOX: Miss Brown, thank you. 18 And, Miss Diers, if I may ask you and the 19 representatives of the EPA to do the same thing, 20 please. MS. DIERS: Absolutely. It's Stefanie Diers, 21 it's S-t-e-f-a-n-i-e, Diers is D-i-e-r-s, counsel 22 23 for Illinois EPA. And then I'll let our folks 24 introduce themselves and spell their names for the

Page 12 1 court reporter. 2. MR. TWAIT: Scott Twait, T-w-a-i-t, Illinois 3 EPA Water Quality Standards Section. MR. KONDELIS: Nick Kondelis, K-o-n-d-e-l-i-s, 4 5 attorney with Illinois EPA. 6 Brant Fleming, B-r-a-n-t, MR. FLEMING: 7 F-l-e-m-i-n-g, Division of Water Pollution Control 8 Permits. MR. LISKA: Mark Liska, M-a-r-k, L-i-s-k-a, 9 Bureau of Water and Division of Water Pollution 10 11 Control. 12 MS. DIERS: We have one more. 13 MS. YETUNDE: Aqbesola Yetunde spelled Y-e-t-u-n-d-e, the last is A-g-b-e-s-o-l-a, Water 14 15 Quality Standards Environmental Protection Agency 16 Specialist. 17 HEARING OFFICER FOX: Thank you. Miss Diers, that's the full range of your staff for this 18 19 hearing; is that correct? MS. DIERS: Yes, it is. Thank you. 20 HEARING OFFICER FOX: Excellent. And I think I 21 22 asked once before, it's worth repeating. 23 interest any other details we would need to wrap up 24 or things to address before we adjourn?

	Page 13
1	MS. DIERS: Not here in Springfield.
2	HEARING OFFICER FOX: Not here in Chicago
3	either, so we can adjourn. Thank you all for your
4	participation. We'll look forward to any final
5	posthearing comments and determine whether to
6	proceed to first notice very shortly after that.
7	Thank you all.
8	(WHEREUPON, these were all the
9	proceedings had at this time.)
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	Page 14
1	STATE OF ILLINOIS )
2	) SS:
3	COUNTY OF C O O K )
4	
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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15	Certified Shorthand Reporter
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22	
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24	

	9:18	Chicago 1:16 4:0	days 8:14 10:13	entitled 4:5
<u>A</u>	<b>Avenue</b> 2:11	<b>Chicago</b> 1:16 4:9 4:12 5:20 8:3	DCEO 7:16 8:10	entrance 7:4
A-g-b-e-s-o-l-a	avoid 6:21	9:4,6 13:2 14:7	8:17,22	Environmental
12:14	avolu 0.21	City 14:7	DCEO's 8:12 9:1	2:7,16,24 4:17
<b>a.m</b> 1:17	В	clty 14.7 clarification 11:9	<b>deadline</b> 9:19	8:8 11:15 12:15
above-entitled	B-r-a-n-t 12:6	clear 6:16,22 10:2	December 5:10	<b>EPA</b> 11:19,23
1:12	<b>B-r-o-w-n</b> 11:14	clearly 6:21	8:19	12:3,5
Absolutely 11:13	background 4:16	clearly 0.21 clerk 6:4 10:22	decision 6:18	Excellent 10:5
11:21	Barbara 8:16	clerk's 7:6	decisions 6:17	12:21
Acer 2:20	bear 6:14	Code 1:6 4:6	declined 8:22	Executive 4:19
Act 8:9	begun 5:4	commencing 1:17	Department 7:15	exhibit 6:3,9
acting 8:21	behalf 2:15,23	comment 5:8,8	detail 9:14	exhibits 6:6
address 5:6 7:14	11:4,5	6:9 7:2,19 9:6	detailed 5:10	explanation 8:12
12:24	believe 4:14	9:10,19	details 12:23	extra 10:13
addressed 11:2	Bennett 4:13	comments 6:19	determine 7:18	<b>CALIA</b> 10.13
adjourn 7:17 9:15	<b>Board</b> 1:1,14 4:2	7:5 9:20 10:7,17	8:2 9:4 13:5	F
11:3 12:24 13:3	4:6,9,11 5:4,5,7	10:19 13:5	develop 6:16	F-l-e-m-i-n-g 12:7
<b>ADM</b> 1:6	5:11,19 6:1,5,15	Commerce 7:15	Diers 2:8 7:22,23	<b>fairly</b> 9:16 10:8
Administrative	7:4 8:9,11,11,18	complete 6:17	9:9,12,24 10:2,3	<b>February</b> 5:13,20
4:5	8:20	conduct 7:16 8:10	10:10,12,14 11:1	file 6:8
admitted 6:13	<b>Board's</b> 6:4,11,17	8:17	11:5,18,21,21,22	<b>filed</b> 4:18 5:10
adopted 5:7	7:2,12,14 8:16	conducting 8:13	12:12,17,20 13:1	<b>filing</b> 10:18,21
adopts 8:11	9:1,6 10:21,22	confusing 4:22	directed 4:20,23	<b>final</b> 13:4
aforesaid 14:11	10:24	contains 14:11	5:22	Finally 6:24
<b>Agbesola</b> 3:5 12:13	Box 2:12	Control 1:1,14 4:2	director 8:21	fine 9:24 10:3
	<b>Brant</b> 3:3 12:6	12:7,11	disaster 5:16	<b>first</b> 4:8 5:11 13:6
agencies 4:20,24	<b>BROOM</b> 2:18	COOL 7:7 10:22	<b>Division</b> 12:7,10	14:5
<b>agency</b> 2:7,16 4:18 9:24 11:5	<b>Brown</b> 2:19 11:1	correct 12:19	docket 4:7,16 5:5	fiscal 4:12
12:15	11:4,6,10,13,13	14:10	document 6:2,8	<b>five</b> 10:12
allow 6:7 7:13	11:14,17	counsel 11:15,22	doing 14:6	<b>Fleming</b> 3:3 12:6
allowed 6:8	<b>Bruce</b> 4:12	<b>COUNTY</b> 14:3	<b>Drive</b> 2:20	12:6
allowing 10:6	Bureau 12:10	course 5:18 6:6	due 9:20 10:17	<b>Flynn</b> 8:16
amend 4:24	business 14:7	7:9,24	duly 14:5	<b>folks</b> 11:23
Amendments 1:5		<b>court</b> 6:20 9:16		foregoing 14:9
4:5	<u>C</u>	12:1 14:6	E	forward 13:4
answer 9:14	C 1:7 4:6 5:3,6	<b>CSR</b> 1:14,23	<b>East</b> 2:11	Fourth 7:14
APPEARANCES	14:3	Currie 8:16	<b>economic</b> 7:16,16	Fox 1:13 2:3 4:1,3
2:1	called 1:13	<b>Cynthia</b> 2:5 4:9	8:7,10,17,23	7:23 9:13 10:1,5
appears 9:10	camera 4:13		economy 4:23	10:11,15 11:6,10
<b>April</b> 9:20,24 10:2	cancel 5:14	<b>D</b>	effectively 10:12	11:17 12:17,21
10:4,4,9,18	cause 1:12	<b>D-i-e-r-s</b> 11:22	<b>EIRG</b> 11:4,16	13:2
asked 11:7 12:22	certain 10:8	date 6:5,9 9:22,23	either 4:21 6:6	<b>full</b> 12:18
assigned 4:4,11	Certified 14:15	10:16	8:12 9:1 13:3	G
attorney 12:5	chair 8:16	dated 8:15	electronically 7:6	
available 8:13	changes 5:2	<b>day</b> 1:16	ensure 10:23	generally 5:9
3.10	<b>check</b> 10:22			give 10:12
	•	•	•	•

				1490 10
aivon 14.11	indicate 7.1	Mark 2.4 4.2 12.0	officers 4:4	12.0 14.9 11
given 14:11	indicate 7:1	Mark 3:4 4:3 12:9		13:9 14:8,11
<b>glad</b> 10:11	indicates 9:16	<b>MATTER</b> 1:3	Okay 10:3	proclamation
Good 4:1	indication 8:5	matters 5:9 11:2	once 12:22	5:16
governed 6:11	information 6:12	Melissa 2:19	online 7:7	<b>proposal</b> 4:18 5:2
governor 5:17	intended 6:16	11:13	opened 5:5	5:8,12 6:18 7:3
governor's 4:19	intending 5:23	<b>Member</b> 2:4,5	<b>Opportunity</b> 7:16	8:18 9:6
Grand 2:11	interest 12:23	members 4:9,11	<b>order</b> 4:19,20,23	<b>propose</b> 9:19,23
<b>Group</b> 2:24 11:16	interruption	6:15	6:24 7:20	proposed 6:24
<b>Grove</b> 2:20	11:11	mentioned 7:9,24	ordered 5:22	7:20 8:10 9:22
	introduce 11:24	<b>mind</b> 6:14 11:7	ordinarily 7:8	10:16
H	introductions 4:8	morning 4:1	originally 5:12	<b>Protection</b> 2:7,16
harmful 4:22	issue 8:6	<b>move</b> 8:6	outdated 4:21	4:18 8:9 12:15
<b>hearing</b> 1:12 2:3	issues 11:2		outside 11:14	provides 8:9
4:1,2,4,15 5:11		N		<b>public</b> 5:8 6:9 7:2
5:13,15,19,22,23	J	name 4:3 9:8	P	7:5,19 8:13,14
6:2,3,8,10 7:4	<b>January</b> 4:17 5:12	11:14	participant 6:7	9:6
7:23 8:5,14 9:3	<b>Jennifer</b> 2:4 4:10	names 11:24	participants 5:23	published 5:19
9:13,17 10:1,5	Journal 5:21	near 7:4	10:20	
10:11,15,16,20		necessary 5:1,14	participation 13:4	Q
11:6,10,17 12:17	K	need 11:2 12:23	<b>Perfect</b> 10:10	<b>Quality</b> 12:3,15
12:19,21 13:2	<b>K</b> 14:3	<b>Neither</b> 8:5 9:3	perform 8:23	questions 6:14
14:9,12	K-o-n-d-e-l-i-s	Nick 2:10 12:4	Permits 12:8	7:20
held 1:11 5:11	12:4	North 2:11	person 6:22	quick 6:10
help 6:16 9:14	Kaminski 4:3	note 7:5 10:18	persons 7:1	quickly 7:18 8:1
HEPLER 2:18	known 11:16	notes 14:10	planning 4:14	9:4,16
hour 1:17	Kondelis 2:10	notice 5:19 13:6	please 6:14,20 7:5	7.4,10
hours 6:4	12:4,4	<b>November</b> 5:7 7:3	10:18,21 11:20	R
housekeeping		8:20	PO 2:12	<b>R18-23</b> 1:5 4:7
6:10	L	Number 4:7,19	<b>Pollution</b> 1:1,7,13	<b>Raelene</b> 1:14,23
0.10	<b>L-i-s-k-a</b> 12:9	numerous 5:2	4:2,6 12:7,10	14:5
I	<b>left</b> 4:10	numerous 3.2		Randolph 1:15
<b>I-E-R-G</b> 11:16	lengthy 9:17	0	posed 6:15	range 12:18
identify 4:21 11:7	letter 8:15	<b>O</b> 14:3,3	possible 6:23	ready 9:15
11:12	License 1:24	oath 14:6	posthearing 9:20	receive 6:1,6 7:10
IEPA 5:9	<b>Liska</b> 3:4 12:9,9	objection 9:22	10:7,17,19 13:5	8:1 10:6
IEPA 5:9 IEPA's 5:2	list 10:21,24	10:17	<b>prefile</b> 5:24 7:11	received 6:4 8:21
	LLC 2:18	October 8:15	8:3	
ILL 1:6	look 13:4		prefiled 6:1 7:8	record 6:14,17
Illinois 1:1,13,15	love 10:14	offer 7:2,19 9:5,10	8:1	11:8,11,12
1:16 2:7,13,15	1010 10.17	offered 6:3	<b>present</b> 3:1 4:8	reflect 6:18
2:21,23 4:2,5,17	M	office 7:7	pretty 9:15	regarding 9:1
11:15,23 12:2,5	M-a-r-k 12:9	officer 1:12 2:3	privileged 6:13	Register 5:21
14:1	M-e-l-i-s-s-a	4:1,12 5:22 7:23	procedural 6:11	regulations 4:20
impact 7:17 8:7	11:14	9:13 10:1,5,11	proceed 13:6	4:24 5:3
8:17,23	March 1:16 5:5	10:15,20 11:6,10	proceeding 7:21	Regulatory 2:24
include 9:7	5:24 9:18	11:17 12:17,21	proceedings 1:11	11:15
included 5:2	J.44 7.10	13:2		relevant 6:12
		l	l	ļ

Page 17

				1496 17
repeal 4:24	<b>served</b> 10:19	T	12:3,7,10,10,14	8:19
repeating 12:22	service 10:21,24		we'll 7:14 13:4	<b>2022</b> 1:16 5:12,20
repetitious 6:13	service 10.21,24 severe 5:15	T-w-a-i-t 12:2	we're 9:15 10:3	6:1
_		taken 1:14 14:10		= :
repetitive 4:22	sheet 7:3 9:7	telephone 10:23	weather 5:16	<b>217</b> 2:14,22
<b>REPORT</b> 1:11	shorthand 14:8	<b>testify</b> 5:23 7:12	week 10:6	22 5:5
reported 1:23	14:10,15	8:4,24	weeks 10:7	<b>24</b> 6:4 9:18
14:8	shortly 13:6	testimony 5:24	welcome 4:1	<b>26</b> 8:15
reporter 6:20 9:16	should've 11:6	6:2,19 7:9,11	West 1:15	<b>27(b)</b> 8:8
11:9 12:1 14:6	<b>sign-in</b> 7:3 9:7	8:1,4	<b>Wie</b> 2:4 4:10	<b>2nd</b> 10:11
14:15	solely 6:16	thank 7:23 10:10	winter 5:15	3
representatives	<b>sorry</b> 10:1,3 11:10	10:14 11:17	<b>wish</b> 9:10	-
11:19	<b>speak</b> 6:21	12:17,20 13:3,7	works 10:8	<b>3</b> 5:13
request 7:15 8:9	speaking 6:21	Thanks 9:14	worries 10:15	<b>30</b> 5:10
8:22 9:1	Specialist 12:16	<b>thing</b> 11:19	worth 12:22	<b>35</b> 1:6 4:5
requested 5:8	specific 5:9	things 12:24	wrap 12:23	
8:16,18	specifically 5:6	think 9:15 12:21		4
reschedule 5:14	6:7 8:18	Thursday 5:24	X	<b>4</b> 5:7,20 7:3
rescheduled 5:18	spell 11:24	9:18,20 10:8,18		<b>41</b> 5:9
respectfully 8:22	spelled 12:13	Tim 4:3	Y	<b>4340</b> 2:20
response 8:19,21	Springfield 2:13	time 5:3 6:21 13:9	Y-e-t-u-n-d-e	5
9:2	2:21 5:21 7:22	Times 5:20	12:14	3
responses 5:10	8:3 9:4,12,21		year 5:14 8:20	6
review 4:20 5:4	13:1	<b>TIMOTHY</b> 1:13 2:3	Yetunde 3:5	$\frac{65:12}{}$
right 4:10 10:4	SS 14:2		12:13,13	
rooms 7:5	staff 6:16 12:18	today 4:8 5:18		<b>620</b> 1:6
rulemaking 4:4,7	<b>Stamm</b> 1:14,23	6:15,24 7:12,21	Z	<b>62711</b> 2:21
4:11,18	14:5	8:4		<b>62794</b> 2:13
rules 5:4 6:7,11	standard 9:19	transcript 6:23	0	7
,		9:17 10:6 14:10	<b>084-004445</b> 1:24	
7:12 8:11	Standards 12:3	<b>true</b> 14:9	1	7 9:20 10:2,4,4,9
S	12:15	<b>turn</b> 7:8		10:18
S-t-e-f-a-n-i-e	start 6:5	<b>Twait</b> 2:9 12:2,2	<b>10</b> 4:17 5:24 8:19	<b>782-5544</b> 2:14
11:22	state 1:15 4:20	<b>two</b> 4:11 7:4 10:7	<b>10:00</b> 1:17	8
sake 6:20	14:1		100 1:15	
Santos 2:5 4:10	state's 4:23	U	<b>1021</b> 2:11	9
saw 4:12	staying 4:14	unnecessary 4:22	<b>14-day</b> 9:19	<b>993-6077</b> 2:22
	<b>Stefanie</b> 2:8 11:21	unusually 5:15	<b>16-13</b> 4:19	0011 2.22
<b>says</b> 14:6 <b>schedule</b> 5:13	Street 1:15	$\overline{\mathbf{v}}$	<b>17</b> 8:20	
	<b>study</b> 7:17 8:7,10	-	<b>17th</b> 1:16	
scheduled 6:5	8:12,17,23	Van 2:4 4:10	<b>19276</b> 2:12	
Scott 2:9 12:2	submitted 7:6	version 10:24	2	
second 5:13,19	Subtitle 1:7 4:6	<b>video</b> 2:8,9,10,19		
Secondly 4:16	5:3,6	3:3,4,5 6:2	<b>2</b> 9:24	
<b>Section</b> 8:8 12:3	<b>Sun</b> 5:20	visible 4:13	<b>20</b> 8:14	
see 7:10 9:7	surprised 9:13		<b>2018</b> 4:17 5:5	
<b>seeing</b> 8:5 9:3	sworn 14:5		<b>2021</b> 5:7,10 8:15	
		<b>Water</b> 1:7 4:6		
	1	Ī	1	1