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ILLINOIS POLLUTION CONTROL BOARD  
October 29, 2024

PRAIRIE STATE GENERATING	)	
COMPANY, LLC	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 25-11
	)	(Permit Appeal - Air)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

Washington County Board Room  
101 E. St. Louis St., second floor  
Nashville, Illinois

(Starting time of the hearing: 09:29 a.m.)

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INDEX

PAGE

Colloque 4

PETITIONER'S WITNESSES:

Ross Bunton  
Testimony of Ross Bunton 5

Adjournment 13

EXHIBITS

EXHIBIT	DESCRIPTION	PAGE
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(No exhibits marked.)

1  
2  
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## A P P E A R A N C E S

## FOR THE BOARD:

Carol Webb  
Illinois Pollution Control Board  
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## REPORTED BY:

Mr. Colin Wallis  
Lexitas Legal

\* \* \* \* \*

1 HEARING OFFICER WEBB: Good morning. My  
2 name is Carol Webb, and this is the hearing for  
3 PSB 25-11, Prairie State Generating Company  
4 versus IEPA. Is it October 29th, and we are  
5 beginning at 9:30 a.m. There is one member of  
6 the public present who does not wish to make a  
7 public comment. Any written public comment may  
8 be filed with the clerk by November 12th.  
9

10 In this case, the Petitioner alleges that  
11 the agency has failed to timely take final  
12 action on a permit application from 2011 for  
13 its coal-fired power generation facility in  
14 Washington County. The Pollution Control Board  
15 members will make the final decision in this  
16 case. My purpose is to conduct the hearing in  
17 a neutral and orderly manner so that we have a  
18 clear record of the proceedings. The decision  
19 deadline is December 19th. This hearing was  
20 noticed pursuant to the act and the Board's  
21 rules and will be conducted pursuant to  
22 Sections 101.600 through 101.632 of the Board's  
23 procedural rules. At this time, I would like  
24 to ask the parties to please make their  
25 appearances on the record.

1 MR. LORING: David Loring, L-o-r-i-n-g, on  
2 behalf of Prairie State Generating Company.

3 MR. MIDDLETON: Robert Middleton, also on  
4 behalf of Prairie State.

5 MR. BONIN: Kevin Bonin on behalf of  
6 Illinois EPA.

7 MS. CARTER: Sally Carter, Illinois EPA.

8 HEARING OFFICER WEBB: Okay. Are there  
9 any preliminary matters to discuss on the  
10 record? No? Okay. Would the Petitioner like  
11 to make any opening statements?

12 MR. LORING: No opening statement, but we  
13 are going to be presenting a witness to provide  
14 testimony.

15 HEARING OFFICER WEBB: Okay. Would the  
16 agency like to make any opening statement?

17 MR. BONIN: None.

18 HEARING OFFICER WEBB: Okay. Petitioner,  
19 you may call your first witness, please. Yeah,  
20 why don't you sit over with the court reporter,  
21 please.

22 (Ross Bunton sworn.)

23 TESTIMONY OF RUSS BUNTON:

24 **THE WITNESS: My name is Ross Bunton, and**  
25 **I am presenting testimony in this matter on**

1 behalf of Prairie State Generating Company,  
2 LLC. I am the Director of Environmental (sic)  
3 for Prairie State where my duties include  
4 overseeing all environmental compliance and  
5 permitting obligations associated with the  
6 Prairie State coal-fired power generation  
7 facility in Marissa, Illinois. I have held my  
8 current position since December 2023. Prior to  
9 that, I was an environmental engineer at  
10 Prairie State, and I have worked for Prairie  
11 State for over 13 years.

12 Part of my current duties as the Director  
13 of Environmental for Prairie State involve the  
14 preparation of an additional update to the  
15 Facility's CAAPP permit application, which the  
16 Facility expects to submit to Illinois EPA  
17 before the end of 2024.

18 My testimony is being presented to the  
19 Board today in support of Prairie State's  
20 Petition for Hearing on Illinois EPA's failure  
21 to take final action on Prairie State's CAAPP  
22 permit application.

23 In that application, we requested that the  
24 Board enter an order requiring that Illinois  
25 EPA take prompt action on Prairie State's CAAPP

1 permit application to issue a draft CAAPP  
2 permit within one year of the Board's order.  
3 This request was premised on several factual  
4 and legal grounds that, based on Illinois EPA's  
5 statements in its Answer to Prairie State's  
6 Petition, are not in dispute.

7 First, Prairie State filed a timely and  
8 complete CAAPP permit application. Illinois EPA  
9 agreed, stating that "PSGC timely submitted its  
10 initial CAAPP permit application." and "[o]n  
11 May 18, 2011, Illinois EPA issued a notice to  
12 [Prairie State] that the CAAPP permit  
13 application was administratively complete."

14 Second, Prairie State has not failed to  
15 timely respond to any requests for additional  
16 information sought by Illinois EPA. Illinois  
17 EPA concurred.

18 Third, under Illinois law, until Illinois  
19 EPA takes final action on the CAAPP permit  
20 application, which has not yet occurred,  
21 Prairie State is legally authorized to operate  
22 its Facility (under its existing construction  
23 permits) without a CAAPP permit. Illinois EPA  
24 agreed, admitting that to date, PSGC has met  
25 the legal criteria for operating its CAAPP

1 source without a CAAPP permit until its pending  
2 application is acted upon.

3 Fourth, Illinois EPA acknowledges that it  
4 has not taken final action on Prairie State's  
5 pending CAAPP permit application. Since 2011,  
6 Illinois has had the legal authority to act on  
7 PSGC's application.

8 Prairie State agrees with Illinois EPA's  
9 assertion that the timing of processing the  
10 pending CAAPP permit application by Illinois  
11 EPA is the only outstanding consideration  
12 before the Board. This was reflected in  
13 Prairie State's oral motion, which was granted  
14 during a pre-hearing conference on October 17,  
15 2024, limiting the scope of this Board hearing  
16 to the issue of the time by which Illinois EPA  
17 will be required to take final action on  
18 Prairie State's CAAPP permit application.

19 As earlier noted, Prairie State is  
20 presently preparing an update to the CAAPP  
21 permit application, which will update  
22 information since the last update submitted to  
23 Illinois EPA on July 27, 2020. For example,  
24 changes to applicable state and federal  
25 regulations such as revisions to the Mercury

1 and Air Toxics Standards, and the changes to  
2 Illinois startup, shutdown and malfunction  
3 provisions.

4 Prairie State and Illinois EPA are engaged  
5 in discussions regarding the submission of the  
6 updated application to ensure that Illinois EPA  
7 has all information necessary to take final  
8 action on the application. At present, Prairie  
9 State anticipates submitting the updated CAAPP  
10 permit application before the end of this year.  
11 Prairie State does not dispute Illinois EPA's  
12 assertion that the administrative review  
13 process to evaluate the CAAPP permit  
14 application to develop a draft CAAPP permit is  
15 a "significant undertaking." Nor does Prairie  
16 State dispute that following the issuance of a  
17 draft permit, a statutorily required public  
18 notice and comment period, as well as a review  
19 period by U.S. EPA, must occur. These  
20 procedural requirements can take significant  
21 time to complete, particularly, if Illinois EPA  
22 determines that revisions to the draft CAAPP  
23 permit are necessary to address comments and/or  
24 objections submitted during the public comment  
25 period or in response to U.S. EPA review.

1 Prairie State did consider requesting a shorter  
2 time frame for Illinois EPA to issue a draft  
3 permit. However, Prairie State recognized that  
4 the technical review, preparation and  
5 negotiation of a CAAPP permit for any large  
6 stationary source in Illinois is an inherently  
7 lengthy process because of the significant  
8 applicable requirements for complex facilities  
9 with many processes and emission units.

10 Requesting that Illinois EPA develop a  
11 draft CAAPP permit in one year is, therefore, a  
12 reasonable and realistic time frame. Due to  
13 the uncertainty in predicting the length of  
14 time needed to proceed from issuance of a draft  
15 CAAPP permit to Illinois EPA taking final  
16 action (in other words, issuing or denying the  
17 CAAPP permit), Prairie State elected to propose  
18 a one-year time period for Illinois EPA to  
19 issue a draft CAAPP permit.

20 Illinois EPA responded that it would  
21 prefer that the Board order provide a two-year  
22 time frame to take final action from the date  
23 that PSGC submits its updated CAAPP permit  
24 application. PSGC does not see a significant  
25 difference between these two requests, as

1 Illinois EPA's request, essentially, assumes  
2 that it will take approximately one year to  
3 issue a draft CAAPP permit and an additional  
4 year to complete the statutory review process  
5 before final action can be taken by Illinois  
6 EPA. Accordingly, PSGC will accede to the  
7 Board's and Illinois EPA's expertise with  
8 respect to timing. Thank you.

9 HEARING OFFICER WEBB: Thank you. Does  
10 the agency have any questions for this witness?

11 MR. BONIN: We're good.

12 HEARING OFFICER WEBB: Okay, thank you.  
13 Would you like to call another witness?

14 MR. LORING: No other witnesses.

15 HEARING OFFICER WEBB: Okay. Do you have  
16 anything else you would like to present for  
17 your case today?

18 MR. LORING: I don't believe so. Nothing  
19 else from Prairie State.

20 HEARING OFFICER WEBB: The agency may call  
21 their first witness.

22 MR. BONIN: We wanted to request that we  
23 have the prefile testimony that we filed just  
24 be admitted as written testimony which our --

25 HEARING OFFICER WEBB: Admitted as if

1 read?

2 MR. BONIN: Yeah.

3 HEARING OFFICER WEBB: Any objection to  
4 that?

5 MR. LORING: No objection to that.

6 HEARING OFFICER WEBB: Okay. We'll go  
7 ahead and accept that written testimony as if  
8 read. That's admitted into the record. So,  
9 having said that, are there any questions you  
10 have for the witness about that prefiled  
11 testimony?

12 MR. LORING: Nothing from Prairie State.

13 HEARING OFFICER WEBB: Okay. Anything  
14 further for the agency to present today?

15 MR. BONIN: Nope.

16 HEARING OFFICER WEBB: Okay. Well, then,  
17 I'll just make a few announcements here. The  
18 transcript is due by November 5th and will be  
19 posted on the Board's website. The public  
20 comment deadline is November 12th. Public  
21 comment must be filed in accordance with  
22 Section 101.628 of the Board's procedural  
23 rules. The Petitioner's brief is due by  
24 November 12th. The Agency's brief is due by  
25 November 19th. Does anyone wish to make any

1 closing argument? Petitioner?

2 MR. LORING: Nothing from Petitioner.

3 Thank you.

4 HEARING OFFICER WEBB: Agency?

5 MR. BONIN: No.

6 HEARING OFFICER WEBB: No members of the  
7 public here to make comments? Then at this  
8 time, I will conclude the proceedings. We  
9 stand adjourned.

10 (Ending time of the hearing: 09:39 a.m.)

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1 I, Colin Wallis, in and for the State of  
2 Missouri do hereby certify that the witness  
3 whose testimony appears in the foregoing  
4 Examination Under Oath was duly sworn by me;  
5 that the testimony of the said witness was  
6 taken by me to the best of my ability and  
7 thereafter reduced to typewriting under my  
8 direction; that I am neither counsel for,  
9 related to, nor employed by any of the parties  
10 to the action in which this examination was  
11 taken, and further that I am not relative or  
12 employee of any attorney or counsel employed by  
13 the parties thereto, nor financially or  
14 otherwise interested in the outcome of the  
15 action.

16 Colin Wallis

17 within and for the State of Missouri  
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<hr/> <p><b>1</b></p> <hr/> <p><b>101.600</b> 4:22  <b>101.632</b> 4:22  <b>12th</b> 4:9  <b>13</b> 6:11  <b>17</b> 8:14  <b>18</b> 7:11  <b>19th</b> 4:19</p> <hr/> <p style="text-align: center;"><b>2</b></p> <hr/> <p><b>2011</b> 4:12 7:11 8:5  <b>2020</b> 8:23  <b>2023</b> 6:8  <b>2024</b> 6:17 8:15  <b>25-11</b> 4:4  <b>27</b> 8:23  <b>29th</b> 4:5</p> <hr/> <p style="text-align: center;"><b>9</b></p> <hr/> <p><b>9:30</b> 4:6</p> <hr/> <p style="text-align: center;"><b>A</b></p> <hr/> <p><b>a.m.</b> 4:6  <b>acknowledges</b> 8:3  <b>act</b> 4:20 8:6  <b>acted</b> 8:2  <b>action</b> 4:12 6:21, 25 7:19 8:4,17 9:8  <b>additional</b> 6:14 7:15  <b>address</b> 9:23  <b>administrative</b> 9:12</p>	<p><b>administratively</b> 7:13  <b>admitting</b> 7:24  <b>agency</b> 4:11 5:16  <b>agreed</b> 7:9,24  <b>agrees</b> 8:8  <b>Air</b> 9:1  <b>alleges</b> 4:10  <b>and/or</b> 9:23  <b>anticipates</b> 9:9  <b>appearances</b> 4:25  <b>applicable</b> 8:24  <b>application</b> 4:12 6:15,22,23 7:1,8, 10,13,20 8:2,5,7, 10,18,21 9:6,8,10, 14  <b>assertion</b> 8:9 9:12  <b>authority</b> 8:6  <b>authorized</b> 7:21</p> <hr/> <p style="text-align: center;"><b>B</b></p> <hr/> <p><b>based</b> 7:4  <b>beginning</b> 4:6  <b>behalf</b> 5:2,4,5 6:1  <b>Board</b> 4:14 6:19, 24 8:12,15  <b>Board's</b> 4:20,22 7:2  <b>Bonin</b> 5:5,17  <b>Bunton</b> 5:22,23,24</p> <hr/> <p style="text-align: center;"><b>C</b></p> <hr/> <p><b>CAAPP</b> 6:15,21,25 7:1,8,10,12,19,23, 25 8:1,5,10,18,20</p>	<p>9:9,13,14,22  <b>call</b> 5:19  <b>Carol</b> 4:3  <b>Carter</b> 5:7  <b>case</b> 4:10,16  <b>clear</b> 4:18  <b>clerk</b> 4:9  <b>coal-fired</b> 4:13 6:6  <b>comment</b> 4:8 9:18,24  <b>comments</b> 9:23  <b>Company</b> 4:4 5:2 6:1  <b>complete</b> 7:8,13 9:21  <b>compliance</b> 6:4  <b>concurred</b> 7:17  <b>conduct</b> 4:16  <b>conducted</b> 4:21  <b>conference</b> 8:14  <b>consideration</b> 8:11  <b>construction</b> 7:22  <b>Control</b> 4:14  <b>County</b> 4:14  <b>court</b> 5:20  <b>criteria</b> 7:25  <b>current</b> 6:8,12</p> <hr/> <p style="text-align: center;"><b>D</b></p> <hr/> <p><b>date</b> 7:24  <b>David</b> 5:1  <b>deadline</b> 4:19  <b>December</b> 4:19 6:8</p>	<p><b>decision</b> 4:15,18  <b>determines</b> 9:22  <b>develop</b> 9:14  <b>Director</b> 6:2,12  <b>discuss</b> 5:9  <b>discussions</b> 9:5  <b>dispute</b> 7:6 9:11, 16  <b>draft</b> 7:1 9:14,17, 22  <b>duties</b> 6:3,12</p> <hr/> <p style="text-align: center;"><b>E</b></p> <hr/> <p><b>earlier</b> 8:19  <b>end</b> 6:17 9:10  <b>engaged</b> 9:4  <b>engineer</b> 6:9  <b>ensure</b> 9:6  <b>enter</b> 6:24  <b>environmental</b> 6:2,4,9,13  <b>EPA</b> 5:6,7 6:16,25 7:8,11,16,17,19, 23 8:3,11,16,23 9:4,6,19,21,25  <b>EPA's</b> 6:20 7:4 8:8 9:11  <b>evaluate</b> 9:13  <b>existing</b> 7:22  <b>expects</b> 6:16</p> <hr/> <p style="text-align: center;"><b>F</b></p> <hr/> <p><b>facility</b> 4:13 6:7,16 7:22  <b>Facility's</b> 6:15</p>
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<p><b>factual</b> 7:3</p> <p><b>failed</b> 4:11 7:14</p> <p><b>failure</b> 6:20</p> <p><b>federal</b> 8:24</p> <p><b>filed</b> 4:9 7:7</p> <p><b>final</b> 4:11,15 6:21 7:19 8:4,17 9:7</p> <p><b>Fourth</b> 8:3</p> <hr/> <p style="text-align: center;"><b>G</b></p> <hr/> <p><b>Generating</b> 4:4 5:2 6:1</p> <p><b>generation</b> 4:13 6:6</p> <p><b>Good</b> 4:2</p> <p><b>granted</b> 8:13</p> <p><b>grounds</b> 7:4</p> <hr/> <p style="text-align: center;"><b>H</b></p> <hr/> <p><b>hearing</b> 4:2,3,16, 19 5:8,15,18 6:20 8:15</p> <p><b>held</b> 6:7</p> <hr/> <p style="text-align: center;"><b>I</b></p> <hr/> <p><b>IEPA</b> 4:5</p> <p><b>Illinois</b> 5:6,7 6:7, 16,20,24 7:4,8,11, 16,18,23 8:3,6,8, 10,16,23 9:2,4,6, 11,21</p> <p><b>include</b> 6:3</p> <p><b>information</b> 7:16 8:22 9:7</p> <p><b>initial</b> 7:10</p> <p><b>involve</b> 6:13</p>	<p><b>issuance</b> 9:16</p> <p><b>issue</b> 7:1 8:16</p> <p><b>issued</b> 7:11</p> <hr/> <p style="text-align: center;"><b>J</b></p> <hr/> <p><b>July</b> 8:23</p> <hr/> <p style="text-align: center;"><b>K</b></p> <hr/> <p><b>Kevin</b> 5:5</p> <hr/> <p style="text-align: center;"><b>L</b></p> <hr/> <p><b>L-O-R-I-N-G</b> 5:1</p> <p><b>law</b> 7:18</p> <p><b>legal</b> 7:4,25 8:6</p> <p><b>legally</b> 7:21</p> <p><b>limiting</b> 8:15</p> <p><b>LLC</b> 6:2</p> <p><b>Loring</b> 5:1,12</p> <hr/> <p style="text-align: center;"><b>M</b></p> <hr/> <p><b>make</b> 4:7,15,24 5:11,16</p> <p><b>malfunction</b> 9:2</p> <p><b>manner</b> 4:17</p> <p><b>Marissa</b> 6:7</p> <p><b>matter</b> 5:25</p> <p><b>matters</b> 5:9</p> <p><b>member</b> 4:6</p> <p><b>members</b> 4:15</p> <p><b>Mercury</b> 8:25</p> <p><b>met</b> 7:24</p> <p><b>Middleton</b> 5:3</p> <p><b>morning</b> 4:2</p>	<p><b>motion</b> 8:13</p> <hr/> <p style="text-align: center;"><b>N</b></p> <hr/> <p><b>neutral</b> 4:17</p> <p><b>noted</b> 8:19</p> <p><b>notice</b> 7:11 9:18</p> <p><b>noticed</b> 4:20</p> <p><b>November</b> 4:9</p> <hr/> <p style="text-align: center;"><b>O</b></p> <hr/> <p><b>o n</b> 7:10</p> <p><b>objections</b> 9:24</p> <p><b>obligations</b> 6:5</p> <p><b>occur</b> 9:19</p> <p><b>occurred</b> 7:20</p> <p><b>October</b> 4:5 8:14</p> <p><b>OFFICER</b> 4:2 5:8, 15,18</p> <p><b>opening</b> 5:11,12, 16</p> <p><b>operate</b> 7:21</p> <p><b>operating</b> 7:25</p> <p><b>oral</b> 8:13</p> <p><b>order</b> 6:24 7:2</p> <p><b>orderly</b> 4:17</p> <p><b>outstanding</b> 8:11</p> <p><b>overseeing</b> 6:4</p> <hr/> <p style="text-align: center;"><b>P</b></p> <hr/> <p><b>Part</b> 6:12</p> <p><b>parties</b> 4:24</p> <p><b>pending</b> 8:1,5,10</p> <p><b>period</b> 9:18,19,25</p> <p><b>permit</b> 4:12 6:15,</p>	<p>22 7:1,2,8,10,12, 19,23 8:1,5,10,18, 21 9:10,13,14,17, 23</p> <p><b>permits</b> 7:23</p> <p><b>permitting</b> 6:5</p> <p><b>Petition</b> 6:20 7:6</p> <p><b>Petitioner</b> 4:10 5:10,18</p> <p><b>Pollution</b> 4:14</p> <p><b>position</b> 6:8</p> <p><b>power</b> 4:13 6:6</p> <p><b>Prairie</b> 4:4 5:2,4 6:1,3,6,10,13,19, 21,25 7:5,7,12,14, 21 8:4,8,13,18,19 9:4,8,11,15</p> <p><b>preliminary</b> 5:9</p> <p><b>premised</b> 7:3</p> <p><b>preparation</b> 6:14</p> <p><b>preparing</b> 8:20</p> <p><b>present</b> 4:7 9:8</p> <p><b>presented</b> 6:18</p> <p><b>presenting</b> 5:13, 25</p> <p><b>presently</b> 8:20</p> <p><b>pre-hearing</b> 8:14</p> <p><b>Prior</b> 6:8</p> <p><b>procedural</b> 4:23 9:20</p> <p><b>proceedings</b> 4:18</p> <p><b>process</b> 9:13</p> <p><b>processing</b> 8:9</p> <p><b>prompt</b> 6:25</p> <p><b>provide</b> 5:13</p> <p><b>provisions</b> 9:3</p>
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<p><b>PSB</b> 4:4</p> <p><b>PSGC</b> 7:9,24</p> <p><b>PSGC's</b> 8:7</p> <p><b>public</b> 4:7,8 9:17, 24</p> <p><b>purpose</b> 4:16</p> <p><b>pursuant</b> 4:20,21</p> <hr/> <p style="text-align: center;"><b>R</b></p> <hr/> <p><b>record</b> 4:18,25 5:10</p> <p><b>reflected</b> 8:12</p> <p><b>regulations</b> 8:25</p> <p><b>reporter</b> 5:20</p> <p><b>request</b> 7:3</p> <p><b>requested</b> 6:23</p> <p><b>requests</b> 7:15</p> <p><b>required</b> 8:17 9:17</p> <p><b>requirements</b> 9:20</p> <p><b>requiring</b> 6:24</p> <p><b>respond</b> 7:15</p> <p><b>response</b> 9:25</p> <p><b>review</b> 9:12,18,25</p> <p><b>revisions</b> 8:25 9:22</p> <p><b>Robert</b> 5:3</p> <p><b>ross</b> 5:22,24</p> <p><b>rules</b> 4:21,23</p> <p><b>RUSS</b> 5:23</p> <hr/> <p style="text-align: center;"><b>S</b></p> <hr/> <p><b>Sally</b> 5:7</p> <p><b>scope</b> 8:15</p> <p><b>Sections</b> 4:22</p>	<p><b>shutdown</b> 9:2</p> <p><b>sic</b> 6:2</p> <p><b>significant</b> 9:15, 20</p> <p><b>sit</b> 5:20</p> <p><b>sought</b> 7:16</p> <p><b>source</b> 8:1</p> <p><b>Standards</b> 9:1</p> <p><b>startup</b> 9:2</p> <p><b>state</b> 4:4 5:2,4 6:1, 3,6,10,11,13 7:7, 12,14,21 8:8,19, 24 9:4,9,11,16</p> <p><b>State's</b> 6:19,21,25 7:5 8:4,13,18</p> <p><b>statement</b> 5:12,16</p> <p><b>statements</b> 5:11 7:5</p> <p><b>stating</b> 7:9</p> <p><b>statutorily</b> 9:17</p> <p><b>submission</b> 9:5</p> <p><b>submit</b> 6:16</p> <p><b>submitted</b> 7:9 8:22 9:24</p> <p><b>submitting</b> 9:9</p> <p><b>support</b> 6:19</p> <p><b>sworn</b> 5:22</p> <hr/> <p style="text-align: center;"><b>T</b></p> <hr/> <p><b>takes</b> 7:19</p> <p><b>testimony</b> 5:14, 23,25 6:18</p> <p><b>time</b> 4:23 8:16 9:21</p> <p><b>timely</b> 4:11 7:7,9, 15</p>	<p><b>timing</b> 8:9</p> <p><b>today</b> 6:19</p> <p><b>Toxics</b> 9:1</p> <hr/> <p style="text-align: center;"><b>U</b></p> <hr/> <p><b>U.S.</b> 9:19,25</p> <p><b>undertaking</b> 9:15</p> <p><b>update</b> 6:14 8:20, 21,22</p> <p><b>updated</b> 9:6,9</p> <hr/> <p style="text-align: center;"><b>V</b></p> <hr/> <p><b>versus</b> 4:5</p> <hr/> <p style="text-align: center;"><b>W</b></p> <hr/> <p><b>Washington</b> 4:14</p> <p><b>Webb</b> 4:2,3 5:8,15, 18</p> <p><b>worked</b> 6:10</p> <p><b>written</b> 4:8</p> <hr/> <p style="text-align: center;"><b>Y</b></p> <hr/> <p><b>year</b> 7:2 9:10</p> <p><b>years</b> 6:11</p>
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