

ILLINOIS POLLUTION CONTROL BOARD

JULY 8, 2010

VILLAGE OF MORTON,)
)
 Petitioner,)
)
 vs)
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

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STATE OF ILLINOIS
Pollution Control Board

PCB 10-83
 (Community Well
 Setback
 Exception)

REPORT OF PROCEEDINGS at the hearing of the
 above-entitled cause before Carol Webb, Hearing
 Officer, taken before Rebecca A. Graziano, Certified
 Shorthand Reporter within and for the County of
 Tazewell and State of Illinois, at the Village of
 Morton Police Department Training Room, Morton,
 Illinois, commencing at the hour of 10:00, on the
 8th day of July, A.D., 2010.

A P P E A R A N C E S

ILLINOIS POLLUTION CONTROL BOARD:

Ms. Carol Webb

THOMAS E. DAVIES, P.C.
1600 South 4th Avenue
Suite 137
Morton, Illinois 61550
(309) 266-6211
BY: MR. THOMAS E. DAVIES

Appeared on behalf of the Village of Morton,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794
(217) 782-5544
BY: MS. JOEY LOGAN-WILKEY

Appeared on behalf of the Illinois Environmental
Protection Agency.

ALSO PRESENT:

Mr. Robert Wraight, P.E., Director of Public
Works for Morton, Illinois

Mr. Lonn Stalter, Superintendant of Water
Treatment for Morton, Illinois

Mr. Lynn E. Dunaway, P.G., Environmental
Protection Specialist, Groundwater Section,
Bureau of Water, for the Illinois Environmental
Protection Agency.

1 MS. WEBB: Good morning. My name is
2 Carol Webb. This is the hearing for
3 PCB 10-83, Village of Morton versus IEPA. It
4 is July 8th, 2010, and we are beginning at
5 10:00 o'clock a.m. I will note for the
6 record that there are no members of the
7 public present.

8 At issue in this case is
9 petitioner's request for a community well
10 setback exception at a site located on
11 Detroit Avenue in Morton, Tazewell County.
12 The Pollution Control Board members will make
13 the final decision in this case. My purpose
14 is to conduct a hearing in a neutral and
15 orderly manner so that we have a clear record
16 of the proceedings.

17 This hearing was noticed pursuant
18 to the act in the Board's rules and will be
19 conducted pursuant to Sections 101.600
20 through 101.632 and 106 subpart C of the
21 Board's procedural rules.

22 At this time, I'd like to ask the
23 parties to please make their appearances on
24 the record.

1 MR. DAVIES: Thomas E. Davies, 1600
2 South Forest Street, Suite 137, Morton,
3 Illinois, for the petitioner, the Village of
4 Morton.

5 MS. WEBB: Thank you.

6 MS. LOGAN-WILKEY: Joey Logan-Wilkey,
7 Illinois EPA, attorney for the respondent.

8 MS. WEBB: Thank you. Would the
9 petitioner like to make any opening statement
10 today?

11 MR. DAVIES: I think we'll waive
12 opening statement.

13 MS. WEBB: Okay. Ms. Logan-Wilkey?

14 MS. LOGAN-WILKEY: We'll waive as
15 well. Thank you.

16 MS. WEBB: All right. The petitioner
17 may call its first witness.

18 MR. DAVIES: Thank you, your Honor.
19 Robert Wraight.

20 MS. WEBB: Would the court reporter
21 please swear in the witness?

22 (Witness sworn.)

23 WHEREUPON:

24 ROBERT WRAIGHT

1 called as a witness herein, having been first duly
2 sworn, deposeth and saith as follows:

3 E X A M I N A T I O N

4 BY MR. DAVIES:

5 Q. Please state and spell your name for
6 the record.

7 A. Robert Wraight, W-r-a-i-g-h-t.

8 Q. And what is your position?

9 A. I am the superintendant of public
10 works for the Village of Morton.

11 Q. And could you briefly explain your
12 educational background?

13 A. An engineering degree at the
14 University of Illinois, 1971. I'm a registered
15 professional engineer in the state of Illinois. I'm
16 a licensed operator and licensed wastewater
17 operator.

18 (Document marked as Exhibit No. 1
19 for identification.)

20 BY MR. DAVIES:

21 Q. Okay. And I'll show you what's been
22 marked as Exhibit Number 1, and ask if you can
23 identify that document.

24 (Document tendered.)

1 THE WITNESS: This is the petition
2 that we filed with the Pollution Control
3 Board asking for our variance to locate our
4 salt storage facility within a setback zone
5 of some of our wells.

6 BY MR. DAVIES:

7 Q. Can you explain briefly for the record
8 what the facility is that the Village of Morton
9 proposes to erect?

10 A. Adjacent to our public works garage,
11 we propose to pour a concrete pad expanding our
12 existing parking lot and build an enclosed walled
13 and roofed salt storage. It's actually going to be
14 a barn, rather than a cone, to store ice removal
15 salt in for our department.

16 Q. And what is the benefit to the public
17 of constructing this dome?

18 A. Right now we have a very small
19 facility at a remote location, and we're not able to
20 hold enough salt to even get through one storm. The
21 purchasing of salt has changed significantly in the
22 last few years, as has the price. We can save
23 \$20,000 or \$30,000 a year by purchasing through a
24 state contract, but we have to have a facility where

1 we can take all our delivery in an off season, and
2 we can't do that now.

3 So if we build this facility,
4 we'll be able to save a lot of money, and we'll be
5 able to locate it right beside where the street
6 department equipment and people is located.

7 Q. And would the village like to be able
8 to erect this facility this year?

9 A. Well, the sooner the better,
10 obviously. The sooner we can take advantage of not
11 only the efficiency of operation, but the
12 purchasing, would be certainly very beneficial.

13 Q. And the Village of Morton, they have a
14 water department, correct?

15 A. Yes, sir.

16 (Document marked as Exhibit No. 2
17 for identification.)

18 BY MR. DAVIES:

19 Q. All right. And I'll show you what's
20 been marked as Exhibit Number 2. Can you identify
21 that document?

22 (Document tendered.)

23 THE WITNESS: This is an affidavit
24 that I signed acknowledging that the village

1 filed a petition for a water well setback
2 exception. And that -- as superintendent of
3 public works, I received that notification on
4 behalf of the village's water department.

5 BY MR. DAVIES:

6 Q. And, in fact, the village water
7 department is under your supervision as director of
8 public works, correct?

9 A. Yes, correct.

10 (Document marked as Exhibit No. 3
11 for identification.)

12 BY MR. DAVIES:

13 Q. I'll show you what's been marked as
14 Exhibit 3. Can you identify that document?

15 (Document tendered.)

16 THE WITNESS: At the request of the
17 Pollution Control Board, we were asked to
18 respond to an inquiry about our monitoring
19 program, and this is a statement that says
20 that we will comply with all the regulations
21 exactly -- it spells out what our monitoring
22 program will be. And it was basically what
23 the EPA or the Pollution Control Board
24 requires, and we're affirming that we will

1 comply with that monitoring program.

2 BY MR. DAVIES:

3 Q. Can you briefly indicate what that
4 monitoring program would consist of?

5 A. Sure. We're going to put three
6 groundwater monitoring wells in at the locations
7 specified. The first year we will monitor those six
8 times a year to get a baseline, and then after that,
9 once a year. And we have to follow a sampling
10 protocol and report the results to the EPA.

11 (Document marked as Exhibit No. 4
12 for identification.)

13 BY MR. DAVIES:

14 Q. Okay. I'll show you what's been
15 marked as Exhibit Number 4 and ask if you can
16 identify that document.

17 (Document tendered.)

18 THE WITNESS: In response to another
19 request for information from the Pollution
20 Control Board, we answered 14 questions
21 ranking from how far away our wells from the
22 salt storage facility to would we comply with
23 specific monitoring requirements. We'll do
24 the monitoring and --

1 BY MR. DAVIES:

2 Q. And you reviewed the questions as
3 presented to the village in preparation of that
4 response, correct?

5 A. That is correct.

6 Q. And does that response fairly and
7 accurately summarize what the village will do with
8 respect to this program, the monitoring, the
9 testing, the other procedures that the village will
10 follow?

11 A. That's correct.

12 (Document marked as Exhibit No. 5
13 for identification.)

14 BY MR. DAVIES:

15 Q. And I'll show you what's been marked
16 as Exhibit 5. Please identify that.

17 (Document tendered.)

18 THE WITNESS: This is an affidavit
19 signed by me saying that the only public
20 water supply within 1,000 feet of this
21 potential source, site, is the village of
22 Morton. There are no other wells except ours
23 within 1,000 feet of this site.

24 MR. DAVIES: I have no further

1 questions of this witness. I would ask that
2 Exhibits 1 through 5 be admitted into the
3 record.

4 MS. WEBB: It's my understanding that
5 they already are in the record. Is that okay
6 if we just call them exhibits to make it
7 easier for the board to refer to the
8 testimony?

9 MS. LOGAN-WILKEY: Yes.

10 MS. WEBB: So yes, they are admitted.

11 MR. DAVIES: And the further purpose
12 of that is to make sure they were made
13 available for the public hearing, in case
14 there were any parties that had any questions
15 with regard to the petition.

16 MS. WEBB: I appreciate that.
17 Ms. Logan-Wilkey, do you have any questions
18 for this witness?

19 MS. LOGAN-WILKEY: No, not at this
20 time. Thank you.

21 MS. WEBB: On behalf of the board, I
22 do have one follow-up question to the hearing
23 officer order questions that I think were
24 Exhibit 4. It was about your reply to

1 question six.

2 The question was, "Is the proposed
3 source located within a maximum setback zone
4 of any community water supply well pursuant
5 to Section 14.3 of the act," and you had
6 replied yes. The follow-up is that this
7 question refers to a possible maximum setback
8 zone, rather than a 200-foot minimum setback
9 zone from which the petition seeks relief.

10 So basically, under certain
11 circumstances, Section 14.3 of the act allows
12 the establishment of a maximum setback zone
13 for some wells, a zone larger than 200 feet.
14 Of the other wells the village has
15 identified, wells number three, four, five,
16 six, eight, and nine, was a maximum setback
17 zone established for any of these wells, and
18 if so, does the proposed source fall within
19 the maximum setback zone?

20 THE WITNESS: Yes. The maximum
21 setback zone was established, and the
22 source -- a good reference -- it doesn't have
23 a page number. It's between Pages 8 and 9 in
24 Exhibit 1, and it is labeled Exhibit A. That

1 shows the 200-foot radius for all the wells.
2 And obviously if that's the 200-foot radius,
3 it's apparent that all six wells are within
4 1,000 feet of this source.

5 MS. WEBB: Okay.

6 THE WITNESS: All six wells at this
7 site, if you refer to wells three and four,
8 those are located at another site downtown.
9 I'm sorry. I didn't pick up on wells three
10 and four.

11 MS. WEBB: Thre, four, five, six.
12 Okay.

13 THE WITNESS: Six, seven, eight,
14 nine -- five, six, seven, eight, nine, and
15 ten are within 1,000 feet.

16 MS. WEBB: Okay.

17 THE WITNESS: Those are all the ones
18 at the Detroit facility. There are two other
19 ones, three and four, that are located --

20 THE COURT: And the proposed source as
21 well you said?

22 THE WITNESS: Yes.

23 MS. WEBB: Okay. That's all the
24 questions I have for you. Do you have any

1 follow-up questions based on my questioning?

2 MR. DAVIES: No, your Honor.

3 MS. WEBB: Thank you, Mr. Wraight.

4 The petitioner may call its next witness.

5 MR. DAVIES: Mr. Stalter.

6 MS. WEBB: Mr. Stalter, you can
7 probably just stay right there. I think
8 you're fine. Would the court reporter please
9 swear in the witness?

10 (Witness sworn.)

11 WHEREUPON:

12 LONN STALTER

13 called as a witness herein, having been first duly
14 sworn, deposeth and saith as follows:

15 E X A M I N A T I O N

16 BY MR. DAVIES:

17 Q. Please state your name and spell it
18 for the record.

19 A. Lonnn Stalter, L-o-n-n S-t-a-l-t-e-r.

20 Q. And where are you employed?

21 A. Water treatment superintendent for the
22 Village of Morton.

23 Q. And what are your general
24 responsibilities as water superintendent?

1 A. I'm in charge of providing enough safe
2 water for the Village of Morton, according to the
3 EPA -- the Illinois EPA rules and regulations.

4 Q. And in conjunction with your job,
5 could you explain briefly what your education
6 background and/or training is?

7 A. I've got a bachelor's degree at
8 Illinois State University in business
9 administration, and also I have a wastewater and
10 water operator's license with Illinois EPA.

11 Q. And what does that license permit you
12 to do?

13 A. Run water plants to provide the water.

14 Q. And in conjunction with running the
15 plants, do you, from time to time, test the water?

16 A. Yes, we frequently test the water.
17 Actually, we test the water every day, but we also
18 grab samples for -- take them to a certified lab, as
19 the EPA requires us to.

20 Q. Okay. Could you describe the general
21 procedure that you use in sampling water, starting
22 with the taking of the sampling and what happens
23 after that?

24 A. Well, we grab the samples and we fill

1 out the paperwork that's required, and either the
2 certified lab picks up the samples, or we personally
3 deliver them, and they record the times that the
4 samples are collected and when they receive the
5 samples. Then they report and we report to the
6 Illinois EPA the results. If there's any
7 violations, then we either have to repeat our
8 sampling or do whatever the Illinois EPA requires us
9 to do.

10 Q. Okay. And when you say "certified
11 lab," that's a lab that's been approved by the EPA
12 for this purpose?

13 A. Yes.

14 Q. Are you familiar with the petition
15 that the Village of Morton filed in this matter?

16 A. Yes, I am.

17 Q. In other words, that the village is
18 requesting variance to erect and store the salt?

19 A. Correct.

20 Q. In conjunction with that, will you be
21 doing any testing of the village water supply?

22 A. Yes. According to the request, six
23 times the first year we'll be sampling and having
24 tests run, and then once a year, I think it is,

1 after that.

2 Q. Okay. And the sampling you will do,
3 as specifically requested in this matter, will be
4 done with the same procedures that you just
5 explained?

6 A. Yes.

7 Q. In other words, you'll follow the same
8 protocol and send the sampling to the certified lab?

9 A. Correct.

10 Q. And it's your understanding that the
11 lab would then automatically provide those reports
12 to the EPA?

13 A. Yes, that's correct. But they also
14 provide us with that report.

15 Q. Well, right. But the EPA is made
16 fully aware of the testing?

17 A. Yes.

18 MR. DAVIES: I have no further
19 questions of this witness.

20 MS. WEBB: Okay. Ms. Logan-Wilkey?

21 MS. LOGAN-WILKEY: We have no
22 questions, Madam Hearing Officer.

23 MS. WEBB: Thank you very much,

24 Mr. Stalter. Would you like to call another

1 witness?

2 MR. DAVIES: No. The village would
3 rest at this time.

4 MS. WEBB: Okay. Ms. Logan-Wilkey, do
5 you have anything you'd like to present
6 today?

7 MS. LOGAN-WILKEY: No, Madam Hearing
8 Officer.

9 MS. WEBB: Okay. Let's go off the
10 record for a few minutes to discuss a
11 briefing schedule.

12 (Whereupon, a discussion was had
13 off the record.)

14 MS. WEBB: We're back on the record.
15 Ms. Logan-Wilkey has decided that she would
16 like to ask one question.

17 MS. LOGAN-WILKEY: I just wanted to
18 clarify from the witness that the testing
19 will be from the monitoring wells and not the
20 community water supply wells.

21 THE WITNESS: Correct, the three
22 monitoring wells.

23 MS. LOGAN-WILKEY: The three
24 monitoring wells. Okay. That's it. Thank

1 you.

2 MS. WEBB: Now we'll go off the
3 record.

4 (Whereupon, a discussion was had
5 off the record.)

6 MS. WEBB: We'll go back on the
7 record. The transcript will be due by
8 July 20th and will be posted on the board's
9 website. The public comment deadline is July
10 22nd. Any public comment must be filed in
11 accordance with Section 101.628 of the
12 board's procedural rules.

13 The petitioner's brief is due by
14 July 15th and respondent's brief will be due
15 by July 27th. The mailbox rule will apply,
16 and the petitioner is aware that they will
17 not have the transcript to file their brief,
18 and they're okay with that. Is that correct?

19 MR. DAVIES: That is correct.

20 MS. WEBB: Okay. Would you care to
21 make any closing argument?

22 MR. DAVIES: We'll waive closing
23 argument.

24 THE COURT: Ms. Logan-Wilkey?

1 MS. LOGAN-WILKEY: We'll waive as
2 well. Thank you.

3 MS. WEBB: At this time, I'll again
4 note that there are no members of the public
5 present to make statements on the record, so
6 I will conclude the proceedings. We stand
7 adjourned, and I thank you all for coming.

8 MR. DAVIES: Thank you.

9 MS. LOGAN-WILKEY: Thank you.

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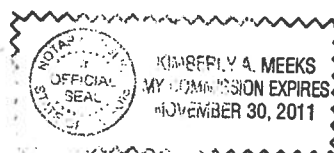
1 STATE OF ILLINOIS)
) SS
 2 COUNTY OF COOK)
 3
 4

5 REBECCA A. GRAZIANO, being first
 6 duly sworn on oath, says that she is a court
 7 reporter doing business in the City of Chicago, that
 8 she reported in shorthand the proceedings given at
 9 the taking of said hearing, and that the foregoing
 10 is a true and correct transcript of her shorthand
 11 notes so taken as aforesaid, and contains all the
 12 proceedings given at said hearing.
 13
 14

15 *Rebecca Graziano*
 REBECCA A. GRAZIANO, CSR
 16 Eight West Monroe Street, Suite 2007
 Chicago, Illinois 60603
 17 License No.: 084-004659
 18

19 SUBSCRIBED AND SWORN TO
 before me this 20th day
 20 of July, A.D., 2010.

21 *Kimberly A. Meeks*
 Notary Public
 22
 23
 24



A	13:3	beside 7:5	clarify 18:18	D	duly 5:1
able 6:19 7:4	appearances	better 7:9	clear 3:15	Davies 2:5,7	14:13 21:6
7:5,7	3:23	between	closing 19:21	4:1,1,11,18	Dunaway
about 8:18	Appeared	12:23	19:22	5:4,20 6:6	2:19
11:24	2:8,13	board 1:1 2:2	collected	7:18 8:5,12	
above-entit...	apply 19:15	3:12 6:3	16:4	9:2,13 10:1	
1:9	appreciate	8:17,23	coming 20:7	10:14,24	
accordance	11:16	9:20 11:7	commencing	11:11 14:2	
19:11	approved	11:21	1:14	14:5,16	
according	16:11	board's 3:18	comment	17:18 18:2	easier 11:7
15:2 16:22	argument	3:21 19:8	19:9,10	19:19,22	East 2:10
accurately	19:21,23	19:12	community	20:8	education
10:7	asked 8:17	Box 2:11	1:4 3:9 12:4	day 1:15	15:5
acknowled...	asking 6:3	brief 19:13	18:20	15:17 21:19	educational
7:24	attorney 4:7	19:14,17	comply 8:20	deadline 19:9	5:12
act 3:18 12:5	automatica...	briefing	9:1,22	decided	efficiency
12:11	17:11	18:11	conclude	18:15	7:11
actually 6:13	available	briefly 5:11	20:6	decision 3:13	eight 12:16
15:17	11:13	6:7 9:3 15:5	concrete 6:11	degree 5:13	13:13,14
Adjacent	Avenue 2:5	build 6:12	conduct 3:14	15:7	21:16
6:10	2:10 3:11	7:3	conducted	deliver 16:3	either 16:1,7
adjourned	aware 17:16	Bureau 2:20	3:19	delivery 7:1	employed
20:7	19:16	business 15:8	cone 6:14	department	14:20
administra...	away 9:21	21:7	conjunction	1:13 6:15	enclosed 6:12
15:9	A.D 1:15		15:4,14	7:6,14 8:4,7	engineer 5:15
admitted	21:20		16:20	deposeth 5:2	engineering
11:2,10	a.m 3:5		consist 9:4	14:14	5:13
advantage			constructing	describe	enough 6:20
7:10			6:17	15:20	15:1
affidavit 7:23	bachelor's	called 5:1	contains	Detroit 3:11	Environme...
10:18	15:7	14:13	21:11	13:18	1:5 2:10,13
affirming	back 18:14	care 19:20	contract 6:24	director 2:16	2:19,20
8:24	19:6	Carol 1:9 2:3	Control 1:1	8:7	EPA 4:7 8:23
aforesaid	background	3:2	2:2 3:12 6:2	discuss 18:10	9:10 15:3,3
21:11	5:12 15:6	case 3:8,13	8:17,23	discussion	15:10,19
after 9:8	barn 6:14	11:13	9:20	18:12 19:4	16:6,8,11
15:23 17:1	based 14:1	cause 1:9	COOK 21:2	document	17:12,15
again 20:3	baseline 9:8	certain 12:10	correct 7:14	5:18,23,24	equipment
Agency 1:5	basically	certainly	8:8,9 10:4,5	7:16,21,22	7:6
2:10,14,21	8:22 12:10	7:12	10:11 16:19	8:10,14,15	erect 6:9 7:8
allows 12:11	before 1:9,10	certified 1:10	17:9,13	9:11,16,17	16:18
already 11:5	21:19	15:18 16:2	18:21 19:18	10:12,17	established
and/or 15:6	beginning	16:10 17:8	19:19 21:10	doing 16:21	12:17,21
another 9:18	3:4	changed 6:21	County 1:11	21:7	establishm...
13:8 17:24	behalf 2:8,13	charge 15:1	3:11 21:2	dome 6:17	12:12
answered	8:4 11:21	Chicago 21:7	court 4:20	done 17:4	even 6:20
9:20	being 21:5	21:16	13:20 14:8	downtown	every 15:17
anything	beneficial	circumstan...	19:24 21:6	13:8	exactly 8:21
18:5	7:12	12:11	CSR 21:15	due 19:7,13	except 10:22
apparent	benefit 6:16	City 21:7		19:14	exception 1:5

3:10 8:2	11:22 12:6	14:2	like 3:22 4:9	members 3:6	7:10 13:2
Exhibit 5:18	14:1	hour 1:14	7:7 17:24	3:12 20:4	off 7:1 18:9
5:22 7:16	foregoing		18:5,16	minimum	18:13 19:2
7:20 8:10	21:9	I	locate 6:3 7:5	12:8	19:5
8:14 9:11	Forest 4:2	ice 6:14	located 3:10	minutes	officer 1:10
9:15 10:12	four 12:15	identificati...	7:6 12:3	18:10	11:23 17:22
10:16 11:24	13:7,10,11	5:19 7:17	13:8,19	money 7:4	18:8
12:24,24	13:19	8:11 9:12	location 6:19	monitor 9:7	okay 4:13
exhibits 11:2	frequently	10:13	locations 9:6	monitoring	5:21 9:14
11:6	15:16	identified	Logan-Wil...	8:18,21 9:1	11:5 13:5
existing 6:12	from 9:19,21	12:15	2:12 4:6,6	9:4,6,23,24	13:12,16,23
expanding	9:21 12:9	identify 5:23	4:13,14	10:8 18:19	15:20 16:10
6:11	15:15 18:18	7:20 8:14	11:9,17,19	18:22,24	17:2,20
explain 5:11	18:19	9:16 10:16	17:20,21	Monroe	18:4,9,24
6:7 15:5	fully 17:16	IEPA 3:3	18:4,7,15	21:16	19:18,20
explained	further 10:24	Illinois 1:1,5	18:17,23	morning 3:1	once 9:9
17:5	11:11 17:18	1:12,14 2:2	19:24 20:1	Morton 1:2	16:24
		2:6,10,11	20:9	1:13,13 2:6	one 6:20
F	G	2:13,17,18	Lonn 2:18	2:8,17,18	11:22 18:16
facility 6:4,8	garage 6:10	2:20 4:3,7	14:12,19	3:3,11 4:2,4	ones 13:17,19
6:19,24 7:3	general 14:23	5:14,15	lot 6:12 7:4	5:10 6:8	only 7:11
7:8 9:22	15:20	15:3,8,10	Lynn 2:19	7:13 10:22	10:19
13:18	given 21:8,12	16:6,8 21:1	L-o-n-n	14:22 15:2	opening 4:9
fact 8:6	go 18:9 19:2	21:16	14:19	16:15	4:12
fairly 10:6	19:6	indicate 9:3		much 17:23	operation
fall 12:18	going 6:13	information	M	must 19:10	7:11
familiar	9:5	9:19	M 5:3 14:15		operator
16:14	good 3:1	inquiry 8:18	Madam	N	5:16,17
far 9:21	12:22	issue 3:8	17:22 18:7	N 2:1 5:3,3	operator's
feet 10:20,23	grab 15:18		made 11:12	14:15,15	15:10
12:13 13:4	15:24	J	17:15	name 3:1 5:5	order 11:23
13:15	Grand 2:10	job 15:4	mailbox	14:17	orderly 3:15
few 6:22	Graziano	Joey 2:12 4:6	19:15	neutral 3:14	other 10:9,22
18:10	1:10 21:5	July 1:1,15	make 3:12,23	next 14:4	12:14 13:18
file 19:17	21:15	3:4 19:8,9	4:9 11:6,12	nine 12:16	16:17 17:7
filed 6:2 8:1	groundwater	19:14,15	19:21 20:5	13:14,14	out 8:21 16:1
16:15 19:10	2:20 9:6	just 11:6 14:7	manner 3:15	North 2:10	o'clock 3:5
fill 15:24		17:4 18:17	marked 5:18	Notary 21:21	
final 3:13	H	L	5:22 7:16	note 3:5 20:4	P
fine 14:8	happens	lab 15:18	7:20 8:10	notes 21:11	P 2:1,1
first 4:17 5:1	15:22	16:2,11,11	8:13 9:11	noticed 3:17	pad 6:11
9:7 14:13	having 5:1	17:8,11	9:15 10:12	notification	page 12:23
16:23 21:5	14:13 16:23	labeled 12:24	10:15	8:3	Pages 12:23
five 12:15	hearing 1:8,9	larger 12:13	matter 16:15	number 5:22	paperwork
13:11,14	3:2,14,17	last 6:22	17:3	7:20 9:15	16:1
follow 9:9	11:13,22	Let's 18:9	maximum	12:15,23	parking 6:12
10:10 17:7	17:22 18:7	license 15:10	12:3,7,12	O	parties 3:23
follows 5:2	21:9,12	15:11 21:17	12:16,19,20	O 5:3 14:15	11:14
14:14	her 21:10	licensed 5:16	may 4:17	oath 21:6	PCB 1:4 3:3
follow-up	hold 6:20	5:16	14:4	obviously	people 7:6
	Honor 4:18				

permit 15:11	professional	11:23 13:24	17:3	16:2,4,5	13:4,20
personally	5:15	14:1 17:19	requesting	sampling 9:9	South 2:5 4:2
16:2	program	17:22	16:18	15:21,22	Specialist
petition 6:1	8:19,22 9:1		required	16:8,23	2:20
8:1 11:15	9:4 10:8	R	16:1	17:2,8	specific 9:23
12:9 16:14	propose 6:11	R 2:1	requireme...	save 6:22 7:4	specifically
petitioner 1:3	proposed	radius 13:1,2	9:23	saying 10:19	17:3
4:3,9,16	12:2,18	ranking 9:21	requires 8:24	says 8:19	specified 9:7
14:4 19:16	13:20	rather 6:14	15:19 16:8	21:6	spell 5:5
petitioner's	proposes 6:9	12:8	respect 10:8	schedule	14:17
3:9 19:13	Protection	Rebecca 1:10	respond 8:18	18:11	spells 8:21
pick 13:9	1:5 2:10,14	21:5,15	respondent	season 7:1	Springfield
picks 16:2	2:20,21	receive 16:4	1:6 4:7	Section 2:20	2:11
plants 15:13	protocol 9:10	received 8:3	respondent's	12:5,11	SS 21:1
15:15	17:8	record 3:6,15	19:14	19:11	Stalter 2:18
please 3:23	provide	3:24 5:6 6:7	response	Sections 3:19	14:5,6,12
4:21 5:5	15:13 17:11	11:3,5	9:18 10:4,6	seeks 12:9	14:19 17:24
10:16 14:8	17:14	14:18 16:3	responsibil...	send 17:8	stand 20:6
14:17	providing	18:10,13,14	14:24	setback 1:5	starting
Police 1:13	15:1	19:3,5,7	rest 18:3	3:10 6:4 8:1	15:21
Pollution 1:1	public 2:16	20:5	results 9:10	12:3,7,8,12	state 1:12 5:5
2:2 3:12 6:2	3:7 5:9 6:10	refer 11:7	16:6	12:16,19,21	5:15 6:24
8:17,23	6:16 8:3,8	13:7	reviewed	seven 13:13	14:17 15:8
9:19	10:19 11:13	reference	10:2	13:14	21:1
position 5:8	19:9,10	12:22	right 4:16	shorthand	statement 4:9
possible 12:7	20:4 21:21	refers 12:7	6:18 7:5,19	1:11 21:8	4:12 8:19
posted 19:8	purchasing	regard 11:15	14:7 17:15	21:10	statements
potential	6:21,23	registered	Robert 2:16	show 5:21	20:5
10:21	7:12	5:14	4:19,24 5:7	7:19 8:13	stay 14:7
pour 6:11	purpose 3:13	regulations	roofed 6:13	9:14 10:15	storage 6:4
preparation	11:11 16:12	8:20 15:3	Room 1:13	shows 13:1	6:13 9:22
10:3	pursuant	relief 12:9	rule 19:15	signed 7:24	store 6:14
present 2:15	3:17,19	remote 6:19	rules 3:18,21	10:19	16:18
3:7 18:5	12:4	removal 6:14	15:3 19:12	significantly	storm 6:20
20:5	put 9:5	repeat 16:7	run 15:13	6:21	street 4:2 7:5
presented	P.C 2:5	replied 12:6	16:24	sir 7:15	21:16
10:3	P.E 2:16	reply 11:24	running	site 3:10	subpart 3:20
price 6:22	P.G 2:19	report 1:8	15:14	10:21,23	SUBSCRI...
probably	P.O 2:11	9:10 16:5,5		13:7,8	21:19
14:7		17:14	S	six 9:7 12:1	Suite 2:6 4:2
procedural	Q	reported	S 2:1	12:16 13:3	21:16
3:21 19:12	question	21:8	safe 15:1	13:6,11,13	summarize
procedure	11:22 12:1	reporter 1:11	saith 5:2	13:14 16:22	10:7
15:21	12:2,7	4:20 14:8	14:14	small 6:18	superinten...
procedures	18:16	21:7	salt 6:4,13,15	some 6:5	2:18 5:9
10:9 17:4	questioning	reports 17:11	6:20,21	12:13	superinten...
proceedings	14:1	request 3:9	9:22 16:18	sooner 7:9,10	8:2 14:21
1:8 3:16	questions	8:16 9:19	same 17:4,7	sorry 13:9	14:24
20:6 21:8	9:20 10:2	16:22	samples	source 10:21	supervision
21:12	11:1,14,17	requested	15:18,24	12:3,18,22	8:7

supply 10:20 12:4 16:21 18:20 sure 9:5 11:12 swear 4:21 14:9 sworn 4:22 5:2 14:10 14:14 21:6 21:19 S-t-a-l-t-e-r 14:19 T T 5:3 14:15 take 7:1,10 15:18 taken 1:10 21:11 taking 15:22 21:9 Tazewell 1:12 3:11 ten 13:15 tendered 5:24 7:22 8:15 9:17 10:17 test 15:15,16 15:17 testimony 11:8 testing 10:9 16:21 17:16 18:18 tests 16:24 thank 4:5,8 4:15,18 11:20 14:3 17:23 18:24 20:2,7,8,9 their 3:23 19:17 think 4:11 11:23 14:7 16:24 Thomas 2:5 2:7 4:1 Thre 13:11	three 9:5 12:15 13:7 13:9,19 18:21,23 through 3:20 6:20,23 11:2 time 3:22 11:20 15:15 15:15 18:3 20:3 times 9:8 16:3,23 today 4:10 18:6 training 1:13 15:6 transcript 19:7,17 21:10 treatment 2:18 14:21 true 21:10 two 13:18 U under 8:7 12:10 understan... 11:4 17:10 University 5:14 15:8 use 15:21 V variance 6:3 16:18 versus 3:3 very 6:18 7:12 17:23 village 1:2,12 2:8 3:3 4:3 5:10 6:8 7:7 7:13,24 8:6 10:3,7,9,21 12:14 14:22 15:2 16:15 16:17,21 18:2 village's 8:4 violations	16:7 vs 1:4 W waive 4:11 4:14 19:22 20:1 walled 6:12 wanted 18:17 wastewater 5:16 15:9 water 2:18 2:20 7:14 8:1,4,6 10:20 12:4 14:21,24 15:2,10,13 15:13,15,16 15:17,21 16:21 18:20 Webb 1:9 2:3 3:1,2 4:5,8 4:13,16,20 11:4,10,16 11:21 13:5 13:11,16,23 14:3,6 17:20,23 18:4,9,14 19:2,6,20 20:3 website 19:9 well 1:4 3:9 4:15 7:9 8:1 12:4 13:21 15:24 17:15 20:2 wells 6:5 9:6 9:21 10:22 12:13,14,15 12:17 13:1 13:3,6,7,9 18:19,20,22 18:24 were 8:17 11:12,14,23 West 21:16 we'll 4:11,14 7:4,4 9:23 16:23 19:2	19:6,22 20:1 we're 6:19 8:24 9:5 18:14 witness 4:17 4:21,22 5:1 6:1 7:23 8:16 9:18 10:18 11:1 11:18 12:20 13:6,13,17 13:22 14:4 14:9,10,13 17:19 18:1 18:18,21 words 16:17 17:7 works 2:17 5:10 6:10 8:3,8 Wraight 2:16 4:19,24 5:7 14:3 W-r-a-i-g-h-t 5:7 X X 5:3 14:15 Y year 6:23 7:8 9:7,8,9 16:23,24 years 6:22 Z zone 6:4 12:3 12:8,9,12 12:13,17,19 12:21 \$ \$20,000 6:23 \$30,000 6:23 0 084-004659 21:17 1	15:18,22 11:2 12:24 1,000 10:20 10:23 13:4 13:15 10-83 1:4 3:3 10:00 1:14 3:5 101.600 3:19 101.628 19:11 101.632 3:20 1021 2:10 106 3:20 137 2:6 4:2 14 9:20 14.3 12:5,11 15th 19:14 1600 2:5 4:1 19276 2:11 1971 5:14 2 2 7:16,20 20th 19:8 200 12:13 200-foot 12:8 13:1,2 2007 21:16 2010 1:1,15 3:4 21:20 217 2:12 22nd 19:10 266-6211 2:7 27th 19:15 3 3 8:10,14 309 2:7 4 4 9:11,15 11:24 4th 2:5 5 5 10:12,16 11:2 6 60603 21:16	61550 2:6 62794 2:11 7 782-5544 2:12 8 8 1:1 12:23 8th 1:15 3:4 9 9 12:23
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