ILLINOIS POLLUTION CONTROL BOARD

SIERRA CLUB, PRAIRIE RIVERS NETWORK, AND NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE,	)	
Complainants,	)	
-vs-	)	PCB 18-11
CITY OF SPRINGFIELD, OFFICE OF PUBLIC UTILITIES d/b/a CITY WATER, LIGHT AND POWER,	)	
Respondent.	)	

OCTOBER 15, 2026

9:00 A.M.

REPORT OF PROCEEDINGS

in the above-entitled cause before

HEARING OFFICER CAROL WEBB via

WEBEX VIDEOCONFERENCING.

PAMELA S. MORGAN, CSR

084-001687

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ALSO PRESENT:

Mr. Joaquin Garcia

I N D E X

WITNESS	DX	CX	RDX	RCX
BRAD HUNSBERGER	209	231		
PATRICK BECKER	242	269		
ERIC STALEY	278	292		
BRAD HUNSBERGER	298			

PUBLIC COMMENTS BY	PAGE
DONALD HANRAHAN	271
LORI McKIERNAN	274
ANDREW REHN	294

E X H I B I T S

COMPLAINANTS EXHIBIT NO.	EVIDENCE
D13	225
D12	238
D14	241
D15	242
RESPONDENT EXHIBIT NO.	**EVIDENCE**
48	251
49	258
50	259
51	265
47	268
52	307

HEARING OFFICER WEBB: We will go back on the record.

We are back on the record on Thursday, October 15th, it is 9:00 a.m.

We are resuming the direct testimony of Mr. Brad Hunsberger.

Mr. Hunsberger, I will remind you that you are still under oath.

We had a bit of a problem with exhibits yesterday, which is why we interrupted your direct testimony, but when Miss Bugel is ready, we can proceed.

MS. BUGEL: Thank you.

(The witness was previously sworn.)

BRAD HUNSBERGER,

called as a witness herein, having been previously duly sworn, was examined and testified further as follows:

DIRECT EXAMINATION (RESUMED)

BY MS. BUGEL:

Q. Good morning.

Mr. Hunsberger, could you just spell your name for the record because we -- I know we didn't do that yesterday on the record, so I just want to

make sure we get it on the record?

A. H-U-N-S-B-E-R-G-E-R.

Q. Thank you.

We are starting -- I see you have in front of you already Exhibit 26 and we will start there.

Could you please -- so just for the record, Exhibit 26 is the groundwater monitoring program, correct?

A. That is correct.

Q. And yesterday I think you looked towards the back and found a page and confirmed that this is indeed the 2017 groundwater monitoring program?

A. Yes.

Q. So does this include a characterization of subsurface conditions?

A. It has a summary of the subsurface conditions, yes.

Q. And where are you referring to that as you are looking for that?

A. Section 2.

Q. Section 2.

And on Page?

A. 8646.

Q. And that's CWLP 8646, for the record, correct?
A. Yes.
Q. Okay. So beginning at Page 2 through Page 6 is the characterization of the subsurface?
A. That is correct.
Q. And did this include a subsurface investigation in order to develop this characterization?
A. The program identifies several subsurface investigations that were utilized to summarize this.
Q. And I'm looking at Page 5 and I am looking under "Creek Fill Material." Do you know if in some places creek fill material -- creek fill materials locally interconnect all three water barrier units? And I am looking around Page 4 at the last full paragraph, second sentence.
A. The last full paragraph on Page 4?
Q. Yes.
A. Second sentence.
The interconnection that it refers to is that it is hydraulically connected. However, the

vertical hydraulic conductivities may be very tight, meaning very low. So technically you have interconnection but in a realistic environment it would be very restricted. Movement vertically would be restricted even though they're interconnected.

Q. Why would it be restricted?

A. Because of the clay within the deposits.

Q. Is the clay universally identified in creek fill materials?

A. Yes.

Q. Can you look at the top of Page 5? Were creek fill materials highly variable? Did they have highly variable hydraulic characteristics?

A. They would.

Q. Of the fill materials?

A. They would, yes. As variations spatially occurs, the hydraulic conductivities would vary as well.

Q. So do you still believe that clay was found universally and, therefore, reduced the variability of the hydraulic movement?

A. The more clay that is present in those deposits, the lower the hydraulic conductivity

would be.

Q. And is it your position that clay was found universally in the creek fill materials?

A. Yes, at varying compositions.

Q. Did creek fill materials have random placement?

A. Well, they were associated with low energy deposition, I don't know that it would be random, but it varies dependent upon the meandering creek location, deposits can vary depending upon its actual location on the inside of the meander, on the outside of the meander, you get various compositions. But the meandering creek indicates very low deposition or environment, which usually is the finer grain materials, clays, silts, fine sands in some cases.

Q. And do you know what the range of the vertical hydraulic conductivity was in the fill material? And I am looking at the second paragraph under "Creek Fill Material."

A. It says the cohesive fill material ranges from 7.6 times 10 of the minus 8 centimeters per second to 2.1 times 10 of the minus 5 centimeters per second.

Q. And so, just one more question. Page 4, last full paragraph, second sentence, this starts by saying "In some areas the till materials." Was that an error or are there till materials and fill materials?

A. They could be interrelated.

Q. What are till materials?

A. Till is related to glacial sediments, which is raw grain, it can vary from sand, silts, and clays.

Q. And looking at that same paragraph, I see that the second to last sentence says, "The upper and lower cohesive deposits are considered to act as aquitards where present."

Does that suggest that the upper and lower cohesive deposits were not universally present at the CWLP Ash Pond site?

A. That would be the implication.

Q. All right, thank you. I believe we can set that aside.

So do you think that if you capped the Dallman Ash Pond, then the entirety of the ash pond -- I am sorry, the entirety of the ash in that pond would no longer come into contact with

groundwater?

A. After the liquids inside the ash pond have drained, whether naturally or through pumping, that would be the case, yes.

Q. We now are going to turn to Exhibit 7, PDF Page 756.

Just to make that clear on the record, we are turning to Exhibit 7, PDF Page 756, and Joaquin is distributing a new bundle of excerpts from Exhibit 7.

And just to make this clear, Complainants have marked this as Exhibit Demonstrative D13, but this is an excerpt from Exhibit 7 as well.

And the document you have in front of you, is this the conceptual model?

A. That is a conceptual model.

Q. And can you explain what a conceptual model is?

A. It's the general hydrogeologic setup that was utilized in the contaminate transport model.

Q. And I believe you testified yesterday that you played a role in the development of the contaminate transport model, correct?

A. That is correct.

Q. And why is a conceptual model done?
A. The conceptual model is provided in the document to show how the model was set up for regulators that typically review these.
Q. And on the right-hand side this has the name Andrews Engineering on it, correct?
A. Yes, it does.
Q. And underneath Andrews Engineering it says "Approved By: BJH." Is that you?
A. That is me.
Q. And does that mean you were responsible for this figure?
A. That means I reviewed it and approved it.
Q. Does that mean if you have a problem with something in this figure, you would have asked for it to be changed?
A. Yes.
Q. And the conceptual model indicates that the groundwater elevation around the pond would be 528 feet after closure, correct?
A. No.
Q. Can you explain why that isn't correct?
A. Because this is a conceptual model that shows the waste with liquids in it at 544. So

this is not after the liquids have drained.

Q. I'm sorry, you said this is not after liquids have drained?

A. Correct.

Q. Isn't the contaminate transport model done to show -- to reflect -- or to model conditions after closure?

A. It has to model both existing conditions and after closure.

Q. And is the conceptual model used for existing conditions then?

A. It's used for both.

Q. Okay. Let me ask, Andrews came up with the 528-foot groundwater elevation based on --

I've lost my spot. May I have one moment here?

Thank you.

So let me just ask again. Does this indicate that the groundwater elevation on all four sides of the pond would be 528 feet after closure?

A. No. That's a general representation of the conditions at the time.

Q. And "at the time" means what?

A. This is prior to closure. This would be existing conditions.

Q. Okay. Do you recall giving a deposition in this proceeding on June 25th, 2025?

A. Yes.

Q. And did you take an oath in that deposition?

A. I did.

Q. And was your attorney present with you?

A. Yes.

Q. And I am looking at Page 16 of your expert deposition, Line 22.

So I am going to begin again.

I am looking at Page 16 of your June 26, 2025, deposition, Line 22, and I asked you this question and you gave this answer:

Referring to the conceptual site level I said: "And does this indicate that the groundwater elevation on all four sides of the pond would be 528 feet after closure?"

"Answer: That is the generalization, yes. That is why this is called a conceptual model."

Do you recall giving --

A. That's an accurate answer. It is a generalization, that's exactly what it is.

Q. Okay. And Andrews came up with the 528-foot groundwater elevation based on three things. The first being what the area was before it was developed, is that correct?

A. That's reasonable.

Q. And the second was what the Sugar Creek water elevation typically would be?

A. Yes.

Q. And the third is where it is anticipated to drain?

A. Yes.

Q. And Andrews did not have actual data on what the groundwater elevations in the area were prior to development?

A. Correct.

Q. And it's your position today -- I am just going to ask one final clarifying question.

It's your position today that groundwater elevations of 528 feet do not represent a time in the future when the ponds are dewatered post-closure?

A. I agree with that, they would not.

Q. And in your June 26, 2025, deposition, I am looking at Line -- Page 36, Line 18, where you stated, "And so when we reached the post-closure care at a time in the future where those impoundments no longer contain pour water, that's when we see the 528."

Do you recall making that statement?

A. Not specifically.

What I can say is that this conceptual model shows the liquid levels within the impoundments and that's where the ground elevation is shown onsite. The ground elevation, the 528, is not used in the model itself, that was for representation purposes.

Q. Does the conceptual model assume that groundwater will flow only downward through the alluvial sediments, such as the lower cohesive deposit?

A. It's a two-dimensional model. There is vertical movement and then there's horizontal movement, and that's identified in the conceptual model.

Q. And in your June 26, 2025, deposition, I asked you this question and you gave this answer:

"Question: Does the conceptual model assume that groundwater will flow only downward through the alluvial sediments, such as the lower cohesive deposit?"

"Answer: That is true. It is a vertical effective flow out the bottom to the uppermost aquifer."

Do you recall me asking that question and you giving that answer?

A. And that's a correct answer, it goes to the uppermost aquifer. When it reaches the uppermost aquifer, it migrates laterally.

Q. And we can set Figure 4 aside for the moment, I may come back to it.

We are now turning to the excerpts from Exhibit 6 -- I am sorry, we are turning to this package from Exhibit 6. Can you please turn to Page 19? That would be PDF Page 19 in this package.

And looking at Page 18, I am just going to, for the record, point out that this is comment and response 1.7.15. Do you see that?

A. Yes.

Q. And then the response appears on

PDF Page 19. Do you see that?

A. Yes.

Q. And is it your understanding that in response to a request by IEPA to confirm the depth of each pond, CWLP conducted four borings at each pond?

A. Yes.

Q. And is it fair to say that when ash is no longer encountered, that indicates the bottom of the pond?

A. Generally, yes.

Q. And when the boring begins to encounter silty clay and materials, does that indicate the bottom of the pond?

A. It typically indicates that you have reached the bottom, going out the bottom.

Q. And Dallman, were silty clay materials encountered at first 526 feet?

A. That's what it shows for D1.

Q. And 523 feet?

A. Yes.

Q. And 526.2 feet?

A. That is correct.

Q. And 529.5 feet?

A. Yes.
Q. And do three out of four of those indicate a lower pond bottom for Dallman than the 527.0 feet used in the conceptual site model?
A. 528.0, yes, they are.
Q. I'm sorry, I'm looking -- instead of at the groundwater elevation, I am looking at the bottom of the pond in Figure 4 which is at 527.00 feet, correct?
A. Yes, that is correct.
Q. And do you agree that the elevation of the pond bottom is related to the material thickness underneath the pond?
A. Will you repeat that question?
Q. Do you agree that the elevation of the pond bottom is related to the material thickness underneath the pond?
A. No.
Q. Do you agree that the bottom of the pond from an elevation perspective is only significant from a standpoint of material thickness underneath it?
A. I'm not sure what you are asking.
Q. Do you agree that the pond bottom as

indicated by the four borings that we've just confirmed in the September 2024 letter, Page -- PDF Page 19, do you agree that those are lower than what was involved in the conceptual site model Figure 4 pond bottom elevation of 527 feet?

A. No. How the model works is that it is a thickness of the material underneath it down to the top of the uppermost aquifer. So where the actual bottom elevation is isn't relevant, it's what the thickness is or what the clay materials beneath that to the uppermost aquifer. And because we said model, to be conservative, the clay thickness at that location is much greater than what we actually modeled.

Q. So the borings indicating a lower pond bottom would indicate material that is not as thick as material modeled at 527 feet if the material thickness is what is significant?

A. It is what it is significant. And what we have out here is the clay thickness as much as 31 feet. We modeled 19.4 feet. So if you take 4 feet off of the 31 or 30 feet, we are still modeling less thickness than what is actually there --

Q. Okay.
A. -- which is more conservative.
Q. Okay. We are going to refer to Exhibit -- an excerpt from Exhibit 6 which we have marked as a demonstrative --
MS. BUGEL: You know what, just for -- I am going to pause and make a motion for D13, our last demonstrative, to be admitted into the record, and again that is an excerpt from Exhibit 7.
MS. WILLIAMS: No objection.
HEARING OFFICER WEBB: 13 is admitted.
(Complainants' Exhibit No. 13 was admitted into evidence.)
MS. BUGEL: And we are now distributing demonstrative Exhibit 12. And for the record, this is an excerpt from Exhibit 6 and this appears as PDF Page 1733 in except.
We have made that notation on the exhibit so that it is clear for the record.
BY MS. BUGEL:
Q. So do you have Exhibit D12 in front of you?
A. Yes, I do.
Q. And are you familiar with this exhibit?

A. Yes, I am.
Q. And this also says Andrews Engineering on the right-hand side, right?
A. It does.
Q. And it has "Approved By: BJH." And that would be you who approved it?
A. That would be me.
Q. And can you explain what this figure is?
A. This is a topographic map and conceptual design drawings that were done by Burns & McDonnell in 1976. It is specific to the Dallman Ash Pond.
Q. And so this shows the ash pond site in 1976, correct?
A. That is correct.
Q. And it shows the site features before the Dallman Ash Pond was constructed, correct?
A. Yes.
Q. And is this a construction drawing?
A. It is not an as-built construction drawing. It is a design construction drawing.
Q. And in the upper right-hand corner it says "Conforming to Construction Records."
A. Okay.

Q. Do you have an understanding of what that means?

A. It looks like those changes were made that are identified in that upper right-hand corner after 1976 when this drawing was produced.

Q. Okay. Thank you.

And does this show the existing Sugar Creek strange channel in 1976 before it was relocated for the construction of the Dallman Ash Pond?

A. It does.

Q. And just to make sure this is clear for the record, is the existing Sugar Creek strange channel the wavy set of lines that snake their way through the whole middle of this --

A. Yes.

Q. And can you see right in the middle it provides an elevation that says "Exist.EL.519.0"? Do you see that right in the middle? And can you please just highlight that on the exhibit.

A. (Witness complied.)

Q. There is a notation right sort of below that and a little bit to the left. Do you see the notation that says, "Do not fill in exist. Creek

bed except to prospering construction." Do you see that?

A. Yes.

Q. Can you please highlight that for the record?

A. (Witness complied.)

Q. And would that indicate that after the Dallman Pond was built where the creek bed was not filled, the bottom of the pond would have had an elevation of 519.0 feet?

A. No.

Q. No?

A. My understanding was that that particular statement, the "Do not fill over existing creek except to exit during construction," during construction it was -- rainwater precipitation would end up in those lower areas and in order to control the surface runoff, they left those exposed for the time being and they didn't want those covered up.

My understanding is that those were backfilled with adjacent material as they completed their construction, because the berms were constructed using the material from inside,

which essentially filled in and destroyed that existing strange channel. So that's why new ash pond bottom 527, that is in several locations.

Q. Okay. We are now going to turn to Exhibit 7. We are going back to what is marked as D13. If you just -- if you turn two pages, you will have PDF Page 894 and it's in the upper right-hand corner.

So we are on PDF Page 894. My first question is you are familiar with these pages of the permit application, correct?

A. Yes.

Q. And these are from Exhibit 7, the construction -- closure construction permit application, correct?

A. Yes.

Q. And again, this says Anderson Engineering on the right-hand side, correct?

A. It does.

Q. And it says "Approved By: BJH" again?

A. Yes.

Q. And can you please explain what these are, for the record?

A. Potentiometric surface map, this one in

particular, the First Quarter 2021.

Q. Can you explain what a potentiometric surface map is?

A. It identifies the head pressures in the uppermost aquifer on what that will rise to.

Q. And are the red arrows flow lines?

A. Yes.

Q. And so, there are four quarters of maps that appear here beginning on 894 through 897?

A. Yes.

Q. And the groundwater elevations measured at the monitoring wells changed from quarter-to-quarter there, correct?

A. They fluctuate.

Q. And groundwater -- does groundwater always flow in a straight line?

A. No.

Q. And groundwater, is the flow generally -- the flow direction is perpendicular to the contour lines?

A. Yes.

MS. BUGEL: I have no further questions.

HEARING OFFICER WEBB: Thank you.

CROSS-EXAMINATION

BY MS. WILLIAMS:

Q. Brad, I just have a couple of areas that I want to go over from Faith's direct and then save anything else until you are on direct from me.

This case has been going on for awhile, right? And there's a couple issues that we've gone over and over multiple times with Miss Bugel, without Miss Bugel, but I want it to be clear for the Board who has not heard some of this stuff multiple times.

So when Mr. Hutson mentioned his questions with the use of well AP-4, that wasn't the first time someone's asked you to explain that, was it?

A. No, it was not.

Q. Can you just summarize for us over the last 10 years or 15 years, how you've been asked about that, how you've addressed it?

A. Sure. This goes back to the installation of AP-5. The background data was collected as part of -- initially, as part of the 2011 draught water monitoring program. That data was provided

to the Bureau of Water, Illinois EPA. We had to do an additional four quarters of sampling and collection for background data in AP-5 because we had some concentrations that were decreasing over time.

That information was provided to the Illinois Bureau of Water who then approved our background concentrations that were statistically dry.

When the 40 CFR Part 257 program came along, we provided the same thing to the U.S. EPA. The U.S. EPA had some comments, required us to do some additional sampling or additional statistics, and we provided that back to the U.S. EPA, they approved everything that we had done, and then we submitted that to the Illinois EPA and there were some differences. But ultimately, they approved our background concentrations, which included both AP-4 and AP-5 data.

The two wells were necessary to show a spatial variability of background concentrations. And deregulators have looked at this in detail all the way through about 2020, but both were approved by -- fundamentally approved by the Illinois EPA,

there's a pending application still with that, but the U.S. EPA has approved it and the Bureau of Water was fine with it back in 2014 because they used that information to file the VN.

Q. Can you explain at all in simple terms, and if not, that's fine, you don't have to use simple terms, I guess, but generally what you think -- what convinced them that this was appropriate and acceptable?

A. The data from AP-4 was very good, meaning it was clean, it was very low concentrations of parameters that we had to analyze for background concentrations. That was the key. They looked at the data, they looked at our statistics, they evaluated the data and showed it was representative for background purposes.

Q. I just have one other similar issue. I am going to walk over.

MS. WILLIAMS: I am going to show Mr. Hunsberger Exhibit 15, which is marked "Hutson's Expert Report" and we are going to look at Attachment D.

BY MS. WILLIAMS:

Q. Okay. So what is that that I am showing

you? What are you looking at?

A. That's the national flood hazard layer of FIRMette map.

Q. And I know as of the last issue this is something we've gone round and round again multiple times over the last 10 years, but for the benefit of the Board, can you explain why you have stated in multiple places that this map is not accurate and what about the map is inaccurate? How do you know that?

A. Sure. First of all, looking at the map as a whole, it doesn't make sense. It shows that water from the lake during the 100-year flood, or 100-year storm event, would inundate the impoundments as well as go over East Lake Shore and the dam.

So right out of the gate, it doesn't make sense. So I contacted the Map Service Center in Washington, D.C., have them explain to me how this was derived.

What they did is they took preset data and they applied it to a generic model that they utilized and they were using a USGS map, they were applying this 100-year elevation to a

United States geological survey map that was from 1965 that did not show the impoundments on the drawing.

The individual that I spoke to said that, yes, this is very, very generic and that we see this all the time where these aren't representative and where it is necessary to have something more detailed, they requested a LOMR, it's a Letter of Map Revision, that requires a fair amount of local assessment.

So we have the individual from the Map Service Center saying that this is not an accurate representation, it is a general large scale program that they do, it is up to anybody else to take a look at it in detail to determine whether it's accurate or not.

Q. And I guess I would like you to just, in summary, the only other thing I have, is to try to explain, in simple terms as possible, the inaccurate assumption statements that have been made due to a misinterpretation in the map?

MS. BUGEL: I am going to object to the question calling for hearsay testimony.

MS. WILLIAMS: Let me rephrase.

BY MS. WILLIAMS:

Q. With regard to Complainants' expert witness Mark Hutson, who submitted two reports in this remedy phase of the hearing, can you explain in simple terms for the Board how he misinterpreted the information and made incorrect statements on the record?

Does that fix it?

A. Yes.

Mr. Hutson continually utilized the information from this map, that is in error, to make some of his opinions as to the appropriateness of the site. Over topping the dam and inundating the impoundments is erroneous and he made comments about how it will erode -- cascade over the top under closed conditions and erode the side slopes potentially creating an issue with the CCR from inside, if the containment was breached. That continued to be -- he continued utilizing faulty information to create some of his summations.

MS. WILLIAMS: Thanks. That's it. I'm done. Thank you.

HEARING OFFICER WEBB: Miss Bugel?

MS. BUGEL: Just one or two questions.

REDIRECT EXAMINATION

BY MS. BUGEL:

Q. When Lakeside Ash Pond was still receiving wastewater, was there an outward gradient from Lakeside Ash Pond?

MS. WILLIAMS: May I object? Is this appropriate redirect? She didn't ask about that.

MS. BUGEL: You asked about AP-4 and this will lead gradually to --

BY THE WITNESS:

A. Yes.

BY MS. BUGEL:

Q. And if there was an outside -- an outward gradient from Lakeside Ash Pond, there would be flow in the direction from the ash pond to AP-4, correct?

A. That's reasonable, yes.

MS. BUGEL: I have no further questions.

HEARING OFFICER WEBB: All right. Thank you, Mr. Hunsberger.

Miss Bugel, do you have anything else you would plan to present today?

MS. BUGEL: We do not have anything else that

we plan to present.

We do have a little bit of clean up on two -- a couple of exhibits that -- wait a minute. Let me -- three housekeeping items.

MS. WILLIAMS: Are we off the record?

HEARING OFFICER WEBB: No. We are still on the record.

MS. BUGEL: Complainants move for Exhibit D13, which is a demonstrative and an excerpt from Exhibit 7. Complainants move for that demonstrative to be admitted into the record.

HEARING OFFICER WEBB: D13 is already admitted. D12 was not admitted.

MS. BUGEL: Thank you.

Complainants move for demonstrative D12, which is an excerpt from Exhibit 6, to be admitted into the record.

HEARING OFFICER WEBB: D12 is admitted.

MS. BUGEL: Thank you.

(Complainants' Exhibit No. D12 was admitted into evidence.)

MS. BUGEL: So Complainants move for Exhibit D14, which is also an excerpt from Exhibit 6, to be admitted into the record. And

yesterday we discussed this with references to Exhibit 6 with PDF page numbers to Exhibit 6.

MS. WILLIAMS: What is D14?

MS. BUGEL: D14 is an excerpt from Exhibit 6 that contains, starting with PDF Page 1 and ends with PDF Page 55, and PDF Page 2196.

HEARING OFFICER WEBB: Is this a packet that we already have?

MS. BUGEL: Yes.

HEARING OFFICER WEBB: What was it called when you handed it out?

MS. BUGEL: Yesterday it was called Exhibit 6 because it's an excerpt from Exhibit 6.

HEARING OFFICER WEBB: Well, it sounds like a lot of pages. Was it worth pulling out, do you think, or just leaving it as Exhibit 6? It sounds like a lot.

MS. BUGEL: The only concern about leaving it as Exhibit 6 is that we already admitted the whole version of Exhibit 6 in the previous hearing. So that's --

MS. WILLIAMS: Yesterday we said I have all of Exhibit 6, and I don't. So now you have excerpts that you need to look at, right? Do we really

need a demonstrative exhibit if you just say "I'm showing you page whatever"? Whatever you want to do here is fine.

MS. BUGEL: I see your point and that's why we referenced all the PDF page numbers, so one would still be able to find them if you look at the full Exhibit 6. My only concern is that we now have two things that say Exhibit 6 on them.

HEARING OFFICER WEBB: Maybe when we go off the record next time you can show me what it is so I can have it clear in my mind.

MS. BUGEL: Okay. So, we will strike that.

I have nothing further.

HEARING OFFICER WEBB: Okay. Should we take a recess? Let's take a 10-minute recess and we will reconvene. Thank you.

(Break.)

HEARING OFFICER WEBB: We will go back on the record.

We just have a couple of final things to finish for the Complainants. We are going to introduce D14 and D15, maybe if you could just describe what those are and move to admit those.

MS. BUGEL: Okay. So Exhibit D14 is an

excerpt from Exhibit 6, which was admitted in May. D14 are some isolated pages from Exhibit 6. And we are doing this because Exhibit 6 was like one of the more than 1,000-page documents. And D14 has PDF page numbers on it. The PDF page numbers correspond to Exhibit 6 and appear in Exhibit 16 as well. Exhibit D14 begins PDF Page 1 and at the end of it, it's got PDF Page 55, followed by PDF Page 2196.

Complainants move for D14 to be admitted into the record as a demonstrative.

HEARING OFFICER WEBB: D14 is admitted.

(Complainants' Exhibit No. D14 was admitted into evidence.)

MS. BUGEL: Complainants also have an excerpt from Exhibit 7. This is marked D15. And again, Exhibit 7 was admitted in the May hearing. And we have excerpted Exhibit 7 again because it is a more than 1,000-page exhibit. And D15 begins with PDF Page 1 and ends with PDF Page 0808.

Complainants move for D15 to be admitted into the record as a demonstrative.

HEARING OFFICER WEBB: D15 is admitted.

(Complainants' Exhibit No. D15 was admitted into evidence.)

MS. BUGEL: And Complainants rest.

HEARING OFFICER WEBB: Thank you very much.

Okay. Miss Williams, you may call your first witness.

MS. WILLIAMS: I would like to call PJ Becker back to the witness stand.

HEARING OFFICER WEBB: Mr. Becker, you are still under oath.

(The witness was previously sworn.)

PATRICK JOSEPH BECKER,

called as a witness herein, having been previously duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. WILLIAMS:

Q. Good morning. How are you?

A. Good. How are you?

Q. I don't want to go over too much of what was already covered but could you just briefly say your name, title, what you do for the city?

A. Yes. My name is Patrick Joseph Becker, better known as PJ Becker. I am the environmental health and safety manager for City Water, Light,

and Power. I've worked on the regulatory compliance since 2002 for CWLP.

Q. I am showing you a document that's been marked as Exhibit 47. We will give Emily a minute to provide a copy to the others.

Can you tell me what this is?

A. Yes. This is basically a timeline schedule and just kind of a brief overview of all the work that has been done at the Dallman Ash Pond and Lakeside Ash Pond since 2008 to present.

Q. Can you tell us about how this was developed? You know, were you involved in developing this document?

A. Yes, I was. Eric Staley and my staff and I work pretty closely with following all the different regulations for the ash ponds. So, Eric and I worked together to put this -- basically to put this timeline together.

MS. WILLIAMS: May I move to admit it now? So if you have an issue, we deal with it now.

MS. BUGEL: Complainants ask that we wait until the end of Mr. Becker's testimony.

MS. WILLIAMS: No problem.

BY MS. WILLIAMS:

Q. So PJ, like I mentioned with Mr. Hunsberger, this has been going on for quite a while, this case, it's been going on for almost a decade, and the issues that we've discussed today have been going on a lot longer.

I would like for you to kind of give us the overview of that history in sort of a chronological format, and to the extent you need to reference this timeline to do that, that's what you have it in front of you for.

A. Sure.

Q. So can you tell us in your world when you first came to get involved with the issues at the ash ponds?

A. Yes. So I've been working at CWLP since 2002. So prior to becoming the environmental safety manager, I did air compliance, industrial hygiene, and utility.

In 2011 I became the environmental health and safety manager. So part of my responsibility was overseeing Sue Corcoran who worked with me for -- worked with me at the ash ponds. So in 2011, I came in with Sue, she was working with

IEPA with the 620 groundwater assessment that was going on at the ash pond, so that started in 2009. And then as we discussed, in 2014 that process more or less stopped. So for that five years we were working with IEPA on groundwater issues at the impoundments.

Also in 2010 because of the Kingston failure, U.S. EPA came and did a structural integrity investigation on the Dallman Ash Pond and Lakeside Ash Pond. That was in 2010 and that process went for three years to 2013.

We also asked IDNR who regulates all the dams in Illinois to come and evaluate the Dallman Ash Pond and Lakeside Ash Pond because, obviously, of the Kingston failure, we wanted to make sure that that wasn't a possibility at the impoundments for CWLP.

So IDNR came in 2011 and they did an assessment on the Dallman Ash Pond and Lakeside Ash Pond, they had no issue with the structural integrity of the Dallman Ash Pond and Lakeside Ash Pond.

We also were working initially, while we were in the process with U.S. -- with IEPA when

they started their 841s was what they were called initially and then turned into 845s, but we were in the process of rulemaking with them as well.

But before that, the U.S. EPA in 2015 finalized their CCR rules and so we were part of the proposal, we were part of that process as well and we've been working to follow that regulation since 2015.

And then 2021, IEPA finalized their 845 rules. And since 2021 we've been following those regulations deregulated under 845 as well.

So those are the kind of big picture items that we've been dealing with, with the two entities that regulate the ash ponds, IEPA and U.S. EPA.

Q. So let's just talk a little bit more about the initial issues with U.S. EPA -- Illinois EPA when you were first coming in as far as what types of meetings were held and what kind of work was done for that?

A. Yes. So we met with IEPA and they wanted to -- so IEPA, the first meeting with them was about groundwater issues. It had nothing to do with structural integrity. They just wanted to

know about the groundwater, what's going on with the ash ponds. Based on the -- I think the Kingston failure kind of started a lot of new regulatory regulations of the ash ponds.

So IEPA asked us to put in wells in our Dallman Ash Pond, Lakeside Ash Pond area to assess groundwater. So obviously putting in wells, getting data, evaluating the data takes many years, especially once you don't have initial information, so that process took a couple of years to put the wells in, get enough data, develop background, and try to assess what was going on for groundwater at the ash ponds.

Q. At what point did Andrews Engineering come into that picture? Was it in the beginning?

A. When we first had stabilized, they were a company we used initially and then we brought in Andrews because Andrews worked with us very closely at the landfill. They had a lot of background information with the groundwater at the site already, so we just thought it made more sense to bring Andrews in, they're a bigger company, more well-renowned for landfills and in groundwater investigations. So we brought them in

probably, you know, I think they developed the initial groundwater marketing program probably in 2011 or 2012, as I recall.

So they came in and really ever since that point they've been kind of our groundwater experts at the site.

Q. And at some point did you again, I'm jumping ahead a little bit chronologically, but at some point did you decide you needed to even bring in more experts beyond Andrews?

A. Yes. So I think Andrews is very good, in my opinion, on groundwater issues and just kind of evaluating those types of items.

We also brought in Hanson Engineering. Hanson Engineering has a lot of experience with CCR impoundments and just with environmental regulatory projects. So we also brought in Hanson Engineering to more or less dovetail Andrews Engineering with just closure options, just try to look holistically at the site, which is the best way to close these units, which is the best way to address any long-term environmental issues at the impoundments.

Q. Thank you.

Going back to the initial step with Illinois EPA, at some point, from our discussion yesterday, a VN, violation notice, was issued?

A. Yes.

Q. What happened with that?

A. I think because of the future rulemaking process of the state rule and the federal rule, and really the 620s, it was kind of putting a square peg in a round hole, the way I kind of look at it, it was not really an appropriate path to evaluate the ash ponds.

And so, I think the state realized that they had the rulemaking process going on with 845s, the Feds were coming down with their rulemaking process with the 257s, so at that point in time I think it just made sense we are going to be regulated by the state, we are going to be regulated by the U.S. EPA as well, so those rulemaking processes and rules were going to be put in place to assess the impoundments and future work that was going to be done there.

So I think -- in my opinion, I think that's why the state realized the 620s at that point didn't make much sense to keep pursuing us

and waiting for the federal rule to take place and for the state rule to take place.

Q. So let's pick up 2015, the federal rule that is in place. Were you required to develop a website for that rule?

A. Yes.

The CCR, as well as 845 down the road, you have to have a CCR compliance website where you put all regulated -- or all documents, the rule says you have to put on your website -- your public website, so we had been submitting those items since 2015.

Q. I am showing you what's been marked as Exhibit 48. Do you recognize that document -- or what is that document?

A. Yes. I think this is a document probably printed out recently all the information we have done, all the reporting, all the recordkeeping that we had done since the implementation of the CCR 257 rule.

Q. Are you involved with this website at all?

A. Yes. Yes. I am the one who actually takes the information -- takes the reports,

reviews the reports, and kind of has the final say, and I am the one that actually submits them and puts them on this website.

Q. Thank you.

MS. WILLIAMS: Do you want me to wait for all the exhibits to the end or just that one?

I will move to enter Exhibit 48.

MS. BUGEL: Complainants have no objection.

HEARING OFFICER WEBB: Exhibit 48 is admitted.

(Respondent's Exhibit No. 48 was admitted into evidence.)

BY MS. WILLIAMS:

Q. So in between -- well, did you say when 845 came into play?

A. Yes. It was final in 2021. I don't have the exact date but I know in 2021 it was final, but, obviously, years up to it there was a rulemaking process we were part of, 845 pretty much mirrors the CCR 257 rule. It's a little bit different, has a little bit difference in it, but pretty duplicative in many aspects.

So, yes, we were working with that rulemaking process ever since the federal rules was final. The states were also putting their

rules together, and so we were closely following that as well to make sure that we wouldn't have to do a bunch of rework with both those regulations going on at the same time.

Unfortunately, there's been a lot of rework we had to do with both of them just because they are a little bit different. So following two regulations have not been the easiest but we've been doing our best to try to submit everything on time and correctly.

Q. I'm showing you an exhibit that's been marked as 49. Does that look familiar? Can you explain what that is?

A. Yes. This is the Illinois portion of the CCR rule compliance website that we've had to maintain since 2021.

So once again, it mirrors the federal one, but the state one, like I said, the state rule is a little bit different. This one is a little bit longer because we do weekly inspections of the impoundments and we have to put our weekly inspections on the website. So although a lot of the information is very similar compared to the two, this one is a little bit longer because

there's more information that we have to submit. With the 845 rule, there's a lot of annual reports in the 845 rule that we don't have to do with the federal rule. That's a little bit more onerous on us and a little bit -- well, it is more onerous on us than we have to -- we do annually that the federal rule you don't have to. So the state rule is definitely more far reaching than the federal rule, but we have to comply with both rules at this time.

Q. And do you know if it's specifically required that you have to keep separate websites for the two separate rules?

A. We do, yes.

Q. So you've explained how the 845 website may have additional information. Could there now at this time be additional information on the federal website that's not on the state website?

A. Yes. The federal website, we've also, working with U.S. EPA and our recent CAFO, our recent -- in 2022 U.S. EPA came with a consultant CTI to do CCR inspection and assessment of the rule and, you know, working with U.S. EPA, as I said yesterday, to more or less do a lot of

additional investigations, a little bit -- a lot more work to show the structural integrity of the impoundments, to answer questions on groundwater at the impoundments, and those reports that we've been dealing with U.S. EPA have also been put on the CCR compliance data information website.

So our website -- our CCR 257 website is probably a lot more substantial than most utilities because of the extra information we've been working with U.S. EPA on since 2022.

Q. And do you know why other utilities aren't working with U.S. EPA like that?

A. They were not -- from my understanding, I don't think U.S. EPA did many site visits or many evaluations of CCR programs like they did ours. As I recall, when we met with U.S. EPA we were either the number one or number two utilities in Region 5 when they first came to be evaluated.

Q. And so that one then --

A. 2022, yes, that started that process.

Q. So between that time -- between 2015 when the federal rule came out, 2022 when the U.S. EPA comes out, can you describe the changes that went on at the Dallman site during that period of time?

A. Yes. So long term, we always knew we were going to be closing the Lakeside Ash Pond and Dallman Ash Pond eventually, since I became the H and S manager, there were lots of discussions way back when, you know, a lot of unit shutdowns were forthcoming, there was a lot of change in the utility that was going to be happening.

So, for example, we really started shutting down the Lakeside Ash Pond, we stopped receiving ash at Lakeside in 2009 when we shut down unit 7 and 8 in Lakeside, that was when we built on 4, so we shut down Lakeside 7 and 8, so no more ash was going to the ash pond to Lakeside. The only wastewaters that were going to Lakeside were the drinking water, lime sludge that was built on top of the ash ponds. So we knew long term we were going to have to build new lime sludge basins to close those Lakeside Ash Ponds.

Q. Did you look at keeping them there?

A. We evaluated the utility to keeping them there and we decided that it would be much more prudent to build new lime sludge basins and not have to, more or less, try to improve to keep them there, knowing that it would be probably a

long-term battle to keep the lime sludge ponds there. So we decided we didn't want to go down that route. We just wanted to build new lime sludge basins, and I think that was started in 2021 and finished in 2023.

Q. If you don't know, it's fine, but do you know how much this cost, about?

A. I recall a price tag of 13 million.

Q. Okay. Go ahead.

A. Then also knowing that we were going to have to eventually close Dallman 31, 32, 33, we did a lot of evaluations over the year on long-term compliance with those units on environmental regs, so we decided -- as part of that evaluation, we did a resource plan, I think that was final in 2018, and they recommended long-term you're going to want to shut down Dallman 31, 32, 33, so we knew we were eventually going to shut those units off, and 31, 32 stopped operation in 2020, 33 went one more year in 2021. So those units ceased operating and no more ash was being sent to the Dallman ash pond after Dallman 33 ceased operating in 2021.

We had some miscellaneous waste streams

also going to the Dallman ash pond that we knew we were going to have to reroute. So we did a lot of work to reroute those waste streams as well into the clarification pond.

And so, there's been a long-term process of stop waste streams going through the Lakeside ash pond, the Dallman ash pond, and there's been no waste streams at all since 2023. So those units basically just remained open and hopefully closure activities can begin soon.

Q. So why aren't they closed already?

A. Well, we were waiting for -- we have a permanent application into IEPA and we have this -- we have this closure plan to U.S. EPA right now, so both those entities we're working with to try to get the necessary permits and the necessary -- the necessary information back and forth in order to complete those closures.

MS. WILLIAMS: Did I enter 49?

HEARING OFFICER WEBB: No.

MS. WILLIAMS: Can I move to enter 49?

MS. BUGEL: No objection.

HEARING OFFICER WEBB: 49 is admitted.

(Respondent's Exhibit No. 49 was admitted into evidence.)

BY MS. WILLIAMS:

Q. Are there any other -- so you talked about how you were trying to obtain the permits for closure. Are there any permits that you haven't been able to obtain and for what?

A. Yes. So part of the closure of the Lakeside Ash Pond and Dallman Ash Pond is we have to dewater the units in order to begin the closure process. So we have obtained our updated NPDES permit to dewater both Lakeside Ash Pond and Dallman Ash Pond. We received that in 2026, the beginning of 2026. So we are in the process now of hopefully starting to dewatering those units.

Q. Let me show you a document we've marked as Exhibit 50.

A. Yes.

Q. What is that?

A. This is our updated NPDES permit that gives us the permission to dewater the Lakeside Ash Pond, Dallman Ash Pond, and that's why we received this updated permit.

MS. WILLIAMS: Can we move to enter

Exhibit 50?

MS. BUGEL: No objection.

HEARING OFFICER WEBB: Exhibit 50 is admitted.

(Respondent's Exhibit No. 50 was admitted into evidence.)

BY MS. WILLIAMS:

Q. So you have the permits to dewater. Have you started? What are you waiting on? What is the status of that?

A. Yes. So we are working with Hanson Engineering right now, they developed a process to put in I believe 10 or 11 extraction wells in the Dallman Ash Pond. So that information has gone out for -- it's going to be going out for bid. It went out once but we didn't -- we evaluated the bids and it wasn't exactly what we were hoping for, so Hanson helped us clean those up a little bit and now they are going out for rebid again and just want to make sure that this is done correctly, you know, in an environmental safe way, as well as a rate payer, you want to make sure that we keep the cost down to the rate payer as well.

Q. Okay. I would like to just go back

briefly and talk about 845 comes in in 2021, it was effective I think in the spring of 2021.

A. I believe it's October 21st, 2021.

Q. Anyway, when 845 came into effect, there was sort of a rush of things that had to be done, right? Can you kind of just describe what -- I mean, you generally described that you had to redo a lot of things. But as far as like the timing for the permits and like what had to be done under 845 initially, can you just kind of summarize that generally?

A. Yes. There was a lot of work to be done, the initial operating permit application, we had a lot of work we had. Hanson -- Anderson Engineering helped us put that packet together and submit that to IEPA.

We also knew we were going to be closing these units very quickly -- not very quickly, but we knew we were going to close those units, so we put in a construction permit application to close these units as well to IEPA, there was a lot of work to be done there as well, so we were trying to move forward as quickly as we can and it works with the rule to begin the closure process for

Dallman Ash Pond and Lakeside Ash Pond with 845 in particular.

Q. So is this accurate here on the timeline, you had to submit an operating permit it says October of '21 and then I believe February of '22 construction permit application?

A. That sounds correct, yes.

Q. So in between those two things, was there a requirement for public meetings?

A. Yes. So part of 845 -- part of the 845 rule is you had to do a public meeting and do a presentation of your construction, your operating -- not operating, but what you want to do for compliance purposes. So we held two public meetings, as I recall, about what we want to do to close the ash ponds.

Brad Hunsberger was our expert -- is our expert now, so he was there to help us explain to the public what we want to do to close these impoundments. We took questions from the public. We had to provide a response to those comments as well. And so, yes, there was public participation back in -- I think it was 2021. Or was it 2022 that we did that?

Q. I think it was late -- late '21, yes.
A. Yes. So, yes, there was a lot of work we had to do to get the public up to speed as well as ongoing closure -- closure options that we had going at the ash ponds.
Q. So after you submitted the construction permit to Illinois EPA, did anything happen with that? What went on with that?
A. Yes. We had some correspondence with IEPA, they had some additional questions, just normal back and forth between. You know, anytime you submit a large application to do a large project, there's going to be a lot of correspondence between you and the agency. So we had been working with IEPA on that as well, just to answer the questions, make sure that they don't have any -- you know, whatever they need, we are trying to provide them as soon as possible in order to go down this process.
Q. Have you been notified that your permit review was changing during that timeline?
A. Yes. The bureaus -- when we submitted our initial application, the Bureau of Water was overseeing the CCR program at the time and then, I

think it was a year-and-a-half ago, maybe, roughly, that I think the Bureau of Land overtook the CCR program -- the state CCR program. So the different bureaus are now overseeing -- I think they switched responsibilities, I'm not sure what the internal issues are with IEPA, but the Bureau of Land is now overseeing the coal combustion residual, the 845.

So unfortunately, they had to be brought up to speed probably very quickly on a lot of these issues going on with the impoundments. So that, as we all know, that was going to slow down any type of process when a different bureau takes over the program.

Q. Can you think of anything else along these lines? I have a couple of other questions. But if there's anything in this that you want to point out?

A. No. I think this has been a long process, we've been regulated by the state and the federal, U.S. EPA and state IEPA, we've been working very closely with both of them to try to do -- try to get these impoundments closed in a timely manner.

MS. WILLIAMS: Did I enter 50?
HEARING OFFICER WEBB: Yes.
MS. WILLIAMS: Okay, good.
BY MS. WILLIAMS:
Q. I am going to show you 51.
A. Yes.
Q. So what is 51?
A. This is frequently asked questions about when U.S. EPA --
MS. BUGEL: I am just going to jump in. Complainants have an objection to 51. This is hearsay evidence from U.S. EPA. There's no one here from U.S. EPA to authenticate this, lay a foundation for it, and it's all hearsay.
MS. WILLIAMS: This is a direct response to testimony presented by Mr. Hutson, in which he was allowed to enter three -- at least three hearsay documents from U.S. EPA to support his conclusion with regard to this issue.
So I feel like -- first of all, I asked him if he looked at this when he gave it to me, he had not, so he couldn't use it there, but I think it's not really fair to let him get three U.S. EPA documents in and to say --

HEARING OFFICER WEBB: And this was also printed off their website?

MS. WILLIAMS: On April --

THE WITNESS: April 15th.

HEARING OFFICER WEBB: I will admit it.

(Respondent's Exhibit No. 51 was admitted into evidence.)

BY THE WITNESS:

A. Yes. So when the CCR rule became final in 2015, there was a lot of information in the rule that you had to ask for interpretation, so a lot of industry was asking U.S. EPA for some more guidance. And part of that guidance document, this was just one of the questions, and that guidance document actually is pretty valuable because it kind of breaks down some of these items such as this one.

So this is one question about closure, a multi-unit system, and just general questions back and forth on interpretation on what you can and cannot do for closure purposes for a multi-unit system.

Dallman Ash Pond and Lakeside Ash Pond, we always viewed it as one-single system because

it is permitted under one permit, it has one outfall from Dallman Ash Pond and Lakeside Ash Pond, they both go to the same outfall.

We have one groundwater monitoring program -- a single groundwater monitoring program for the Dallman Ash Pond and Lakeside Ash Pond, it's one groundwater monitoring program, it's a single unit groundwater monitoring program system.

What am I missing? So the permit, the groundwater monitoring program.

Oh, we have one closure plan, a single unit closure plan for the Dallman Ash Pond and Lakeside Ash Pond.

So we've always viewed these as a single system and this document, more or less, says that because it's a single system, it has one groundwater monitoring program, it has one permit, and it has one closure plan for both units that you can, it is permissible, move material in between both units.

And this question clearly states that, and Page 4 of 5 says, "As a designated single CCR unit, however the movement of CCR and other waste between the individual units that make up the

system would be permissible throughout the closure period during closure activities under 40 CFR 257 (1) and (1)(a).

So we've always believed in that interpretation and we've always viewed this unit as a single system, and this gives us a background to concur with that conclusion.

MS. WILLIAMS: Thank you. That's all I have for this witness.

I make a motion to move Exhibit 47 into the record.

MS. BUGEL: Complainants object to 47 being entered as an exhibit into evidence. Complainants believe this would more clearly be a demonstrative. This cannot be used for proof that every single one of these activities on the list has occurred. Some of the activities on the list, there's been no testimony and no evidence about. However, as a demonstrative, it can be demonstrative of Mr. Becker's testimony or illustrative of his testimony.

MS. WILLIAMS: We would prefer this to be a sensitive exhibit. Not all the dates are worked on. I tried checking them off, but by the end of

the three witnesses, if necessary, we can go through each line. I am not sure if that's the most sufficient way to run the hearing but we are prepared to do whatever to make the exhibit --

HEARING OFFICER WEBB: What are you going to use this for to show?

MS. WILLIAMS: All the work that's been done and the chronology of it.

MS. BUGEL: It would be more appropriate to be a demonstrative. It cannot be used to substantively show that each one of those events has occurred. That more appropriately comes in through witness testimony and this would simply be demonstrative of the witnesses' testimony.

HEARING OFFICER WEBB: Some of these things are in this record, right, but not all?

MS. BUGEL: But not all.

HEARING OFFICER WEBB: I mean, you know, I understand what you are saying, Miss Bugel, but I think the Board will be able to sift through it. I think it's okay, I will admit it.

(Respondent's Exhibit No. 47 was received into evidence.)

CROSS-EXAMINATION

BY MS. BUGEL:

Q. Mr. Becker, I just have a couple of questions for you.

You testified about applying for an operating permit to U.S. EPA. Have you received that operating permit?

A. An operating permit to U.S. EPA?

Q. I'm sorry. You testified as to applying for an operating permit to Illinois EPA. Have you received that permit?

A. We have not.

Q. How many years have you been waiting for that permit?

A. Well, we submitted it in 2021 -- 2022, I believe. So that date to the present.

Q. Do you -- can you check?

A. Which operating permit? Construction or operating?

Q. Operating.

A. It looks like we submitted it October 28th of 2021.

Q. So you've been waiting for it for approximately five years?

A. Yes.
Q. And you also submitted an application to U.S. -- to Illinois EPA for a construction permit for closure, correct?
A. Yes.
Q. And you submitted that construction -- closure construction permit in February of 2022, correct?
A. Correct.
Q. So you have been waiting for that closure construction permit for four years, correct?
A. Yes.
Q. You testified that it's your belief that the state realized that Part 620 was not really the right way to handle ash ponds, correct?
A. Yes.
Q. But nobody at IEPA communicated to you that they realized that Part 620 was not really the right way to handle ash ponds, correct?
A. Yes. Nobody directly told me that but I figured because of the silence that made sense.
Q. So it was silence that you were interpreting from Illinois EPA?
A. Yes. Because if we were going to still

be under 620, they would have followed up with correspondence.

MS. BUGEL: Thank you. No further questions.

HEARING OFFICER WEBB: Miss Williams, any redirect?

MS. WILLIAMS: No.

THE WITNESS: Thank you.

HEARING OFFICER WEBB: It is 10:52. Would you like to take some public comment at this time?

Whoever would like to come first, we typically limit public comments to three minutes. If you have additional comments, of course there's a written public comment period.

And if you could move that microphone maybe a little bit closer to you and state your name please.

MR. HANRAHAN: Donald Hanrahan.

HEARING OFFICER WEBB: Okay, you may go ahead.

MR. HANRAHAN: I grew up in the subdivision immediately east of CWLP's coal ash dumps, playing along the shores of meandering Sugar Creek just north of Spaulding Dam.

That creek, lined with huge trees and pocked with great summer fishing holes was heaven

on earth to me and more than a dozen kids in my neighborhood.

I returned from law school one Thanksgiving and discovered the creek had been, in the words of Mr. Hunsberger, destroyed, channelized, all the trees removed and replaced with a giant 40-acre ash dump. That feeling in the pit of my stomach then means that I have a dog in this hunt today. My heart is in this.

Not just another case with boring legalities related to admissible facts, of course it's that, that's the job that your Honor has to fulfill, but it's more, it's the real risk and effects on communities.

What happens in the next flood events? Far more likely now, we had 15 inches of rain in Springfield in September. These events are occurring more and more frequently, more and more severely. What happens when the now 40 percent more likely extreme rainfall events come back-to-back in an already swollen lake when flood waters sweep over the dam and the pressure from above, below, and beside stressed capped-in-place pits with their aging berms are put in that

position?

What risk if thousands of tons of ash slop into Sugar Creek down the Sangamon River, which is a drinking water source for thousands of people in Riverton and in Petersburg all the way? The very kind of event that prompted CCR rules in the first place.

How do we know there's no clay fractures, or sand lenses, or root channels in that clay that's supposedly protecting everything? Capped with monitoring? It's been monitoring with evidence showing continuous violations year-after-year from the onset of this case through the court's 2023 findings.

Open public records as defined by law with supporting expert lab studies published on Respondent's own website with transmittal letters to the IEPA every quarter since that finding was made document ongoing exceedances at the same levels with the same contaminants documented in this court's 2023 findings right through Quarter 2 of 2026. These are public records and I urge the court to take administrative notice of them.

The code requires a CCR owner to ensure

that at a minimum, the pits are closed in a manner that will control, minimize, or eliminate violations to the maximum extent feasible.

Only excavating and removing will control or eliminate the source of contaminants to the maximum extent feasible, will eliminate the risk of release to the environment, eliminate the costly and dubious years of site monitoring and maintenance costs, and the catastrophic risk and liability of berm failure for future generations.

Only excavation and removal meet the legal standard and protect the health and safety of our communities. And it's feasible, too. Just ask the utility willing to spend $300 million for a lake that wasn't needed. If they can afford that, they can afford this.

Thank you very much for listening to me today.

HEARING OFFICER WEBB: Thank you.

Ma'am, would you please state and spell your name for our court reporter?

MS. McKIERNAN: My name is Lori McKiernan. That's L-O-R-I. McKiernan is M-c-K-I-E-R-N, like Nancy, A-N, like Nancy.

Good morning. Thank you for letting me speak today.

I am a Springfield resident, a CWLP rate payer, and a member of the Sierra Club, and the Coalition for Springfield Utility Future. However, I am speaking on my own behalf today.

I wasn't planning on speaking today. However, after what I heard yesterday, I felt strongly that I needed to speak this morning.

I am fairly new to Springfield. I've lived here only five years but through these environmental organizations I've been involved with, I've learned of CWLP's history of continuous noncompliance until forced to comply.

I've seen how CWLP puts money over the health and safety of area residents. I've seen how they sued the U.S. EPA to avoid the effluent limit guidelines. I've seen them request and be granted a two-year exemption of mercury and air toxics standards. And now I am hearing here that they say out loud that they choose to ignore regulations when they feel like it's too difficult for them to manage.

There will always be the minimal

required, whether it's meeting environmental standards to planning meaningful public engagement in public meetings.

While I appreciate CWLP's attempts to be physically responsible, I am a rate payer and I want them to manage risks while being physically responsible.

Rising water tables and berm failures all have associated risks. This is about toxins and groundwater contamination. I want them to do what is necessary to keep our residents safe.

Being able to say we have the lowest electric rates in Illinois is not the issue here. Our safety and health are.

The continuous exceedances of standards shows that they will not prioritize the risks of contamination.

I heard a lot of blame this morning of others for lack of progress on closures but no acknowledgment that violations is part of the problem.

According to Earthjustice's research yesterday and the research of the expert witness from your main hearing, strong evidence shows that

coal ash can be cleaned up, can be removed is the most effective way to remedy the groundwater violations.

We don't want capped coal ash ponds to remain adjacent to our drinking water and leaking into our groundwater. We want the coal ash removed and disposed of properly. This is not a money issue, it's a health and safety issue.

Thank you.

HEARING OFFICER WEBB: Thank you.

We have nobody else here who wishes to make a public comment.

So, Miss Williams, it's eleven o'clock. Do you want to do one more witness before lunch?

MS. WILLIAMS: Can we take a quick five-minute break?

HEARING OFFICER WEBB: Let's take a 5-to-10-minute recess.

(Break.)

HEARING OFFICER WEBB: All right. I think we are ready to go back on the record.

Miss Williams, you may call your next witness.

MS. WILLIAMS: My next witness is Eric Staley.

HEARING OFFICER WEBB: Mr. Staley, you are still under oath.

THE WITNESS: Understood.

(The witness was previously sworn.)

ERIC STALEY,

called as a witness herein, having been previously duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. WILLIAMS:

Q. Now, you've got an exhibit in front of you. Remind me what the number is. 47?

A. 47.

Q. So, Mr. Staley, looking at Exhibit 47, can you kind of put on this timeline when you started working with ash ponds?

A. I began being involved with the ash ponds sometime in 2015 beginning with when the weekly inspections were required. We thought it was best to have multiple people do it instead of one person so you have different eyes. So I was one of the others that became involved with it in 2015.

Q. And at some point did you change rules to be more responsible for --

A. I did. There was a planned retirement in my office in 2019, and pretty much from 2015 until the retirement in early 2019, I shadowed and then worked alongside with Sue Corcoran to take over the environmental compliance for ash ponds and other things.

Q. And were you involved when we first had to develop documents in 2016 under Part 257?

A. Yes, I was.

Q. So what -- can you just explain in a little bit more detail than we talked about until now about what documents had to be prepared and how for the initial stages of Part 257?

A. Well, yes. So, from the very beginning after the 257 rule was finalized, you know, there was timeframes within the rule beginning with simple things like fugitive dust plans and everything, annual inspections.

The big thing came in October of 2016, I worked with Andrews Engineering on making sure the location restrictions, closure, and post-closure plans, history of construction, liner status, hazard tension classification, structural stability, safety factor inflow, flood control

design plans, and all the closure documents were prepared.

Q. And those documents were then put up on the website?

A. Those would have been placed on our publicly-available 257 website.

Q. And then following that, did it move more to the groundwater --

A. Yes.

Q. -- area?

A. I have a history -- prior work history with a lot of groundwater and it was a natural fit for me to take over that role for the utility. The first groundwater monitoring program that Andrews established was established in October of 2017 and I became very familiar with that upon establishment.

Q. And what type of duties did that require you to do as far as becoming very familiar with it?

A. Just, again, learning the history of the wells, you know, why they were installed and when they were installed and for what purpose they were installed previously, and how these existing wells

were now being utilized from the previous Illinois EPA's violation notice and everything, and now they are part of the federal groundwater monitoring program.

Again, as I've testified previously, I would be in charge of the contractors when they would come out and sample the groundwater. And then once they submitted the laboratory analytical results, we would do our statistical evaluations on those monitoring results.

Q. So at some point did you -- at what point after you first came to the program, got familiar with the history, were additional or new wells installed?

A. We've installed a lot of wells over time.

Of course there's been some replacement wells. I was present when AW-3 was replaced with RW-3. Under 257, we did some additional investigations with some Geoprobe work, some temporary piezometers done under the initial assessment -- I'm sorry, I believe that was under a previous investigation, and some of those piezometers were converted to permanent monitoring wells, and then because of weather and other

implications, we had to temporarily suspend that investigation and resume in the spring. But approximately at any given time on that, I think we added five or six sampling locations to the program.

Q. And did the 845 adoption cause you to install any new wells as well or did you already describe that?

A. No. Prior to the adoption of 845, the way the rules were written when you submitted your first operating permit application, you had to already have eight quarters of monitoring data in place. We added additional monitoring wells ahead of time and completed the eight quarters of sampling before the --

Q. Was it eight quarters or eight samples?

A. Thank you. It was eight sampling events. Sometimes in a perfect world you would do eight individual quarters to allow a temporal variability, but you can't do them on an accelerated nature, and I believe on this one we did a somewhat accelerated nature, completing eight sampling events within a year to a year-and-a-half period.

Q. Would that require you to get started before the rules were final?

A. There was a lot of work we had to do before the rules were final. And so, yes, we added at least -- we added at least seven monitoring wells to the 845 program.

Q. So then at some point U.S. EPA came out to inspect?

A. Yes.

Q. And were you the one that took the lead in addressing that process?

A. Yes. I was primarily in charge of the day-to-day environmental regulation for the CCR surface impoundments. So when U.S. EPA came out with their consultants, myself and PJ took the lead of the site tour and directing them around all of our locations and everything that they wanted to see during that inspection.

Q. And after the inspection, was there follow up required?

A. There is follow up required. We pretty quickly after the inspection received a request for information from U.S. EPA. They had been looking at our publicly-available website. Prior

to coming out for the inspection, they notified us that they were coming out for a physical site inspection and then again afterwards they asked for a lot of our records and response. I estimate we probably provided 10,000 pages of documents to U.S. EPA.

Q. After they got the documents, what was the process like then?

A. After they received the documents, U.S. EPA and their consultants poured over them and they identified some potential violations with our records. We ultimately received a notice of violation from U.S. EPA with potential violations of our operational requirements.

Q. Did this process involve in-person meetings or just back and forth correspondence?

A. There was a lot of correspondence back and forth with the U.S. EPA. After they asked for our records, they, of course, wanted some clarification or some additional interpretation of what records we had given them, yes. And so, we had some of those.

I mean, after the NOV, we did provide a written response asking for clarification. The

notice of violation was obviously written by -- to me, it was obviously written by different parties, there was differences in language, there was differences in context, and for us to formulate and respond in an appropriate manner, we did write back to them and request some clarification on, you know, where they are at and where they are coming from when they identified these potential violations.

Q. And how did they provide some of that clarification? Or how did you know about dealing with that?

A. They did provide some of that clarification. We did have a meeting with them, it was a video conference call between U.S. EPA and their consultants, and it was in March of '23.

Q. Is that the only time you met?

A. Over time. Yes, we've met multiple times, we had multiple conference calls. You know, we went through a period of injunctive relief for the operational requirement potential violations and then after that we received a separate notice of violation for some closure-related potential violations and

groundwater monitoring program potential violations.

So it was a lot of back and forth, a lot of series of phone calls, a lot of e-mails with their technical people and our consultants, and just trying to formulate initially proposed injunctive relief and then final injunctive relief, and I mean still going to this day.

Q. Eventually, though, it was finalized into an agreement, is that correct?

A. Yes. We all knew that it was heading towards consent agreement and final order. And so, they took a lot of the information that we gave them and some of the actions that we took in our injunctive relief for some of the potential violations. The other ones we agreed would just be more easily addressed under the consent agreement and final order. We worked with them on a couple of variations of the final document for the final consent agreement and final order.

Q. And then from the point of view of your job, what happens after the consent agreement was final?

A. I got a little busier.

After the consent agreement and final order, we had the opportunity, of course, to see the timelines and the actions that were going to be required for deliverables, and we began -- even before the ink was dried or before we got the final one, we were working towards that timeline, and I believe some of the things that we responded to were within 30 days, other things were within 45 days, some of the documents and the deliverables that we had were already prepared and ready to be delivered in a timely manner.

Q. Going back to the issue -- well, let me rephrase that.

So what percentage of your time is spent on these issues?

A. On any given day, 80 to 90 percent of my time is spent with the CCR surface impoundments, the ongoing work with the CAFO, and our consultants. The additional drilling, the additional monitoring wells, the reporting requirements for all of that, managing the 257 program and the updates that we have done there, crossing those over as applicable into the 845 and keeping those things separated.

And again, whenever we have contractors onsite for drilling, investigations, all the other studies that we've done, I am there on a daily basis overseeing those contractors.

Q. So did the CAFO end up requiring additional wells as well?

A. There was several things in the CAFO, one of the requirements of the CAFO was the U.S. EPA wanted to see a comprehensive flow path report and they indicated some areas that they had wanted to see some additional monitoring wells to be installed, specifically some nested wells.

Nested well would mean you would put in adjacent to an existing well only screened at a different elevation. So the wells would be within, say, 10 feet of each other but they would be screened across two different geological units that were potentially bearing groundwater.

So as a result of the flow path, I believe we installed upwards of 13 to 14 wells and piezometers to better characterize what the U.S. EPA wanted to see within the different geologic units and how those geologic units may or may not be interacting.

That ultimately led to the submittal of what the U.S. EPA called the flow path report and the EPA has reviewed that, and because it's not in regulation but it's something that we negotiated and agreed to do, they did provide some comments on it and we are working on those comments with some of our other documentation now.

Q. And once -- do you know, like, once you finish the tasks in the CAFO, will there be another public meeting?

A. Yes. Under the 257 rules, once our assessment of corrective measures is finalized and we identify a remedy, as I recall, we have to have a public hearing on our selection of remedy and we have to present the public what our intentions are for closure and the remedial action that we are taking and they have the opportunity to provide public comment on that.

Q. One thing I probably -- I was going to ask you about, Mr. Hutson criticized why we would have multiple different background rules identified in different reports during kind of a similar period of time. Do you recall that?

A. I do.

Q. Do you think you could explain, kind of simply for the Board, why -- if you go to look at all these thousand pages of reports there will not always be the same number for a background value?

A. Yes.

So over the course of the U.S. EPA involvement and them looking at our groundwater monitoring program, they believed that we should be continually updating our background data center as new information, new analytical results, or new observed trends become apparent. They had asked for all of our information. We gave them the data set of backgrounds that was developed up to 2016, and that is the background data set that we had used for compliance with the Illinois EPA violation notice prior to that.

Since those numbers were already available and established and U.S. EPA requested the information, that was one of the first items that's real easy here, you go have a look. And again, their comment back was you should be updating and looking at some new.

So we voluntarily removed three 2016 analytical data from our data set and we

established -- re-established backgrounds and groundwater protection standards for the 257 program.

So as that was happening and we were submitting these and reports and documentation to the U.S. EPA, we are not technically required to do the same thing with 845 in a formal report. What we are required to do is enter those changes in our operating record.

So there obviously is an occurrence where there's a difference between background values that we have submitted to the federal government and correspondence, and it may align with one of the 257 annual groundwater monitoring and corrective action reports, but it may not be the number that appeared in our 845 annual groundwater monitoring report, but those changes are reflected in our operating record.

Subsequently to us voluntarily removing our 2016 data and using newer data as requested from the U.S. EPA, we submitted some backgrounds and they came back and said actually throw this number or that number out because their statistical method identifies it as an outlier,

and we just said okay.

So even back-to-back-to-back, we had a couple, but then in a given year period with the U.S. EPA we have some different backgrounds even from one submittal to another separated by two months. So depending on when you look at the record and identify what you are looking at, it can cause some confusion without knowing the history of how and why within a very short timeframe we had two different numbers for two different programs.

Is that brief enough?

Q. Thank you.

I don't think I have anything else, unless there's something you want to add, Eric?

Thank you, Eric.

MS. BUGEL: Thank you. Just about three questions or so.

CROSS-EXAMINATION

BY MS. BUGEL:

Q. Hello again.

A. Hello again.

Q. So at the beginning of your testimony you mentioned doing inspections of the ash ponds,

right?

A. Yes.

Q. And those inspections are visual?

A. Yes, they are.

Q. And can you see if clay is degrading under water or under ash on a visual inspection?

A. Can I see if clay is degrading? No.

Q. And you also discussed adding a lot of wells over time --

A. Yes.

Q. -- right?

And wells can detect contaminant entering groundwater, correct?

A. The purpose of a monitoring well is to determine the groundwater concentration.

Q. But a well can do nothing to actually stop contaminants from entering groundwater, correct?

A. A monitoring well does not prohibit contaminants.

MS. BUGEL: I think that's all I have.

MS. WILLIAMS: Nothing further for this witness.

HEARING OFFICER WEBB: We do have another

member of the public who has arrived to offer public comment, if this is a good time to do that.

MS. WILLIAMS: Yes, that will be great.

HEARING OFFICER WEBB: Please state and spell your name for the court reporter.

MR. REHN: My name is Andrew Rehn. A-N-D-R-E-W R-E-H-N.

Thanks for the opportunity to provide comments today. My name is Andrew Rehn. I am the climate policy director at Prairie Rivers Network. We are an Illinois-based nonprofit with membership across the state, including members here in Springfield that live on the Sangamon River down the stream of the site. I live in Urbana, Illinois.

Three Rivers Network works to protect water, land, and inspire change. I've worked on protecting our rivers, lakes, and groundwater from the impacts of coal mining, coal combustion, coal pollution, coal ash waste disposal for 10 years now. We've advocated for regulations and clean up of coal ash across Illinois and we've supported the Coal Ash Pollution Prevention Act.

I usually take a minute here to explain

what coal ash is and why contamination and how that contamination travels into our groundwater, lakes, and rivers, but I think everybody here probably has a strong understanding of that.

The short version is coal ash cannot remain in contact with groundwater without reaching pollution.

In 2018, Three Rivers Network published a report summarizing publicly-shared groundwater impact data from coal ash owners like CWLP. At CWLP we found boron concentrations at 10 times the Illinois groundwater standard and these violations were measured at sites beginning in 2010 for boron, sulfate, TDS, and continuing through the present. Its proposed closure plans will not resolve these issues because there will be contact -- coal ash contact with groundwater.

CWLP's most recent groundwater conceptual model from 2017 shows that typical groundwater elevations outside of the Dallman impoundment between the berms at Sugar Creek, it had an elevation of 528 and the bottom of the impoundment is 527. However, bottom ash was found in the Dallman impoundment at 526, 523, also 526, and

529.5 feet above sea level, which means that the bottom of the coal ash is two to five feet below the typical groundwater elevations that were in the locations selected by CWLP and three of the four boring wells.

So the facilities, they're asking about elevations post-closure, but the groundwater level was approximately 528 after closure by capping it in place.

Flooding is another consideration, impoundments will become resaturated in floods that are at flood banks. Illinois climate scientists predict storms to get bigger and drop more water on our landscape, which means that flooding will go up, and even periodic wetting can result in leaching.

These levels indicate that CCR lies below the groundwater at those locations, and the Dallman site will likely remain below the groundwater post-closure and pose a significant risk of groundwater contamination.

CWLP's proposed closure must account for coal ash located below groundwater levels. The boring data raises further questions about the

extent of submerged waste because they show CCR extending below the (inaudible) level at most locations.

Ultimately, it is clear from CWLP's modeling -- it is unclear, sorry, from CWLP's modeling whether CCR waste will remain in contact with groundwater beneath the closed Lakeside if the impoundments happen to close in place.

Now, they did update the closure plans in 2025, but the modeling was not updated. So previously they proposed to cap both Lakeside and Dallman Ash Ponds in place, CWLP's closure permit application from '22 contains modeling submitted to Illinois EPA in conjunction with the closure plan that proposed capping both ponds in place.

Even though CWLP has proposed more recently in 2025 to consolidate the ash into one pond and only cap one pond, they provided no modeling in support of the more recent plan, and we have new modeling that shows how ash will be kept dry. In the capped pond, there's no indication that groundwater violations will cease.

This coal ash waste was built up over decades and their closure plan intends to leave it

here for generations. The public and our environment deserves a closure plan that permanently addresses the pollution onsite so it isn't left for the next generation.

Thank you for the opportunity to provide comments.

HEARING OFFICER WEBB: Thank you.

MS. WILLIAMS: I am ready to get my last witness done and get us out of here.

HEARING OFFICER WEBB: All right. Let's do it.

MS. WILLIAMS: Brad Hunsberger.

HEARING OFFICER WEBB: Mr. Hunsberger, you are still under oath.

THE WITNESS: Yes.

(The witness was previously sworn.)

BRAD HUNSBERGER,

called as a witness herein, having been previously duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. WILLIAMS:

Q. Hello, Brad.

A. Hello.

Q. You have that timeline in front of you,

too, if you want to refer to it, but I would just kind of like to briefly fill in any gaps that were left from the previous testimony, which I think somewhat goes back to when you got started and what you first did, and some more details.

Why don't you talk about when you first started?

A. I first started working on the impoundments in 2011. That entailed deriving a groundwater monitoring program pursuant to Illinois EPA Bureau of Water requests. We provided background concentrations for approval to the Bureau of Water I believe in 2014, and provided the data that was compared to those backgrounds that then resulted in the violation issuance.

Subsequent to that, the U.S. EPA 257 rules came out and we worked on several documents that included groundwater monitoring. That ultimately was put up on the facility website. And then the 845s came into play and we modified our groundwater monitoring program and submitted that as part of the 2021 application. There was a significant amount of drilling that was done

during that time and it is very important to be able to identify the concentrations and the locations of those concentrations.

We modified both of those programs subsequent to that based on data that was obtained from the 845 program and also for the 257 programs, they are not exactly the same. The requirements are somewhat different and we have more monitoring wells as part of the Illinois EPA program than we do the 257 program.

Subsequent to that, we had comments that we were responding to for the U.S. EPA and those were pretty substantial, which included additional, I believe, modifications to the monitoring programs as part of assessment monitoring, and then nature and extent report, and flow path report which is part of the CAFO.

Q. I'm fine if the answer is no, but could you estimate how many hours of work you and your staff spent on this?

A. Thousands. I don't --

Q. You are not exaggerating to say thousands?

A. No. No, because this has occurred over a

substantial number of years.

Q. And when did you -- you talked about starting with the ash pond in 2011 but that was not your first experience at the site, was it?

A. It was not. I personally started out there in 1988, we were doing preliminary investigations for the construction of the Unit 2 landfill.

Q. So you've had -- about how many years was that?

A. 38 years.

Q. So during the 38 years since then, I imagine you've seen a few other landfill sites?

A. A substantial, probably at least 125 Illinois landfill sites located in all types of hydrogeologic areas. So I've pretty much seen it all from waste impoundments, yes.

Q. How would you compare the site?

A. Strictly from a groundwater --

MS. BUGEL: I am going to object to this line of questions on relevance. We are comparing landfill sites to waste impoundments sites, that's apples and oranges.

MS. WILLIAMS: It's relevant to the factors

that you are relying on, suitability of the area.

MS. BUGEL: How does that even go to the suitability of the area?

MS. WILLIAMS: The degree of unsuitability of the area, maybe I should have said.

I mean, it's okay, if you don't want to hear about it, it's just a general question.

HEARING OFFICER WEBB: Mr. Hutson talked about other sites, didn't he?

MS. WILLIAMS: Yes, he talked about quite a few other sites and it is true they were mostly impoundments, but I don't know that it makes it irrelevant because it was a landfill.

MS. BUGEL: Go ahead.

BY MS. WILLIAMS:

Q. Go ahead and answer.

A. The sites differ from the hydrogeologic nature. Many that were very consistent with what we have here, some were installed in quarries, others were installed in sand and gravel pits, others were installed in former coal mines.

The takeaway from that is that they are all monitored, the groundwater quality is monitored at all of these facilities. There's

upgrading locations, downgrading locations, the aquifer systems vary from location-to-location, but the 125 sites were all in Illinois. So, the environment was relatively consistent.

Looking at just the quality of the groundwater out at the impoundment, I can correlate that with other sites that I evaluated significantly over the years. And these concentrations, yes, they are exceeding background for specific constituents, but the extent is very limited to the periphery of the impoundments.

So after 50 years, for the Dallman Ash Pond being there and looking at what the groundwater quality is, yes, some of the constituents do receive backgrounds but the extents are very, very limited.

Q. What do you mean when you say limited, at the periphery of the site?

A. Yes.

The monitoring wells that have been installed along the periphery, largely out of the west and the east, show very limited extent of concentrations that feed the backgrounds. Meaning, they are relatively close to the

impoundment berm structures.

Q. Have you seen any evidence that contamination from the impoundments have left the CWLP site?

A. The site being the area that is owned by City Water, Light, and Power, no.

Q. Are you aware of any surface impoundments in Illinois that have been closed by removal?

A. I am not. I am not saying there aren't any, I am just saying I am not aware of any.

Q. That's fine.

I've heard you say the modeling that you did in 2017. Am I getting that right?

A. 2021.

Q. Yes, I am sorry.

You called it conservative in a couple of different places. Can you explain what you mean when you say the conceptual modeling or the modeling? When you use that word conservative in the modeling, can you just explain that?

A. Yes.

This is typically what we do for the Illinois EPA for the contaminant transport model that are reviewed by the Bureau of Land.

The conservative comes from the thickness of the low hydraulic conductivity materials underneath the waste unit. We don't maximize that. We use a thinner layer, which means that any solute throughout the bottom are going to transport a little bit quicker, not as in a hydraulic conductivity or a velocity standpoint, but just because it's not quite as thick, it will exit into the uppermost aquifer at a sooner timeframe.

We assume that the entire waste is saturated until such time that it's dewatered, which means that we have maximum driving force for the safety velocity out at the bottom, so we maximize the solute that is going into the system until it's dewatered, and that's not really what happens.

The transient model will take into consideration that as the head levels decrease, so will the seepage breakout at the bottom, that will decrease as well. So this maximizes the amount of solutes that are put into the system, it has the thinner layer that is underneath it to impede that. And so, those two issues are really what

makes it the most conservative because it puts the maximum amount into the environment.

Q. I am showing you what I have marked as Exhibit 52.

A. Yes.

Q. Can you tell us what that is?

A. These are my comments to Mark Hutson's report and deposition from May of 2029 -- 2025.

Q. And is it your recollection that this report was referenced during Mr. Hutson's testimony in May when he attempted to respond to some of your concerns in that? If you don't recall, that's fine.

A. I think it was in June or July that he responded.

Q. No. No. No. I only meant in 2025, I'm sorry.

MS. WILLIAMS: At the hearing that we had here in May, I mean, I am mostly entering this into the record for clarification purposes today because Mr. Hutson presented his two reports and then tried to respond, right, he tried to redirect him on Brad's rebuttal report. So I feel like it will be unclear in the record what Mark was saying if

the Board doesn't have access to Brad's rebuttal report, right?

MS. BUGEL: That statement was just unclear, I don't know. I am not understanding what you are saying.

MS. WILLIAMS: Do you remember the discussion we had before the hearing in May about how you were going to kind of try to redirect on this report because we couldn't have Mark here today to do that, right? You don't remember that?

Okay. Anyway, based on that discussion, I thought it would be helpful for the Board to have the document so they have the complete set. I mean, that's all.

Do you have an objection? I don't think you have one, right?

MS. BUGEL: No.

MS. WILLIAMS: So I'll move to enter.

HEARING OFFICER WEBB: Exhibit 52 will be entered.

(Respondent's Exhibit No. 52 was entered into evidence.)

BY MS. WILLIAMS:

Q. Okay. So you were here, though, in May

when Complainants' expert witness testified, correct?

A. Yes.

Q. Can you take a look at Page 8 of your report -- rebuttal report?

A. Yes.

Q. And look at where it says Item No. 13. Can you review Item No. 13?

A. Yes.

Q. Can you summarize for the Board what you were trying to address with this item from your rebuttal report?

A. Mr. Hutson made a statement that under flood conditions, the velocity of the discharge, the water from the dam would be substantial to the point where the erosion of the impoundment berms can occur.

My comment here is under the flood conditions, the creek backs up, as Mr. Staley had talked about that previously as well, the creek backs up to where there's standing water at the bottom of the spillway, and as this water enters that standing water, it dissipates very, very rapidly, the velocity. So the velocity is simply

not there under flood conditions to erode the side of the berms, if assuming that it was flooded that high. That was the point of that paragraph.

MS. WILLIAMS: I think that's it.

HEARING OFFICER WEBB: We will go off the record for a few minutes.

(Break.)

HEARING OFFICER WEBB: We are back on the record.

Miss Williams, you have concluded your questions?

MS. WILLIAMS: Yes.

HEARING OFFICER WEBB: And, Miss Bugel, you have no cross?

MS. BUGEL: We have no cross.

HEARING OFFICER WEBB: Okay. We are done with you, Mr. Hunsberger. You are dismissed.

Miss Williams, do you have anything further that you would like to present?

MS. WILLIAMS: No. We rest and I am happy to waive -- we are going to waive closing, Faith?

MS. BUGEL: I think we should just brief instead.

HEARING OFFICER WEBB: We should have done

this when we were off the record.

Let's go off the record another minute so we can discuss a briefing schedule.

(An off-record discussion was had.)

HEARING OFFICER WEBB: We will go back on the record, please.

We are back on the record.

CWLP, you have nothing further to present. Is that true?

MS. WILLIAMS: Correct.

HEARING OFFICER WEBB: Okay. So the transcript is due by October 30th and will be posted on the Board's website. The public comment deadline is November 16th. Public comment must be filed in accordance with Section 101.628 of the Board's procedural rules.

The deadline for appeals of hearing officer rulings on objections is November 16th. December 4th is the deadline to respond to appeals of hearing officer rulings.

The Complainants' brief is due by January 14th, 2027. Respondent's brief will be due by February 16th of 2027. Complainants' reply brief, if any, is due by March 2nd, 2027.

It is my understanding that both parties are not going to make a closing argument here today, is that correct?

MS. WILLIAMS: Yes.

MS. BUGEL: Yes.

HEARING OFFICER WEBB: At this time I will see if there's no additional members of the public present to make statements on the record.

So at this time we will conclude the proceedings. We are adjourned.

Thank you all for your participation.

(The hearing was adjourned at 12:13 p.m.)

I, PAMELA S. MORGAN, Certified Shorthand Reporter in the State of Illinois, do hereby certify that the above hearing was recorded stenographically by me and was reduced to typewritten form by means of Computer-Aided Transcription.

I further certify that the foregoing deposition transcript is a true, correct, and complete record of the testimony given and of all proceedings had before me.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor financially interested directly or indirectly in this action.



PAMELA S. MORGAN, C.S.R. 084-001687

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$300 274:14

(

(1) 267:3

(1)(a) 267:3

0

0808 241:20

1

1 239:5 241:7, 20

1,000-page 241:4,19

1.7.15 221:22

10 213:22,23 231:19 234:6 259:12 288:16 294:20 295:11

10,000 284:5

10-minute 240:15

100-year 234:13,14,24

101.628 310:15

10:52 271:8

11 259:12

12 225:15

125 301:14

303:3

13 225:11,12 256:8 288:20 308:7,8

14 288:20

14th 310:22

15 231:19 233:20 272:16

15th 209:4 265:4

16 218:11,14 241:6

16th 310:14, 18,23

1733 225:17

18 220:2 221:20

19 221:18 222:1 224:3

19.4 224:21

1965 235:2

1976 226:11, 14 227:5,8

1988 301:6

2

2 210:21,22 211:4 273:21 301:7

2.1 213:23

2002 243:2 244:17

2008 243:10

2009 245:2

255:10

2010 245:7,10 295:13

2011 231:23 244:20,24 245:18 248:3 299:9 301:3

2012 248:3

2013 245:11

2014 233:3 245:3 299:13

2015 246:4,8 250:3,12 254:21 265:10 278:17,22 279:2

2016 279:8,19 290:13,23 291:20

2017 210:13 280:16 295:19 304:13

2018 256:16 295:8

2019 279:2,3

2020 232:23 256:20

2021 230:1 246:9,10 251:15,16 252:16 256:5, 20,23 260:1, 2,3 261:23 269:15,22 299:23 304:14

2022 253:21 254:10,20,22 261:23 269:15 270:7

2023 256:5 257:8 273:14, 21

2024 224:2

2025 218:4,15 220:1,23 297:10,17 306:8,16

2026 258:13, 14 273:22

2027 310:22, 23,24

2029 306:8

21 261:5 262:1

2196 239:6 241:9

21st 260:3

22 218:12,15 261:5 297:13

23 285:16

257 232:10 250:20 251:19 254:7 267:3 279:8, 13,15 280:6 281:18 287:21 289:11 291:2, 14 299:17 300:6,10

257s 249:15

25th 218:4

26 210:5,8 218:14 220:1, 23

28th 269:22

2nd 310:24

3

30 224:22 287:8

30th 310:12

31 224:21,22 256:11,18,19

32 256:11,18, 19

33 256:11,18, 20,23

36 220:2

38 301:11,12

4

4 211:18,20 214:1 221:13 223:8 224:5, 21 255:12 266:22

40 232:10 267:3 272:19

40-acre 272:7

45 287:9

47 243:4 267:10,12 268:22 278:11,12,13

48 250:14 251:7,9,10

49 252:12 257:19,21,23 258:1

4th 310:19

5

5 211:13 212:12 213:23 254:18 266:22

5-to-10-minute 277:18

50 258:17 259:1,3,4 264:1 303:12

51 264:5,7,11 265:6

519.0 228:10

52 306:4 307:19,21

523 222:20 295:24

526 222:18 295:24

526.2 222:22

527 224:5,17 229:3 295:23

527.0 223:4

527.00 223:8

528 216:20 217:20 218:20 219:21 220:6, 12 295:22 296:8

528-foot 217:14 219:4

528.0 223:5

529.5 222:24 296:1

544 216:24

55 239:6 241:8

6

6 211:5 221:16,17 225:4,16 238:16,24 239:2,4,12, 13,16,19,20, 23 240:7,8 241:1,2,3,6

620 245:1 270:14,18 271:1

620s 249:8,23

7

7 215:5,8,10, 13 225:9 229:5,13 238:10 241:16,17,18 255:11,12

7.6 213:22

756 215:6,8

8

8 213:22 255:11,12 308:4

80 287:16

841s 246:1

845 246:9,11 250:7 251:14, 18 253:2,3,15 260:1,4,10 261:1,10 263:8 282:6,9 283:6 287:23 291:7,16 300:6

845s 246:2 249:14 299:21

8646 210:24 211:1

894 229:7,9 230:9

897 230:9

9

90 287:16

9:00 209:4

A

A-N 274:24

A-N-D-R-E-W 294:7

a.m. 209:4

accelerated 282:21,22

acceptable 233:9

access 307:1

accordance 310:15

account 296:22

accurate 219:1 234:9 235:12,16 261:3

acknowledgment 276:20

act 214:13 294:23

action 289:16 291:15

actions 286:14 287:3

activities 257:10 267:2, 16,17

actual 213:11 219:14 224:9

add 292:15

added 282:4, 13 283:5

adding 293:8

additional 232:2,13 253:16,17 254:1 262:10 271:12 281:13,18 282:13 284:20 287:19,20 288:6,11 300:14

address 248:22 308:11

addressed 231:20 286:17

addresses 298:3

addressing 283:11

adjacent 228:22 277:5 288:14

administrative 273:23

admissible 272:11

admit 240:23 243:19 265:5 268:21

admitted 225:8,11,13 238:11,13,16, 18,21,24 239:19 241:1, 10,12,14,17, 21,23 242:2 251:9,11 257:23 258:2 259:3,5 265:7

adoption 282:6,9

advocated 294:21

afford 274:15, 16

agency 262:14

aging 272:24

agree 219:24 223:11,15,19, 24 224:3

agreed

286:16 289:5

agreement 286:10,12,18, 20,22 287:1

ahead 248:8 256:9 271:18 282:13 302:14,16

air 244:18 275:19

align 291:13

allowed 264:17

alluvial 220:17 221:3

alongside 279:4

amount 235:10 299:24 305:21 306:2

analytical 281:8 290:10, 24

analyze 233:12

Anderson 229:17 260:14

Andrew 294:6,9

Andrews 216:6,8 217:13 219:3, 14 226:2 247:14,18,22 248:10,11,19 279:20 280:15

annual 253:2 279:18 291:14,16

annually 253:6

anticipated 219:11

anytime 262:11

AP-4 231:14 232:19 233:10 237:9, 16

AP-5 231:22 232:3,19

apparent 290:11

appeals 310:17,19

appeared 291:16

appears 221:24 225:16

apples 301:23

applicable 287:23

application 229:11,15 233:1 257:13 260:13,20 261:6 262:12, 23 270:2 282:11 297:13 299:23

applied 234:22

applying 234:24 269:5, 9

appropriately 268:12

appropriateness 236:13

approval 299:12

approved 216:9,13 226:5,6 229:20 232:7, 15,17,23,24 233:2

approximately 269:24 282:3 296:8

April 265:3,4

aquifer 221:7, 11,12 224:8, 11 230:5 303:2 305:9

aquitards 214:14

area 219:5,15 247:6 275:16 280:10 302:1, 3,5 304:5

areas 214:3 228:17 231:3 288:10 301:16

arrived 294:1

arrows 230:6

as-built 226:20

ash 214:17, 22,23 215:2 222:8 226:12, 13,17 227:10 229:2 237:4, 6,15,16 243:9,10,16 244:15,23 245:2,9,10, 14,19,20,21 246:14 247:2, 4,6,13 249:11 255:2,3,9,10, 13,16,18 256:21,22 257:1,7 258:9,12,13, 22 259:13 261:1,16 262:5 265:23 266:2,6,12,13 270:15,19 271:20 272:7 273:2 277:1, 4,6 278:15,16 279:5 292:24 293:6 294:20, 22,23 295:1, 5,10,17,23 296:2,23 297:12,17,20, 23 301:3 303:12

aspects 251:21

assess 247:6, 12 249:20

assessment 235:10 245:1, 19 253:22 281:21 289:12 300:15

assume 220:15 221:2 305:11

assuming 309:2

assumption 235:20

Attachment 233:22

attempted 306:11

attempts 276:4

attorney 218:9

authenticate 264:13

avoid 275:17

AW-3 281:17

aware 304:7, 10

awhile 231:7

B

back 209:1,3 210:12 221:14 229:5 231:21 232:14 233:3 240:18 242:8 249:1 255:5 257:17 259:24 261:23 262:11 265:19 277:21 284:16,17

285:6 286:3 287:12 290:21 291:22 299:4 309:8 310:5,7

back-to-back 272:21

back-to-back-to-back 292:2

backfilled 228:22

background 231:22 232:3, 8,18,21 233:12,16 247:12,20 267:6 289:21 290:4,9,14 291:11 299:12 303:9

backgrounds 290:13 291:1, 21 292:4 299:15 303:15,23

backs 308:19, 21

banks 296:12

barrier 211:17

based 217:14 219:4 247:2 300:5 307:11

basically 243:7,17 257:9

basins 255:18,22 256:4

basis 288:4

battle 256:1

bearing 288:18

Becker 242:7, 9,12,22,23 269:3

Becker's 243:22 267:20

bed 228:1,8

began 278:16 287:4

begin 218:13 257:10 258:10 260:24

beginning 211:4 230:9 247:15 258:14 278:17 279:14,16 292:23 295:13

begins 222:12 241:7,19

behalf 275:6

belief 270:13

believed 267:4 290:8

beneath 224:11 297:7

benefit 234:7

berm 274:10 276:8 304:1

berms 228:23 272:24 295:21

308:16 309:2

bid 259:14

bids 259:16

big 246:12 279:19

bigger 247:22 296:13

bit 209:9 227:23 238:2 246:16 248:8 251:19,20 252:7,19,20, 24 253:4,5 254:1 259:18 271:15 279:11 305:6

BJH 216:9 226:5 229:20

blame 276:18

Board 231:11 234:7 236:5 268:20 290:2 307:1,12 308:10

Board's 310:13,16

boring 222:12 272:10 296:5, 24

borings 222:5 224:1,15

boron 295:11, 14

bottom 221:6 222:9,14,16 223:3,8,12, 16,19,24 224:5,9,16 228:9 229:3 295:22,23 296:2 305:5, 14,20 308:22

Brad 209:6,15 231:3 261:17 298:12,17,22

Brad's 306:23 307:1

breached 236:19

break 240:17 277:16,19 309:7

breakout 305:20

breaks 265:16

briefing 310:3

briefly 242:20 260:1 299:2

bring 247:22 248:9

brought 247:17,24 248:14,17 263:9

Bugel 209:11, 13,20 225:6, 14,20 230:22 231:9,10 235:22 236:24 237:1, 3,9,13,19,22, 24 238:8,14, 19,22 239:4, 9,12,18 240:4,12,24 241:15 242:3 243:21 251:8 257:22 259:2 264:10 267:12 268:9, 17,19 269:2 271:3 292:17, 20 293:21 301:20 302:2, 14 307:3,17 309:13,15,22

build 255:17, 22 256:3

built 228:8 255:12,16 297:23

bunch 252:3

bundle 215:9

bureau 232:1, 7 233:2 262:23 263:2, 6,13 299:11, 13 304:24

bureaus 262:22 263:4

Burns 226:10

busier 286:24

C

CAFO 253:20 287:18 288:5, 7,8 289:9 300:17

call 242:5,7 277:22 285:15

called 209:16 218:22 239:10,12 242:13 246:1 278:6 289:2 298:18 304:16

calling 235:23

calls 285:19 286:4

cap 297:11,18

capped 214:21 273:10 277:4 297:21

capped-in-place 272:23

capping 296:8 297:15

care 220:4

cascade 236:16

case 215:4 231:7 244:4 272:10 273:13

cases 213:16

catastrophic 274:9

CCR 236:18 246:5 248:16 250:7,8,20 251:19 252:15 253:22 254:6, 7,15 262:24 263:3 265:9 266:22,23 273:6,24 283:13 287:17 296:17 297:1, 6

cease 297:22

ceased 256:21,23

center 234:18 235:12 290:9

centimeters 213:22,23

CFR 232:10 267:3

change 255:6 278:23 294:17

changed 216:16 230:12

changing 262:21

channel 227:8,14 229:2

channelized 272:6

channels 273:9

characteristics 212:14

characterization 210:15 211:5,9

characterize 288:21

charge 281:6 283:12

check 269:17

checking 267:24

choose 275:21

chronological 244:9

chronologically 248:8

chronology 268:8

city 242:21,24 304:6

clarification 257:4 284:20, 24 285:6,11, 14 306:20

clarifying 219:19

classification 279:23

clay 212:8,9, 20,23 213:2 222:13,17 224:10,13,20 273:8,9 293:5,7

clays 213:16 214:10

clean 233:11 238:2 259:17 294:21

cleaned 277:1

clear 215:7,11 225:19 227:12 231:10 240:11 297:4

climate 294:10 296:12

close 248:21 255:18 256:11 260:19,20 261:16,19 297:8 303:24

closed 236:16 257:11 263:23 274:1 297:7 304:8

closely 243:15 247:19 252:1 263:22

closer 271:15

closing 255:2 260:17 309:21

closure 216:20 217:7, 9,21 218:1,20 229:14 248:19 257:10,14 258:6,8,10 260:24 262:4 265:18,21 266:11,12,18 267:1,2 270:4,7,10 279:21 280:1 289:16 295:15 296:8, 22 297:9,12, 14,24 298:2

closure-related 285:24

closures 257:18 276:19

Club 275:4

coal 263:7 271:20 277:1, 4,6 294:19, 20,22,23 295:1,5,10,17 296:2,23 297:23 302:21

Coalition 275:5

code 273:24

cohesive 213:21 214:13,16 220:17 221:4

collected 231:22

collection 232:3

combustion 263:7 294:19

comment 221:21 271:9, 13 277:12 289:18 290:21 294:2 308:18 310:13,14

comments 232:12 236:15 261:21 271:11,12 289:5,6 294:9 298:6 300:11 306:7

communicated 270:17

communities 272:14 274:13

company 247:17,23

compare 301:18
compared 252:23 299:14
comparing 301:21
Complainants 215:11 238:8, 10,15,22 240:21 241:10,15,21 242:3 243:21 251:8 264:11 267:12,13
complainants' 225:12 236:2 238:20 241:13 242:1 308:1 310:21, 23
complete 257:18 307:13
completed 228:23 282:14
completing 282:22
compliance 243:2 244:18 250:8 252:15 254:6 256:13 261:14 279:5 290:15
complied 227:21 228:6
comply 253:9 275:14
compositions 213:4,13
comprehensive 288:9
concentration 293:15
concentrations 232:4,8,18, 21 233:11,13 295:11 299:12 300:2, 3 303:9,23
conceptual 215:15,16,17 216:1,2,18,23 217:10 218:17,22 220:9,15,21 221:1 223:4 224:4 226:9 295:18 304:18
concern 239:18 240:7
concerns 306:12
concluded 309:10
conclusion 264:18 267:7
concur 267:7
conditions 210:16,18 217:7,8,11,23 218:2 236:16 308:14,19 309:1
conducted 222:5
conductivities 212:1,18
conductivity 212:24 213:18 305:2, 7
conference 285:15,19
confirm 222:4
confirmed 210:12 224:2
Conforming 226:23
confusion 292:8
conjunction 297:14
connected 211:24
consent 286:12,17,20, 22 287:1
conservative 224:12 225:2 304:16,19 305:1 306:1
consideration 296:10 305:19
considered 214:13
consistent 302:18 303:4
consolidate 297:17
constituents 303:10,15
constructed 226:17 228:24
construction 226:19,20,21, 23 227:9 228:1,15,16, 23 229:14 260:20 261:6, 12 262:6 269:18 270:3, 6,7,11 279:22 301:7
consultant 253:21
consultants 283:15 284:10 285:16 286:5 287:19
contact 214:24 295:6, 17 297:6
contacted 234:18
containment 236:18
contaminant 293:12 304:23
contaminants 273:20 274:5 293:17,20
contaminate 215:20,23 217:5
contamination 276:10,17 295:1,2 296:21 304:3
context 285:4
continually 236:10 290:9
continued 236:19,20
continuing 295:14
continuous 273:12 275:13 276:15
contour 230:19
contractors 281:6 288:1,4
control 228:18 274:2, 4 279:24
converted 281:23
convinced 233:8
copy 243:5
Corcoran 244:22 279:4
corner 226:22 227:5 229:8
correct 210:9, 10 211:2,6 215:23,24 216:6,20,22 217:4 219:6, 17 221:10 222:23 223:9, 10 226:14,15, 17 229:11,15, 18 230:13 237:17 261:7 270:4,8,9,11,

15,19 286:10 293:13,18 308:2 310:10

corrective 289:12 291:15

correctly 252:10 259:20

correlate 303:7

correspond 241:6

correspondence 262:9,14 271:2 284:16, 17 291:13

cost 256:7 259:22

costly 274:8

costs 274:9

couple 231:3, 8 238:3 240:20 247:10 263:16 269:3 286:19 292:3 304:16

court 273:23 274:21 294:5

court's 273:14,21

covered 228:20 242:20

create 236:20

creating 236:17

creek 211:14, 15 212:10,13 213:3,5,10, 14,20 219:8 227:8,13,24 228:8,14 271:21,23 272:4 273:3 295:21 308:19,20

criticized 289:20

cross 309:14, 15

CROSS-EXAMINATION 231:1 269:1 292:19

crossing 287:23

CTI 253:22

CWLP 211:1 214:17 222:5 243:2 244:16 245:17 275:3, 15 295:10,11 296:4 297:16 304:4 310:8

CWLP's 271:20 275:13 276:4 295:18 296:22 297:4, 5,12

D

D.C. 234:19

D1 222:19

D12 225:21 238:13,15,18, 20

D13 215:12 225:7 229:6 238:8,12

D14 238:23 239:3,4 240:22,24 241:2,4,7,10, 12,13

D15 240:22 241:16,19,21, 23 242:1

daily 288:3

Dallman 214:22 222:17 223:3 226:11,17 227:10 228:8 243:9 245:9, 13,19,21 247:6 254:24 255:3 256:11, 18,22,23 257:1,7 258:9,13,22 259:13 261:1 265:23 266:2, 6,12 295:20, 24 296:19 297:12 303:12

dam 234:16 236:13 271:22 272:22 308:15

dams 245:13

data 219:14 231:22,24 232:3,19 233:10,14,15 234:21 247:8, 11 254:6 282:12 290:9, 12,14,24 291:20 295:10 296:24 299:14 300:5

date 251:16 269:16

dates 267:23

day 286:8 287:16

day-to-day 283:13

days 287:8,9

deadline 310:14,17,19

deal 243:20

dealing 246:13 254:5 285:11

decade 244:5

decades 297:24

December 310:19

decide 248:9

decided 255:21 256:2, 14

decrease 305:19,21

decreasing 232:4

defined 273:15

degrading 293:5,7

degree 302:4

deliverables 287:4,10

delivered 287:11

demonstrative 215:12 225:5, 8,15 238:9, 11,15 240:1 241:11,22 267:15,19,20 268:10,14

dependent 213:9

depending 213:11 292:6

deposit 220:18 221:4

deposition 213:8,14 218:3,7,12,15 220:1,23 306:8

deposits 212:8,24 213:10 214:13,16

depth 222:4

deregulated 246:11

deregulators 232:22

derived 234:20

deriving 299:9
describe 240:23 254:23 260:6 282:8
deserves 298:2
design 226:10,21 280:1
designated 266:22
destroyed 229:1 272:5
detail 232:22 235:15 279:11
detailed 235:8
details 299:5
detect 293:12
determine 235:15 293:15
develop 211:8 247:12 250:4 279:8
developed 219:6 243:12 248:1 259:11 290:13
developing 243:13
development 215:22 219:16
dewater 258:10,12,21 259:7
dewatered 219:22 305:12,16
dewatering 258:15
differ 302:17
difference 251:20 291:11
differences 232:17 285:3, 4
difficult 275:22
direct 209:5, 10,19 231:4,5 242:15 264:15 278:8 298:20
directing 283:16
direction 230:19 237:16
directly 270:20
director 294:10
discharge 308:14
discovered 272:4
discuss 310:3
discussed 239:1 244:5 245:3 293:8
discussion 249:2 307:6, 11 310:4
discussions 255:4
dismissed 309:17
disposal 294:20
disposed 277:7
dissipates 308:23
distributing 215:9 225:14
document 215:14 216:3 243:3,13 250:14,15,16 258:16 265:13,15 266:15 273:19 286:19 307:13
documentation 289:7 291:5
documented 273:20
documents 241:4 250:9 264:18,24 279:8,12 280:1,3 284:5,7,9 287:9 299:18
dog 272:8
Donald 271:17
dovetail 248:18
downgrading 303:1
downward 220:16 221:2
dozen 272:1
drain 219:12
drained 215:3 217:1,3
draught 231:23
drawing 226:19,21 227:5 235:3
drawings 226:10
dried 287:5
drilling 287:19 288:2 299:24
drinking 255:15 273:4 277:5
driving 305:13
drop 296:13
dry 232:9 297:21
dubious 274:8
due 235:21 310:12,21,23, 24
duly 209:17 242:14 278:7 298:19
dump 272:7
dumps 271:20
duplicative 251:21
dust 279:17
duties 280:18

E

e-mails 286:4
early 279:3
earth 272:1
Earthjustice's 276:22
easiest 252:8
easily 286:17
east 234:15 271:20 303:22
easy 290:20
effect 260:4
effective 221:6 260:2 277:2
effects 272:14
effluent 275:17
electric 276:13
elevation 216:19 217:14,19 218:19 219:4, 9 220:11,12 223:7,11,15, 20 224:5,9

227:18 228:10 234:24 288:15 295:22

elevations 219:15,21 230:11 295:20 296:3, 7

eleven 277:13

eliminate 274:2,5,6,7

Emily 243:4

encounter 222:12

encountered 222:9,18

end 228:17 241:8 243:22 251:6 267:24 288:5

ends 239:5 241:20

energy 213:8

engagement 276:2

Engineering 216:6,8 226:2 229:17 247:14 248:14,15,18, 19 259:11 260:15 279:20

ensure 273:24

entailed 299:9

enter 251:7 257:19,21 258:24 264:1, 17 291:8 307:18

entered 267:13 307:20,22

entering 293:12,17 306:19

enters 308:22

entire 305:11

entirety 214:22,23

entities 246:14 257:15

environment 212:3 213:15 274:7 298:2 303:4 306:2

environmental 242:23 244:17,20 248:16,22 256:14 259:20 275:12 276:1 279:5 283:13

EPA 232:1,11, 12,14,16,24 233:2 245:8 246:4,15,17, 18 249:2,18 253:20,21,23 254:5,10,12, 14,16,22 257:14 262:7 263:21 264:9, 12,13,18,23 265:12 269:6, 8,10 270:3,23 275:17 283:7, 14,23 284:6, 10,13,18 285:15 288:8, 22 289:2,3 290:6,15,18 291:6,21 292:4 297:14 299:11,17 300:9,12 304:23

EPA's 281:2

Eric 243:14, 16 277:24 278:5 292:15, 16

erode 236:15, 17 309:1

erosion 308:16

erroneous 236:14

error 214:4 236:11

essentially 229:1

established 280:15 290:18 291:1

establishment 280:17

estimate 284:4 300:19

evaluate 245:13 249:11

evaluated 233:15 254:18 255:20 259:15 303:7

evaluating 247:8 248:13

evaluation 256:15

evaluations 254:15 256:12 281:9

event 234:14 273:6

events 268:11 272:15,17,20 282:17,23

eventually 255:3 256:11, 18 286:9

evidence 225:13 238:21 241:14 242:2 251:11 258:2 259:5 264:12 265:7 267:13, 18 268:23 273:12 276:24 304:2 307:22

exact 251:16

exaggerating 300:22

EXAMINATIO N 209:19 237:2 242:15 278:8 298:20

examined 209:17 242:14 278:7 298:19

excavating 274:4

excavation 274:11

exceedances 273:19 276:15

exceeding 303:9

excerpt 215:13 225:4, 9,16 238:9, 16,23 239:4, 13 241:1,15

excerpted 241:18

excerpts 215:9 221:15 239:23

exemption 275:19

exhibit 210:5, 8 215:5,8,10, 12,13 221:16, 17 225:4,9, 12,15,16,18, 21,24 227:20 229:5,13 233:20 238:8, 10,16,20,23, 24 239:2,4, 12,13,16,19, 20,23 240:1, 7,8,24 241:1, 2,3,6,7,13,16, 17,18,19 242:1 243:4 250:14 251:7,

9,10 252:11 258:1,17 259:1,3,4 265:6 267:10, 13,23 268:4, 22 278:10,13 306:4 307:19, 21

exhibits 209:9 238:3 251:6

exist 227:24

Exist.el.519.0 227:18

existing 217:8,11 218:2 227:7, 13 228:14 229:2 280:24 288:14

exit 228:15 305:9

experience 248:15 301:4

expert 218:12 233:21 236:2 261:17,18 273:16 276:23 308:1

experts 248:6,10

explain 215:17 216:22 226:8 229:22 230:2 231:15 233:5 234:7,19 235:19 236:4 252:13 261:18 279:10 290:1 294:24 304:17,20

explained 253:15

exposed 228:19

extending 297:2

extent 244:9 274:3,6 297:1 300:16 303:10,22

extents 303:16

extra 254:9

extraction 259:12

extreme 272:20

eyes 278:20

F

facilities 296:6 302:24

facility 299:20

factor 279:24

factors 301:24

facts 272:11

failure 245:8, 15 247:3 274:10

failures 276:8

fair 222:8 235:10 264:23

fairly 275:10

Faith 309:21

Faith's 231:4

familiar 225:24 229:10 252:12 280:16,19 281:12

faulty 236:20

feasible 274:3,6,13

features 226:16

February 261:5 270:7 310:23

federal 249:7 250:1,3 251:23 252:17 253:4, 7,8,18,19 254:22 263:21 281:3 291:12

Feds 249:14

feed 303:23

feel 264:20 275:22 306:23

feeling 272:7

feet 216:20 217:20 218:20 219:21 222:18,20,22, 24 223:4,9 224:5,17,21, 22 228:10 288:16 296:1, 2

felt 275:8

figure 216:12, 15 221:13 223:8 224:5 226:8

figured 270:21

file 233:4

filed 310:15

fill 211:14,15, 16 212:10,13, 16 213:3,5, 18,20,21 214:4 227:24 228:14 299:2

filled 228:9 229:1

final 219:19 240:20 251:1, 15,16,24 256:16 265:9 283:2,4 286:7,12,18, 19,20,23 287:1,6

finalized 246:5,9 279:15 286:9 289:12

find 240:6

finding 273:18

findings 273:14,21

fine 213:16 233:3,6 240:3 256:6 300:18 304:11 306:13

finer 213:15

finish 240:21 289:9

finished 256:5

FIRMETTE 234:3

fishing 271:24

fit 280:12

five-minute 277:15

fix 236:8

flood 234:2, 13 272:15,21 279:24 296:12 308:14,18 309:1

flooded 309:2

flooding 296:10,15

floods 296:11

flow 220:16 221:2,6 230:6,16,18, 19 237:16 288:9,19 289:2 300:17

fluctuate 230:14

follow 246:7 283:20,21

force 305:13

forced 275:14

formal 291:7
format 244:9
formulate 285:4 286:6
forthcoming 255:6
forward 260:23
found 210:12 212:21 213:3 295:11,23
foundation 264:14
fractures 273:8
frequently 264:8 272:18
front 210:5 215:14 225:21 244:11 278:10 298:24
fugitive 279:17
fulfill 272:13
full 211:18,20 214:2 240:6
fundamentally 232:24
future 219:22 220:4 249:6, 20 274:10 275:5

G

gaps 299:2
gate 234:17
gave 218:16 220:24 264:21 286:14 290:12
general 215:19 217:22 235:13 265:19 302:7
generalization 218:21 219:2
generally 222:11 230:18 233:7 260:7,11
generation 298:4
generations 274:10 298:1
generic 234:22 235:5
geologic 288:23
geological 235:1 288:17
Geoprobe 281:19
giant 272:7
give 243:4 244:7
giving 218:3, 24 221:9
glacial 214:8
good 209:21 233:10 242:17,18 248:11 264:3 275:1 294:2
government 291:12
gradient 237:6,15
gradually 237:10
grain 213:15 214:9
granted 275:19
gravel 302:20
great 271:24 294:3
greater 224:13
grew 271:19
ground 220:11,12
groundwater 210:8,13 215:1 216:19 217:14,19 218:19 219:4, 15,20 220:16 221:2 223:7 230:11,15,18 245:1,5 246:23 247:1, 7,13,20,24 248:2,5,12 254:3 266:4, 5,7,8,10,17 276:10 277:2, 6 280:8,12,14 281:3,7 286:1 288:18 290:7 291:2,14,16 293:13,15,17 294:18 295:2, 6,9,12,17,18, 19 296:3,7, 18,20,21,23 297:7,22 299:10,19,22 301:19 302:23 303:6, 14
guess 233:7 235:17
guidance 265:13,15
guidelines 275:18

H

H-U-N-S-B-E-R-G-E-R 210:2
handed 239:11
handle 270:15,19
Hanrahan 271:17,19
Hanson 248:14,15,18 259:10,17 260:14
happen 262:7 297:8
happened 249:5
happening 255:7 291:4
happy 309:20
hazard 234:2 279:23
head 230:4 305:19
heading 286:11
health 242:24 244:20 274:12 275:16 276:14 277:8
hear 302:7
heard 231:11 275:8 276:18 304:12
hearing 209:1 225:11 230:23 236:4, 24 237:20 238:6,12,18 239:7,10,14, 20 240:9,14, 18 241:12,17, 23 242:4,9 251:9 257:20, 23 259:3 264:2 265:1,5 268:3,5,15,18 271:4,8,18 274:19 275:20 276:24 277:10,17,20 278:1 289:14 293:24 294:4 298:7,10,13 302:8 306:18 307:7,19 309:5,8,13, 16,24 310:5, 11,17,20

hearsay 235:23 264:12,14,17
heart 272:9
heaven 271:24
held 246:19 261:14
helped 259:17 260:15
helpful 307:12
high 309:3
highlight 227:20 228:4
highly 212:13, 14
history 244:8 275:13 279:22 280:11,21 281:13 292:9
hole 249:9
holes 271:24
holistically 248:20
Honor 272:12
hoping 259:16
horizontal 220:20
hours 300:19
housekeeping 238:4
huge 271:23
Hunsberger 209:6,7,15,22 233:20 237:21 244:3 261:17 272:5 298:12,13,17 309:17
hunt 272:9
Hutson 231:13 236:3, 10 264:16 289:20 302:8 306:21 308:13
Hutson's 233:21 306:7, 10
hydraulic 212:1,14,18, 22,24 213:18 305:2,7
hydraulically 211:24
hydrogeologic 215:19 301:16 302:17
hygiene 244:19

I

identified 212:9 220:21 227:4 284:11 285:8 289:22
identifies 211:10 230:4 291:24
identify 289:13 292:7 300:2
IDNR 245:12, 18
IEPA 222:4 245:1,5,24 246:9,14,21, 22 247:5 257:13 260:16,21 262:10,15 263:6,21 270:17 273:18
ignore 275:21
Illinois 232:1, 7,16,24 245:13 246:17 249:2 252:14 262:7 269:10 270:3, 23 276:13 281:1 290:15 294:15,22 295:12 296:12 297:14 299:11 300:9 301:15 303:3 304:8,23
Illinois-based 294:11
illustrative 267:21
imagine 301:13
immediately 271:20
impact 295:10
impacts 294:19
impede 305:23
implementation 250:19
implication 214:18
implications 282:1
important 300:1
impoundment 295:20,22,24 303:6 304:1 308:16
impoundments 220:5,11 234:15 235:2 236:14 245:6, 16 248:16,23 249:20 252:21 254:3, 4 261:20 263:11,23 283:14 287:17 296:11 297:8 299:9 301:17, 22 302:12 303:11 304:3, 7
improve 255:23
in-person 284:15
inaccurate 234:9 235:20
inaudible 297:2
inches 272:16
include 210:15 211:7
included 232:18 299:19 300:13
including 294:12
incorrect 236:6
indicating 224:15
indication 297:22
individual 235:4,11 266:24 282:19
industrial 244:18
industry 265:12
inflow 279:24
information 232:6 233:4 236:6,11,20 247:10,20 250:17,24 252:23 253:1, 16,17 254:6,9 257:17 259:13 265:10 283:23 286:13 290:10,12,19
initial 246:17 247:9 248:2 249:1 260:13 262:23

279:13 281:20

initially 231:23 245:23 246:2 247:17 260:10 286:6

injunctive 285:20 286:7, 15

ink 287:5

inside 213:11 215:2 228:24 236:18

inspect 283:8

inspection 253:22 283:18,19,22 284:1,3 293:6

inspections 252:20,22 278:18 279:18 292:24 293:3

inspire 294:17

install 282:7

installation 231:21

installed 280:22,23,24 281:14,15 288:12,20 302:19,20,21 303:21

integrity 245:9,21 246:24 254:2

intends 297:24

intentions 289:15

interacting 288:24

interconnect 211:16

interconnected 212:6

interconnection 211:23 212:3

internal 263:6

interpretation 265:11,20 267:5 284:20

interpreting 270:23

interrelated 214:6

interrupted 209:10

introduce 240:22

inundate 234:14

inundating 236:14

investigation 211:8 245:9 281:22 282:2

investigations 211:11 247:24 254:1 281:19 288:2 301:7

involve 284:15

involved 224:4 243:12 244:14 250:21 275:12 278:16,21 279:7

involvement 290:7

irrelevant 302:13

isolated 241:2

issuance 299:16

issue 233:17 234:4 236:18 243:20 245:20 264:19 276:13 277:8 287:12

issued 249:3

issues 231:8 244:5,14 245:5 246:17, 23 248:12,23 263:6,11 287:15 295:16 305:24

item 308:7,8, 11

items 238:4 246:13 248:13 250:12 265:16 290:19

J

January 310:22

Joaquin 215:9

job 272:12 286:22

Joseph 242:12,22

July 306:14

jump 264:10

jumping 248:8

June 218:4,14 220:1,23 306:14

K

keeping 255:19,20 287:24

key 233:13

kids 272:1

kind 243:8 244:7 246:12, 19 247:3 248:5,12 249:8,9 251:1 260:6,10 265:16 273:6 278:14 289:22 290:1 299:2 307:8

Kingston 245:7,15 247:3

knew 255:1, 16 256:18 257:1 260:17, 19 286:11

knowing 255:24 256:10 292:8

L

L-O-R-I 274:23

lab 273:16

laboratory 281:8

lack 276:19

lake 234:13, 15 272:21 274:15

lakes 294:18 295:3

Lakeside 237:4,6,15 243:10 245:10,14,19, 21 247:6 255:2,9,10, 11,12,13,14, 18 257:6 258:9,12,21 261:1 265:23 266:2,6,13 297:7,11

land 263:2,7 294:17 304:24

landfill 247:19 301:8,13,15, 22 302:13

landfills 247:23
landscape 296:14
language 285:3
large 235:13 262:12
largely 303:21
late 262:1
laterally 221:12
law 272:3 273:15
lay 264:13
layer 234:2 305:4,23
leaching 296:16
lead 237:10 283:10,16
leaking 277:5
learned 275:13
learning 280:21
leave 297:24
leaving 239:16,18
led 289:1
left 227:23 228:18 298:4 299:3 304:3
legal 274:12
legalities 272:11
lenses 273:9
letter 224:2 235:9
letters 273:17
letting 275:1
level 218:17 296:1,7 297:2
levels 220:10 273:20 296:17,23 305:19
liability 274:10
lies 296:17
Light 242:24 304:6
lime 255:15, 17,22 256:1,3
limit 271:11 275:18
limited 303:11,16,17, 22
lined 271:23
liner 279:22
lines 227:14 230:6,20 263:16
liquid 220:10
liquids 215:2 216:24 217:1, 3
list 267:16,17
listening 274:17
live 294:13,14
lived 275:11
local 235:10
locally 211:16
located 296:23 301:15
location 213:10,11 224:13 279:21
location-to-location 303:2
locations 229:3 282:4 283:17 296:4, 18 297:3 300:3 303:1
LOMR 235:8
long 255:1,16 263:19
long-term 248:22 256:1, 13,17 257:5
longer 214:24 220:5 222:9 244:6 252:20, 24
looked 210:11 232:22 233:13,14 264:21
Lori 274:22
lost 217:15
lot 239:15,17 244:6 247:3, 19 248:15 252:5,22 253:2,24 254:1,8 255:5,6 256:12 257:2 260:8,12,14, 21 262:2,13 263:10 265:10,12 276:18 280:12 281:15 283:3 284:4,17 286:3,4,13 293:8
lots 255:4
loud 275:21
low 212:2 213:7,14 233:11 305:2
lower 212:24 214:13,16 220:17 221:3 223:3 224:3, 15 228:17
lowest 276:12
lunch 277:14

M

M-C-K-I-E-R-N 274:23
made 225:18 227:3 235:21 236:6,15 247:21 249:16 270:21 273:19 308:13
main 276:24
maintain 252:16
maintenance 274:9
make 210:1 215:7,11 225:7 227:12 234:12,17 236:12 245:15 249:24 252:2 259:19,21 262:16 266:24 267:10 268:4 277:12
makes 302:12 306:1
making 220:7 279:20
manage 275:23 276:6
manager 242:24 244:18,21 255:4
managing 287:21
manner 263:24 274:1 285:5 287:11
map 226:9 229:24 230:3 234:3,8,9,11, 18,23 235:1, 9,11,21 236:11
maps 230:8
March 285:16 310:24

Mark 236:3 306:7,24 307:9

marked 215:12 225:5 229:5 233:20 241:16 243:4 250:13 252:12 258:16 306:3

marketing 248:2

material 211:14,15 213:19,20,21 223:12,16,21 224:7,16,17, 18 228:22,24 266:19

materials 211:16 212:10,13,16 213:3,5,16 214:3,4,5,7 222:13,17 224:10 305:2

maximize 305:3,15

maximizes 305:21

maximum 274:3,6 305:13 306:2

Mcdonnell 226:11

Mckiernan 274:22,23

meander 213:12

meandering 213:10,13 271:21

meaning 212:2 233:10 303:24

meaningful 276:2

means 216:13 217:24 227:2 272:8 296:1, 14 305:4,13

meant 306:16

measured 230:11 295:13

measures 289:12

meet 274:11

meeting 246:22 261:11 276:1 285:14 289:10

meetings 246:19 261:9, 15 276:3 284:16

member 275:4 294:1

members 294:12

membership 294:11

mentioned 231:13 244:2 292:24

mercury 275:19

met 246:21 254:16 285:17,18

method 291:24

microphone 271:14

middle 227:15,17,19

migrates 221:12

million 256:8 274:14

mind 240:11

mines 302:21

minimal 275:24

minimize 274:2

minimum 274:1

mining 294:19

minus 213:22, 23

minute 238:3 243:4 294:24 310:2

minutes 271:11 309:6

mirrors 251:19 252:17

miscellaneous 256:24

misinterpretation 235:21

misinterpreted 236:6

missing 266:9

model 215:15, 16,18,20,23 216:1,2,3,18, 23 217:5,6,8, 10 218:23 220:10,13,15, 19,22 221:1 223:4 224:5, 6,12 234:22 295:19 304:23 305:18

modeled 224:14,17,21

modeling 224:23 297:5, 6,10,13,19,20 304:12,18,19, 20

modifications 300:14

modified 299:21 300:4

moment 217:15 221:14

money 275:15 277:8

monitored 302:23,24

monitoring 210:8,13 230:12 231:24 266:4, 5,7,8,10,17 273:11 274:8 280:14 281:4, 10,23 282:12, 13 283:6 286:1 287:20 288:11 290:8 291:14,17 293:14,19 299:10,19,22 300:9,15,16 303:20

months 292:6

morning 209:21 242:17 275:1, 9 276:18

motion 225:7 267:10

move 238:8, 10,15,22 240:23 241:10,21 243:19 251:7 257:21 258:24 260:23 266:19 267:10 271:14 280:7 307:18

movement 212:4,22 220:20,21 266:23

multi-unit 265:19,21

multiple 231:9,12 234:6,8 278:19 285:18,19

289:21

N

Nancy 274:24

national 234:2

natural 280:12

naturally 215:3

nature 282:21,22 300:16 302:18

needed 248:9 274:15 275:9

negotiated 289:4

neighborhood 272:2

nested 288:12,13

Network 294:10,16 295:8

newer 291:20

noncompliance 275:14

nonprofit 294:11

normal 262:11

north 271:22

notation 225:18 227:22,24

notice 249:3 273:23 281:2 284:12 285:1, 23 290:16

notified 262:20 284:1

NOV 284:23

November 310:14,18

NPDES 258:11,20

number 254:17 278:11 290:4 291:16,23 301:1

numbers 239:2 240:5 241:5 290:17 292:10

O

oath 209:8 218:6 242:10 278:2 298:14

object 235:22 237:7 267:12 301:20

objection 225:10 251:8 257:22 259:2 264:11 307:15

objections 310:18

observed 290:11

obtain 258:5, 7

obtained 258:11 300:5

occur 308:17

occurred 267:17 268:12 300:24

occurrence 291:10

occurring 272:18

occurs 212:18

October 209:4 260:3 261:5 269:22 279:19 280:15 310:12

off-record 310:4

offer 294:1

office 279:2

officer 209:1 225:11 230:23 236:24 237:20 238:6, 12,18 239:7, 10,14 240:9, 14,18 241:12, 23 242:4,9 251:9 257:20, 23 259:3 264:2 265:1,5 268:5,15,18 271:4,8,18 274:19 277:10,17,20 278:1 293:24 294:4 298:7, 10,13 302:8 307:19 309:5, 8,13,16,24 310:5,11,18, 20

one-single 265:24

onerous 253:4,5

ongoing 262:4 273:19 287:18

onset 273:13

onsite 220:12 288:2 298:3

open 257:9 273:15

operating 256:21,23 260:13 261:4, 13 269:6,7,8, 10,18,19,20 282:11 291:9, 18

operation 256:20

operational 284:14 285:21

opinion 248:12 249:22

opinions 236:12

opportunity 287:2 289:17 294:8 298:5

options 248:19 262:4

oranges 301:23

order 211:8 228:17 257:18 258:10 262:19 286:12,18,20 287:2

organizations 275:12

outfall 266:2, 3

outlier 291:24

outward 237:5,14

overseeing 244:22 262:24 263:4, 7 288:4

overtook 263:2

overview 243:8 244:8

owned 304:5

owner 273:24

owners 295:10

P

package 221:17,19

packet 239:7 260:15

pages 229:6,

10 239:15 241:2 284:5 290:3

paragraph 211:18,20 213:20 214:2, 11 309:3

parameters 233:12

part 231:23 232:10 244:21 246:5, 6 251:18 256:14 258:8 261:10 265:13 270:14,18 276:20 279:8, 13 281:3 299:23 300:9, 15,17

participation 261:22

parties 285:2

path 249:10 288:9,19 289:2 300:17

Patrick 242:12,22

pause 225:7

payer 259:21, 22 275:4 276:5

PDF 215:6,8 221:18 222:1 224:3 225:17 229:7,9 239:2,5,6 240:5 241:5, 7,8,9,20

peg 249:9

pending 233:1

people 273:5 278:19 286:5

percent 272:19 287:16

percentage 287:14

perfect 282:18

period 254:24 267:2 271:13 282:24 285:20 289:23 292:3

periodic 296:15

periphery 303:11,18,21

permanent 257:13 281:23

permanently 298:3

permissible 266:19 267:1

permission 258:21

permit 229:11,14 258:12,20,23 260:13,20 261:4,6 262:7,20 266:1,9,17 269:6,7,8,10, 11,14,18 270:3,7,11 282:11 297:12

permits 257:16 258:5, 6 259:7 260:9

permitted 266:1

perpendicular 230:19

person 278:20

personally 301:5

perspective 223:20

Petersburg 273:5

phase 236:4

phone 286:4

physical 284:2

physically 276:5,6

pick 250:3

picture 246:12 247:15

piezometers 281:20,23 288:21

pit 272:8

pits 272:24 274:1 302:20

PJ 242:7,23 244:2 283:15

place 249:20 250:1,2,4 273:7 282:13 296:9 297:8, 12,15

placement 213:6

places 211:15 234:8 304:17

plan 237:23 238:1 256:15 257:14 266:11,12,18 297:15,19,24 298:2

planned 279:1

planning 275:7 276:2

plans 279:17, 22 280:1 295:15 297:9

play 251:14 299:21

played 215:22

playing 271:20

pocked 271:24

point 221:21 240:4 247:14 248:5,7,9 249:2,15,24 263:18 278:23 281:11 283:7 286:21 308:16 309:3

policy 294:10

pollution 294:20,23 295:7 298:3

pond 214:17, 22,23,24 215:2 216:19 217:20 218:20 222:5, 6,10,14 223:3,8,12, 13,16,17,19, 24 224:5,15 226:12,13,17 227:10 228:8, 9 229:3 237:4,6,15,16 243:10 245:2, 9,10,14,19, 20,21,22 247:6 255:2, 3,9,13 256:22 257:1,4,7 258:9,12,13, 22 259:13 261:1 265:23 266:2,3,6,12, 13 297:18,21 301:3 303:13

ponds 219:22 243:16 244:15,23 246:14 247:2, 4,13 249:11 255:16,18 256:1 261:16 262:5 270:15, 19 277:4 278:15,16 279:5 292:24 297:12,15

portion 252:14

pose 296:20

position
213:2 219:18, 20 273:1

possibility
245:16

post-closure
219:23 220:3 279:21 296:7, 20

posted
310:13

potential
284:11,13 285:8,21,24 286:1,15

potentially
236:17 288:18

potentiometric 229:24 230:2

pour 220:5

poured
284:10

Power 243:1 304:6

Prairie 294:10

precipitation
228:16

predict
296:13

prefer 267:22

preliminary
301:6

prepared
268:4 279:12 280:2 287:10

present
212:23 214:14,17 218:9 237:23 238:1 243:10 269:16 281:17 289:15 295:15 309:19 310:9

presentation
261:12

presented
264:16 306:21

preset 234:21

pressure
272:22

pressures
230:4

pretty 243:15 251:18,21 265:15 279:2 283:21 300:13 301:16

Prevention
294:23

previous
239:20 281:1, 22 299:3

previously
209:14,16 242:11,13 278:4,6 280:24 281:5 297:11 298:16,18 308:20

price 256:8

primarily
283:12

printed
250:17 265:2

prior 218:1 219:16 244:17 280:11 282:9 283:24 290:16

prioritize
276:16

problem
209:9 216:14 243:23 276:21

procedural
310:16

proceed
209:12

proceeding
218:4

process
245:3,11,24 246:3,6 247:10 249:7, 13,15 251:18, 23 254:20 257:5 258:11, 14 259:11 260:24 262:19 263:13,20 283:11 284:8, 15

processes
249:19

produced
227:5

program
210:9,13 211:10 231:24 232:10 235:14 248:2 262:24 263:3, 14 266:5,7,8, 10,17 280:14 281:4,12 282:5 283:6 286:1 287:22 290:8 291:3 299:10,22 300:6,10

programs
254:15 292:11 300:4, 7,15

progress
276:19

prohibit
293:19

project
262:13

projects
248:17

prompted
273:6

proof 267:15

properly
277:7

proposal
246:6

proposed
286:6 295:15 296:22 297:11,15,16

prospering
228:1

protect
274:12 294:16

protecting
273:10 294:18

protection
291:2

provide 243:5 261:21 262:18 284:23 285:10,13 289:5,17 294:8 298:5

provided
216:2 231:24 232:6,11,14 284:5 297:18 299:12,14

prudent
255:22

public 250:11 261:9,11,14, 19,20,22 262:3 271:9, 11,13 273:15, 22 276:2,3 277:12 289:10,14,15, 18 294:1,2 298:1 310:13, 14

publicly-available
280:6 283:24

publicly-shared 295:9

published
273:16 295:8

pulling 239:15

pumping 215:4

purpose 280:23 293:14

purposes 220:14 233:16 261:14 265:21 306:20

pursuant 299:10

pursuing 249:24

put 243:17,18 247:5,11 249:20 250:9, 10 252:21 254:5 259:12 260:15,20 272:24 278:14 280:3 288:13 299:20 305:22

puts 251:3 275:15 306:1

putting 247:7 249:8 251:24

Q

quality 302:23 303:5,14

quarries 302:19

quarter 230:1 273:18,21

quarter-to-quarter 230:13

quarters 230:8 232:2 282:12,14,16, 19

question 214:1 218:16 219:19 220:24 221:1, 8 223:14 229:10 235:23 265:18 266:21 302:7

questions 230:22 231:14 237:1, 19 254:3 261:20 262:10,16 263:16 264:8 265:14,19 269:4 271:3 292:18 296:24 301:21 309:11

quick 277:15

quicker 305:6

quickly 260:18,23 263:10 283:22

R

R-E-H-N 294:7

rain 272:16

rainfall 272:20

rainwater 228:16

raises 296:24

random 213:5,9

range 213:17

ranges 213:21

rapidly 308:24

rate 259:21,22 275:3 276:5

rates 276:13

raw 214:9

re-established 291:1

reached 220:3 222:16

reaches 221:11

reaching 253:8 295:7

ready 209:11 277:21 287:11 298:8

real 272:13 290:20

realistic 212:3

realized 249:12,23 270:14,18

reasonable 219:7 237:18

rebid 259:18

rebuttal 306:23 307:1 308:5,12

recall 218:3, 24 220:7 221:8 248:3 254:16 256:8 261:15 289:13,23 306:13

receive 303:15

received 258:13,23 268:23 269:6, 11 283:22 284:9,12 285:22

receiving 237:5 255:10

recent 253:20,21 295:18 297:19

recently 250:17 297:17

recess 240:15 277:18

recognize 250:14

recollection 306:9

recommended 256:16

reconvene 240:16

record 209:2, 3,23,24 210:1,8 211:1 215:7 221:21 225:8,15,19 227:13 228:5 229:23 236:7 238:5,7,11, 17,24 240:10, 19 241:11,22 267:11 268:16 277:21 291:9, 18 292:7 306:20,24 309:6,9 310:1,2,6,7

recordkeeping 250:18

records 226:23 273:15,22 284:4,12,19, 21

red 230:6

redirect 237:2,8 271:5 306:22 307:8

redo 260:7

reduced 212:21

refer 225:3 299:1

reference 244:10

referenced 240:5 306:10

references 239:1
referring 210:19 218:17
refers 211:23
reflect 217:6
reflected 291:17
regard 236:2 264:19
Region 254:18
regs 256:14
regulate 246:14
regulated 249:17,18 250:9 263:20
regulates 245:12
regulation 246:7 283:13 289:4
regulations 243:16 246:11 247:4 252:3,8 275:22 294:21
regulators 216:4
regulatory 243:1 247:4 248:17
Rehn 294:6,9
related 214:8 223:12,16 272:11
release 274:7
relevance 301:21
relevant 224:9 301:24
relief 285:21 286:7,8,15
relocated 227:9
relying 302:1
remain 277:5 295:6 296:19 297:6
remained 257:9
remedial 289:16
remedy 236:4 277:2 289:13, 14
remember 307:6,10
remind 209:7 278:11
removal 274:11 304:8
removed 272:6 277:1,7 290:23
removing 274:4 291:19
repeat 223:14
rephrase 235:24 287:13
replaced 272:6 281:17
replacement 281:16
reply 310:23
report 233:21 288:9 289:2 291:7,17 295:9 300:16, 17 306:8,10, 23 307:2,9 308:5,12
reporter 274:21 294:5
reporting 250:18 287:20
reports 236:3 250:24 251:1 253:2 254:4 289:22 290:3 291:5,15 306:21
represent 219:21
representation 217:22 220:14 235:13
representative 233:16 235:7
request 222:4 275:18 283:22 285:6
requested 235:8 290:18 291:20
requests 299:11
require 280:18 283:1
required 232:12 250:4 253:12 276:1 278:18 283:20,21 287:4 291:6,8
requirement 261:9 285:21
requirements 284:14 287:21 288:8 300:8
requires 235:9 273:24
requiring 288:5
reroute 257:2, 3
resaturated 296:11
research 276:22,23
resident 275:3
residents 275:16 276:11
residual 263:8
resolve 295:16
resource 256:15
respond 285:5 306:11, 22 310:19
responded 287:7 306:15
respondent's 251:10 258:1 259:4 265:6 268:22 273:17 307:21 310:22
responding 300:12
response 221:22,24 222:4 261:21 264:15 284:4, 24
responsibilities 263:5
responsibility 244:21
responsible 216:11 276:5, 7 278:24
rest 242:3 309:20
restricted 212:4,5,7
restrictions 279:21
result 288:19 296:16
resulted 299:15
results 281:9, 10 290:10
resume 282:2
RESUMED 209:19

resuming 209:5
retirement 279:1,3
returned 272:3
review 216:4 262:21 308:8
reviewed 216:13 289:3 304:24
reviews 251:1
Revision 235:9
rework 252:3, 6
right-hand 216:5 226:3, 22 227:4 229:8,18
rise 230:5
Rising 276:8
risk 272:13 273:2 274:6,9 296:21
risks 276:6,9, 16
River 273:3 294:13
rivers 294:10, 16,18 295:3,8
Riverton 273:5
road 250:7
role 215:22 280:13
root 273:9
roughly 263:2
round 234:5 249:9
route 256:3
rule 249:7 250:1,2,3,5, 10,20 251:19 252:15,19 253:2,3,4,7,9, 23 254:22 260:24 261:11 265:9, 11 279:15,16
rulemaking 246:3 249:6, 13,15,19 251:18,23
rules 246:5,10 249:19 251:23 252:1 253:9,13 273:6 278:23 282:10 283:2, 4 289:11,21 299:18 310:16
rulings 310:18,20
run 268:3
runoff 228:18
rush 260:5
RW-3 281:18

S

safe 259:20 276:11
safety 242:24 244:18,21 274:12 275:16 276:14 277:8 279:24 305:14
sample 281:7
samples 282:16
sampling 232:2,13 282:4,15,17, 23
sand 214:9 273:9 302:20
sands 213:16
Sangamon 273:3 294:13
saturated 305:12
save 231:5
scale 235:13
schedule 243:8 310:3
school 272:3
scientists 296:13
screened 288:14,17
sea 296:1
Section 210:21,22 310:15
sediments 214:8 220:17 221:3
seepage 305:20
selected 296:4
selection 289:14
sense 234:12, 18 247:22 249:16,24 270:21
sensitive 267:23
sentence 211:19,22 214:2,12
separate 253:12,13 285:23
separated 287:24 292:5
September 224:2 272:17
series 286:4
Service 234:18 235:12
set 214:20 216:3 221:13 227:14 290:13,14,24 307:13
setup 215:19
severely 272:19
shadowed 279:3
Shore 234:15
shores 271:21
short 292:9 295:5
show 216:3 217:6 227:7 232:20 233:19 235:2 240:10 254:2 258:16 264:5 268:6,11 297:1 303:22
showed 233:15
showing 233:24 240:2 243:3 250:13 252:11 273:12 306:3
shown 220:12
shows 216:24 220:10 222:19 226:13,16 234:12 276:16,24 295:19 297:20
shut 255:10, 12 256:17,19
shutdowns 255:5
shutting 255:9
side 216:5 226:3 229:18 236:17 309:1
sides 217:20 218:19

Sierra 275:4
sift 268:20
significant 223:20 224:18,19 296:20 299:24
significantly 303:8
silence 270:21,22
silts 213:16 214:9
silty 222:13, 17
similar 233:17 252:23 289:23
simple 233:5, 7 235:19 236:5 279:17
simply 268:13 290:2 308:24
single 266:5, 8,11,14,16,22 267:6,16
site 214:17 218:17 223:4 224:4 226:13, 16 236:13 247:21 248:6, 20 254:14,24 274:8 283:16 284:2 294:14 296:19 301:4, 18 303:18 304:4,5
sites 295:13 301:13,15,22 302:9,11,17 303:3,7
slop 273:3
slopes 236:17
slow 263:12
sludge 255:15,18,22 256:1,4
snake 227:14
solute 305:5, 15
solutes 305:22
someone's 231:15
sooner 305:9
sort 227:22 244:8 260:5
sounds 239:14,16 261:7
source 273:4 274:5
spatial 232:21
spatially 212:17
Spaulding 271:22
speak 275:2,9
speaking 275:6,7
specific 226:11 303:10
specifically 220:8 253:11 288:12
speed 262:3 263:10
spell 209:22 274:20 294:4
spend 274:14
spent 287:14, 17 300:20
spillway 308:22
spoke 235:4
spot 217:15
spring 260:2 282:2
Springfield 272:17 275:3, 5,10 294:13
square 249:9
stability 279:24
stabilized 247:16
staff 243:14 300:20
stages 279:13
Staley 243:14 277:24 278:1, 5,13 308:19
stand 242:8
standard 274:12 295:12
standards 275:20 276:2, 15 291:2
standing 308:21,23
standpoint 223:21 305:7
start 210:5
started 245:2 246:1 247:3 254:20 255:8 256:4 259:8 278:15 283:1 299:4,7,8 301:5
starting 210:4 239:5 258:15 301:3
starts 214:2
state 249:7, 12,17,23 250:2 252:18 253:7,18 263:3,20,21 270:14 271:15 274:20 294:4, 12
stated 220:3 234:8
statement 220:7 228:14 307:3 308:13
statements 235:20 236:7
states 235:1 251:24 266:21
statistical 281:9 291:24
statistically 232:8
statistics 232:13 233:14
status 259:9 279:22
step 249:1
stomach 272:8
stop 257:6 293:17
stopped 245:4 255:9 256:19
storm 234:14
storms 296:13
straight 230:16
strange 227:8,13 229:2
stream 294:14
streams 256:24 257:3, 6,8
stressed 272:23
Strictly 301:19
strike 240:12
strong 276:24 295:4
strongly 275:9
structural 245:8,20

246:24 254:2 279:23

structures 304:1

studies 273:16 288:3

stuff 231:11

subdivision 271:19

submerged 297:1

submit 252:9 253:1 260:16 261:4 262:12

submits 251:2

submittal 289:1 292:5

submitted 232:16 236:3 262:6,22 269:15,21 270:2,6 281:8 282:10 291:12,21 297:13 299:22

submitting 250:11 291:5

subsequent 299:17 300:5, 11

Subsequently 291:19

substantial 254:8 300:13 301:1,14 308:15

substantively 268:11

subsurface 210:16,17 211:5,7,10

Sue 244:22,24 279:4

sued 275:17

sufficient 268:3

Sugar 219:8 227:8,13 271:21 273:3 295:21

suggest 214:15

suitability 302:1,3

sulfate 295:14

summarize 211:11 231:18 260:10 308:10

summarizing 295:9

summary 210:17 235:18

summations 236:21

summer 271:24

support 264:18 297:19

supported 294:22

supporting 273:16

supposedly 273:10

surface 228:18 229:24 230:3 283:14 287:17 304:7

survey 235:1

suspend 282:1

sweep 272:22

switched 263:5

swollen 272:21

sworn 209:14, 17 242:11,14 278:4,7 298:16,19

system 265:19,22,24 266:8,15,16 267:1,6 305:15,22

systems 303:2

T

tables 276:8

tag 256:8

takeaway 302:22

takes 247:8 250:24 263:13

taking 289:17

talk 246:16 260:1 299:6

talked 258:4 279:11 301:2 302:8,10 308:20

tasks 289:9

TDS 295:14

technical 286:5

technically 212:2 291:6

temporal 282:19

temporarily 282:1

temporary 281:20

tension 279:23

term 255:1,17

terms 233:5,7 235:19 236:5

testified 209:17 215:21 242:14 269:5, 9 270:13 278:7 281:5 298:19 308:1

testimony 209:5,11 235:23 243:22 264:16 267:18,20,21 268:13,14 292:23 299:3 306:11

Thanksgiving 272:4

thick 224:17 305:8

thickness 223:13,16,21 224:7,10,13, 18,20,23 305:1

thing 232:11 235:18 279:19 289:19 291:7

things 219:5 240:8,20 260:5,8 261:8 268:15 279:6, 17 287:7,8,24 288:7

thinner 305:4, 23

thought 247:21 278:18 307:12

thousand 290:3

thousands 273:2,4 300:21,23

throw 291:22

Thursday 209:3

tight 212:2

till 214:3,4,7,8

time 217:23,

24 219:21 220:4 228:19 231:15 232:5 235:6 240:10 249:16 252:4, 10 253:10,17 254:21,24 262:24 271:9 281:15 282:3, 14 285:17,18 287:14,17 289:23 293:9 294:2 300:1 305:12

timeframe 292:10 305:10

timeframes 279:16

timeline 243:7,18 244:10 261:3 262:21 278:14 287:6 298:24

timelines 287:3

timely 263:24 287:11

times 213:22, 23 231:9,12 234:6 285:19 295:11

timing 260:8

title 242:21

today 219:18, 20 237:23 244:5 272:9 274:18 275:2, 6,7 294:9

306:20 307:9

told 270:20

tons 273:2

top 212:12 224:8 236:16 255:16

topographic 226:9

topping 236:13

tour 283:16

toxics 275:20

toxins 276:9

transcript 310:12

transient 305:18

transmittal 273:17

transport 215:20,23 217:5 304:23 305:6

travels 295:2

trees 271:23 272:6

trends 290:11

true 221:5 302:11 310:9

turn 215:5 221:17 229:4, 6

turned 246:2

turning 215:8 221:15,16

two-dimensional 220:19

two-year 275:19

type 263:13 280:18

types 246:19 248:13 301:15

typical 295:19 296:3

typically 216:4 219:9 222:15 271:11 304:22

U

U.S. 232:11, 12,14 233:2 245:8,24 246:4,15,17 249:18 253:20,21,23 254:5,10,12, 14,16,22 257:14 263:21 264:9, 12,13,18,23 265:12 269:6, 8 270:3 275:17 283:7, 14,23 284:6, 10,13,18 285:15 288:8, 22 289:2 290:6,18 291:6,21 292:4 299:17 300:12

ultimately 232:17 284:12 289:1 297:4 299:20

unclear 297:5 306:24 307:3

underneath 216:8 223:13, 17,21 224:7 305:3,23

understand 268:19

understanding 222:3 227:1 228:13,21 254:13 295:4 307:4

Understood 278:3

unit 255:5,11 266:8,12,23 267:5 301:7 305:3

United 235:1

units 211:17 248:21 256:13,19,21 257:9 258:10, 15 260:18,19, 21 266:18,20, 24 288:17,23

universally 212:9,21 213:3 214:16

unsuitability 302:4

update 297:9

updated 258:11,20,23 297:10

updates 287:22

updating 290:9,22

upgrading 303:1

upper 214:12, 15 226:22 227:4 229:7

uppermost 221:6,11,12 224:8,11 230:5 305:9

upwards 288:20

Urbana 294:14

urge 273:22

USGS 234:23

utilities 254:9, 11,17

utility 244:19 255:7,20 274:14 275:5 280:13

utilized 211:11 215:20 234:23 236:10 281:1

utilizing 236:20

V

valuable 265:15

values 291:11

variability
212:22
232:21
282:20

variable
212:13,14

variations
212:17
286:19

varies 213:9

vary 212:18
213:10 214:9
303:2

varying 213:4

velocity
305:7,14
308:14,24

version
239:20 295:5

vertical 212:1
213:18
220:20 221:5

vertically
212:4

video 285:15

view 286:21

viewed
265:24
266:14 267:5

violation
249:3 281:2
284:13 285:1,
23 290:16
299:15

violations
273:12 274:3
276:20 277:3
284:11,13
285:9,22,24
286:2,16
295:12
297:22

visits 254:14

visual 293:3,6

VN 233:4
249:3

voluntarily
290:23
291:19

W

wait 238:3
243:21 251:5

waiting 250:1
257:12 259:8
269:13,23
270:10

waive 309:21

walk 233:18

wanted
245:15
246:21,24
256:3 283:18
284:19 288:9,
10,22

Washington
234:19

waste 216:24
256:24 257:3,
6,8 266:23
294:20 297:1,
6,23 301:17,
22 305:3,11

wastewater
237:5

wastewaters
255:14

water 211:17
219:9 220:5
231:24 232:1,
7 233:3
234:13
242:24
255:15
262:23 273:4
276:8 277:5
293:6 294:17
296:14
299:11,13
304:6 308:15,
21,22,23

waters 272:22

wavy 227:14

weather
281:24

WEBB 209:1
225:11
230:23
236:24
237:20 238:6,
12,18 239:7,
10,14 240:9,
14,18 241:12,
23 242:4,9
251:9 257:20,
23 259:3
264:2 265:1,5
268:5,15,18
271:4,8,18
274:19
277:10,17,20
278:1 293:24
294:4 298:7,
10,13 302:8
307:19 309:5,
8,13,16,24
310:5,11

website
250:5,8,10,
11,21 251:3
252:15,22
253:15,18,19
254:6,7 265:2
273:17 280:4,
6 283:24
299:20
310:13

websites
253:12

weekly
252:20,21
278:17

well-renowned
247:23

wells 230:12
232:20 247:5,
7,11 259:12
280:22,24
281:13,15,17,
24 282:7,13
283:6 287:20
288:6,11,12,
15,20 293:9,
12 296:5
300:9 303:20

west 303:22

wetting
296:15

Williams
225:10 231:2
233:19,23
235:24 236:1,
22 237:7
238:5 239:3,
22 242:5,7,16
243:19,23
244:1 251:5,
12 257:19,21
258:3,24
259:6 264:1,
3,4,15 265:3
267:8,22
268:7 271:4,6
277:13,15,22,
24 278:9
293:22 294:3
298:8,12,21
301:24 302:4,
10,15 306:18
307:6,18,23
309:4,10,12,
18,20 310:10

wishes
277:11

witnesses
268:1

witnesses'
268:14

word 304:19

words 272:5

work 243:9,15
246:19
249:21 254:2
257:3 260:12,
14,22 262:2
268:7 280:11
281:19 283:3
287:18
300:19

worked 243:1,
17 244:22,23
247:18
267:23 279:4,
20 286:18
294:17
299:18

working
244:16,24

245:5,23
246:7 251:22
253:20,23
254:10,12
257:15
259:10
262:15
263:22
278:15 287:6
289:6 299:8

works 224:6
260:23
294:16

world 244:13
282:18

worth 239:15

write 285:5

written
271:13
282:10
284:24 285:1,
2

Y

year 256:12,
20 282:23
292:3

year-after-year 273:13

year-and-a-half 263:1
282:24

years 231:19
234:6 245:4,
11 247:9,11
251:17
269:13,24
270:11 274:8
275:11
294:20 301:1,
9,11,12
303:8,12

yesterday
209:10,24
210:11
215:21 239:1,
12,22 249:3
253:24 275:8
276:23