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LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY

IN RE: DEQ TRUST FUND MEETING

Louisiana Department of Environmental
Quality Meeting, taken at the 602 North 5th
Street, Baton Rouge, Louisiana 70802 on
November 14, 2019.

Louisiana Department of
Environmental Quality
602 North 5th Street
P.O. Box 4302
Baton Rouge, Louisiana 70802

ORIGINAL

A P P E A R A N C E S

1
2
3 CY MORIN
4 THERESA DELAFUSSE
5 MICHAEL GUILLORY
6 NICK ST. ROMAIN
7 STEVE BURNHAM
8 GARY FULTON
9 JEFF BAKER
10 PERRY THERIOT
11 SHAWN KING
12 KERRY HILL
13 DURWOOD FRANKLIN
14 KRISTINE STANLEY
15 RHONDA COOK
16 MELISSA VIZINAT
17 SAMUEL BROUSSARD
18 JASON EFFERSON
19 KYLE BLANCHARD
20 TAD LOUPE
21 CLINTON TULLY
22
23
24
25

1 MR. ST. ROMAIN:

2 I will officially call this meeting to
3 order, and we will go ahead and start with
4 roll call.

5 MR. THERIOT:

6 Perry Theriot, Legal Department DEQ.

7 MR. BAKER:

8 Jeff Baker, Trust Fund DEQ.

9 MR. FULTON:

10 Gary Fulton, Underground Storage Tank.

11 MR. KING:

12 Shawn King, Jones Environmental.

13 MR. BURNHAM:

14 Steve Burnham, Engineering Associates.

15 MR. ST. ROMAIN:

16 Nick St. Romain, Louisiana Oil Marketer
17 Association.

18 MR. GUILLORY:

19 Michael Guillory, Louisiana Oil
20 Marketers.

21 MS. DELAFOSSE:

22 Theresa Delafosse, Louisiana DEQ
23 Financial Services.

24 MR. MORIN:

25 Cy Morin, DEQ Audit.

1 MS. VIZINAT:

2 Melissa Vizinat, DEQ Trust Fund.

3 MS. STANLEY:

4 Kristine Stanley, PPM Consultant.

5 MS. COOK:

6 Rhonda Cook, PPM Consultant.

7 MR. BROUSSARD:

8 Sam Broussard, DEQ UST Division.

9 MR. EFFERSON:

10 Jason Efferson, DEQ Trust Fund.

11 MR. LOUPE:

12 Tad Loupe, UST Division.

13 SPEAKER 1:

14 DEQ Assessor.

15 MR. BLANCHARD:

16 Kyle Blanchard, DEQ Assessor.

17 SPEAKER 2:

18 DEQ Assessor.

19 MR. ST. ROMAIN:

20 Okay. For those on the phone if you
21 could state your name.

22 MR. FRANKLIN:

23 Durwood Franklin, DEQ Trust Fund.

24 MR. ST. ROMAIN:

25 Anyone else? Okay. Thank you. We will

1 now move to consider the adoption of the
2 August 15, 2019 board minutes.

3 MR. FULTON:

4 Motion.

5 MR. ST. ROMAIN:

6 I got a motion from Gary. Can I get a
7 second?

8 MR. BURNHAM:

9 Second.

10 MR. ST. ROMAIN:

11 Second. Thank you, Mr. Steve. All
12 right. We will move onto item 3, Financial
13 Services Report with Theresa.

14 MS. DELAFOSSE:

15 Hey, everyone. Happy November and fall.
16 If you turn to tab 3, we have the financial
17 statement as of the end of the first quarter
18 of fiscal year '20. The first column of the
19 year-end statement from fiscal year 2019,
20 which we discussed at our August meeting up
21 in Alexandra. The middle column is -- that
22 is as of the first quarter of last fiscal
23 year which provides a good comparison to the
24 right-hand column which is current
25 information. That is as of the end of this

1 quarter, the first fiscal year of '20.

2 So, you will see that bulk distribution
3 fees were ahead of schedule compared to last
4 year. The first quarter was at 600 million
5 dollars, and that is great. You know, those
6 revenues are very predictable, and it looks
7 like there are going to continue to be
8 predictable.

9 Our interest earnings, we saw an
10 increase in those as well, about 540 last
11 year and 585 this year, 585 thousand. So,
12 that is some good money, again.

13 Our claim for reimbursement are in the
14 middle there. In the disbursement section
15 you will see they are in line with where
16 they were last year at this time. Last year
17 is was 3.3 million, and as of the day of the
18 first quarter this year, we have had 3.2
19 million. We had some other disbursements.
20 Some of that is related, I believe, to that
21 actuary contract. That bill was received in
22 July which is technically the 13th period of
23 the previously fiscal but because this is a
24 cash statement, we reflect those charges
25 when they are actually paid, and those were

7
1 paid in July. In the 66 thousand charge
2 that you see there and the other charges,
3 that's related to some of those tank pulls
4 --

5 MR. HILL:

6 Kerry Hill.

7 MS. DELAFOSSE:

8 Hey, Kerry. Does he need to introduce
9 himself?

10 MR. ST. ROMAIN:

11 Yeah. Go ahead and introduce yourself
12 for roll call, Kerry.

13 MR. HILL:

14 Kerry Hill, Louisiana Oil Partners.

15 MS. DELAFOSSE:

16 Kerry, we are on agenda item number 3.
17 I am doing the Financial Services Report
18 right now. I'm going through the first
19 page, and I have discussed the top two
20 sections, and I'm prepared to discuss the
21 other financing uses right now.

22 In other financing uses, in the right
23 hand column you see that was the transfer
24 from the motor field trust fund to the
25 environmental trust fund for fiscal year

1 '19. Again, like the charge above, that is
2 because the cash bases statement; it is
3 reflected in the following year because of
4 when we actually moved those funds, so it
5 was 5.56 million dollars is what that
6 transfer was to cover the administrative
7 cost of the program.

8 So, we had a net outflow so far of
9 negative 2.7 but, again, that is because the
10 transfer happened. You should see that
11 number go in the other direction when you
12 continue to have the distribution fees
13 coming in.

14 So, then towards the bottom you see the
15 balance was, at the beginning of the year,
16 112 million. The balance now is 109
17 million. Again, because that charge from
18 last year from the transfer to the
19 environmental trust fund is reflected at
20 this point in the year.

21 So, cash back without interest at this
22 time is, again, at 109 million. Our total
23 cash balance is 121 million. So, we have a
24 total interest right at 12 million dollars
25 which, again, that is going to be used for

1 the tank work. We have tank fulls and we
2 are almost finalized on the remediation
3 contracts as well. So, our current site
4 liability number we have discussed, that's
5 the actuary number as of June 30, 2018 of
6 153 million which gives us a negative equity
7 balance of 44 million dollars. Any
8 questions on that page?

9 Okay. Let's go ahead and flip to the
10 second page. The second page is a
11 projection of what we believe at this time
12 the transfer from the oil field trust funds,
13 the environmental trust fund will look like.
14 As of the end of this fiscal year, we are
15 projecting it to be in the same vicinity,
16 around again 500 million dollars, projecting
17 5.3 at this point in time. That notes
18 doesn't reflect any significant changes. It
19 is revenues; the expenditures should remain
20 around the same, so hopefully the transfer
21 will on track to stay. I am not seeing any
22 increases. So, that is all I have for
23 today. Next quarter when we are halfway
24 through the year, I will do a more in-depth
25 presentation. If y'all have any areas of

1 interest, please rely this to financial
2 information with the program and I can do
3 some research and get some data to make sure
4 we present everything to y'all. Thank you.

5 MR. ST. ROMAIN:

6 All right. Any questions for Theresa?
7 Now, can I get a motion to accept the
8 financial services report?

9 MR. GUILLORY:

10 Motion.

11 MR. ST. ROMAIN:

12 I got a motion from Michael.

13 MR. FULTON:

14 Second.

15 MR. ST. ROMAIN:

16 Second. Thank you. We will move onto
17 the auditors status report with Cy.

18 MR. MORIN:

19 Good Afternoon. Cy Morin, DEQ Audit.
20 If you will turn to tab four. The first
21 page of this report details 17 open motor
22 fuel audit cases that are not in our legal
23 division.

24 As of November 5, 2019, we have ten
25 cases awaiting review and pending final

1 review, we have two potential assessments
2 totaling \$1,734.95. We have collected
3 \$978.17 of this leaving a balance of 756.78.
4 We have one potential credit of 44.68, and
5 seven potential clean audits with no
6 assessment.

7 We have seven cases still in progress
8 with result to be determined and finalized.
9 With that being said, we do anticipate at
10 least two assessments, potentially totaling
11 \$11,733.24. Since the last meeting, one new
12 case has been added to this list for fiscal
13 year '20. We do have two additional ones
14 planned already as well but they didn't make
15 this list. They will be on the next list.
16 Four cases have been closed and removed from
17 the list, a total of \$2,343.14 was assessed
18 and collected in full for the four audits
19 that were closed. Any questions?

20 We will turn to page two. The status
21 remains the same for these four legal cases.
22 Cases 1, 3 and 4 remain with the Office of
23 Debt Recovery for collection as of November
24 the 5th 2019. We have received no payments
25 from ODR.

1 Case number two on the list continues to
2 make regular payments as of November 5th.
3 The last payment was admitted on October 28,
4 2019, leaving a new balance of \$2,755.43.
5 There was a fifth case that appeared on the
6 list with a small amount of assessment of
7 \$32.09 from my last report. It has been
8 paid in full and has been removed from the
9 list. As of today, these four legal cases
10 represent a total outstanding amount of
11 \$120,305.20 in motor field delivery fees and
12 late payment penalties. Plus, there is
13 attorney fees, court cost and juridical
14 interest just below that. That will
15 conclude my report. Any questions?

16 MR. ST. ROMAIN:

17 Okay. No questions for Cy. Can I get a
18 motion to accept the auditor's report?

19 MR. BURNHAM:

20 Motion to accept.

21 MR. ST. ROMAIN:

22 Can I get a second?

23 MR. FULTON:

24 Second.

25 MR. ST. ROMAIN:

1 Okay. We will move on to the item
2 number five, Trust Fund Status Report with
3 Jeff Baker.

4 MR. BAKER:

5 Good afternoon. If you refer to the
6 first tab, number five in your packets. We
7 are trying to kind of tweek our reports a
8 little bit to try to make them a little
9 easier for y'all to find stuff on them. So,
10 if you will look at the first worksheet.

11 This is providing a summary of certain
12 information with the trust fund as of the
13 end of the first quarter in this year 2020.

14 At the top of the page, under active
15 trust fund eligible site section, this gives
16 you a breakdown of the sites and the
17 investigation of the corrective action
18 phases. You can note the accounts, average
19 ages of the sites in these categories, the
20 current reimbursement cost of the sites.

21 So, you can see that we have 134 sites
22 in the corrective action phase and 132 in
23 the investigation phase for a totaling of
24 266 active sites at the end of this quarter.

25 If you move on down, you will see under

1 the cube of this site closure. At this
2 point, we have closed 1,416 sites. You can
3 look at the application count for a total of
4 over 288 million dollars.

5 The next category is corrective action
6 approved budget summary for the active
7 sites. These are the sites that are in the
8 corrective action phase and CAP budgets.
9 You will note that we have approximately
10 89.6 million dollars in approved CAP
11 budgets. We have spent, so far, 70 million
12 dollars towards those sites, and when the
13 site is complete and the balance will be
14 approximately 18.7 million dollars left for
15 the budget remaining.

16 If you look on down to the next section,
17 you will see we have sites that have
18 requested reimbursement but have not
19 requested reimbursement but have been
20 determined trust fund eligibly over the last
21 three years for almost 19 sites. So, these
22 are sites that come to the fund, that have
23 asked for eligibility, and they have yet to
24 submit a request for reimbursement. It is
25 not unusual. It takes a while and on some

1 sites we had to follow up on.

2 If you move on down, at the end of
3 September 2019, we had 48 pending
4 applications to process which have requested
5 amounts in approximately a million dollars.
6 You will note at this point in time, we have
7 41 certified RACs for the year. Right now
8 29 of those RACs have active sites.

9 If you move the bottom of that page in
10 the fiscal year summary section, the first
11 quarter of this year trust fund received 233
12 applications, totaling approximately 3.6
13 million dollars. We returned 12
14 applications, and had 142 thousand dollars
15 allowed charges for reimbursement. Does
16 anybody have any questions on this page?

17 MR. BURNHAM:

18 Jeff, on the very first thing, the half
19 of the site phase, is that a point in which
20 they turn in their first application, or
21 when does that clock start?

22 MR. BAKER:

23 That is a good question. Because of the
24 way our data is set up and the way this
25 report reads, it is from the initial request

1 of reimbursement. It is the time from the
2 last request for reimbursement to the
3 current date.

4 MR. BURNHAM:

5 That is an amazingly long time.

6 MR. BAKER:

7 Does anybody have any more questions?
8 If you will turn to the next page, this page
9 is about the sites with LDEQ approved
10 corrective action plans. Again, this is a
11 summary of the sites that are in this
12 category. This gives you an idea of the
13 reimbursements by costing category. The
14 estimated total cost of closure and the
15 average cost of site is also shown at the
16 bottom of the page. It also included the
17 average closure cost from all sites
18 requesting trust fund reimbursement for
19 comparison purposes.

20 So, as you can tell, when a sites get
21 into the corrective action phase, the cost
22 goes up dramatically. The reason the
23 balance is overall so much lower is because
24 a lot of those sites are making the
25 corrective action or they will do interim

1 corrective action activities that bring in
2 the closure. Once they get into CAP phase,
3 they cost can go up dramatically.

4 If you will turn the page in this
5 section, you will see a breakdown of all the
6 individuals sites included. This provides
7 site specific information related to the
8 accounts, major sites and it is calculated
9 the same way. You will see the site
10 location and the various reimbursements.
11 The column total as you see in the top here
12 relates to the previous page. So, this
13 gives you individual information for the
14 sites that you saw the summary for on the
15 previous page. Does anybody have any
16 questions about this page?

17 If you go to the next section, this is
18 active trust fund sites in the investigation
19 and assessment phase. Again, this first
20 page gives you a summary of the sites that
21 are current and under investigation and
22 shows the costing categories total and the
23 averages.

24 If you will turn to the next page,
25 again, this is a site specific report. It

1 gives you the same information that was on
2 the previous section. It tells you if sites
3 are under investigation, and you will see
4 that this is the same information, age,
5 product categories. You will see some CAP
6 reimbursements here. This is because of how
7 we used to categorize things. We only
8 recently brought in the interim category to
9 help differentiate between the CAPs and the
10 high CAPs. Does anybody have any questions
11 on this section?

12 If you will turn to the next page, this
13 is eligible for the motor fuel trust fund.
14 You will see that we have ten potential
15 trust fund sites that we reviewed and made
16 eligible in the current fiscal year, and
17 this represents ten active sites. Any
18 questions?

19 If you will turn to the next page, this
20 is trust fund sites that had a release
21 granted no further action. Note, there are
22 15 trust fund sites that have received no
23 further action status thus far. This
24 history here, note, the average cost in
25 sites are 262 thousand dollars. You may

1 note that some of the sites, they are listed
2 on this list but are also on our active
3 list. That is not uncommon. They have been
4 issued a NFA status, and sometimes it takes
5 a couple of quarters for all the cost to
6 come in. And so, they will show up here but
7 also be on active list. So, what happens
8 here when they submit the last application
9 with all the cost included, they is a box on
10 the application to check off. What I do is
11 about every six months, I run a report and I
12 go through and look at them and I will call
13 or email and say what is going on. We try
14 to keep this list as up to date as possible.
15 Any questions on that?

16 Just some points of interest, Theresa
17 and I spoke with Pinnacle, the actuary from
18 last year, to review. We are currently
19 modifying our phase two scope to improve the
20 review of the fiscal year of 2019 date.
21 They will provide an updated obligation
22 determination. Our goal is to have that
23 review completed and a report to the board
24 members at least one week prior to the
25 February board meeting. The legislative

1 auditors are also have paid their annual
2 dues of the fund right now. Since the
3 department is now utilizing the actual
4 liability determination at its fund
5 validation as part of their review, the
6 auditors are reviewing last year's actuary
7 report. They have also retained another
8 actuary firm to oversee the methodology used
9 by Pinnacle determinations. The department
10 looked over this level of reviews to ensure
11 the obligation determination are reasonable
12 on future liability of the fund. So, what
13 is happening is they are in there looking at
14 the data and looking at the actual data and
15 verifying that the numbers were correct.

16 Another point of interest is the trust
17 fund has been working with JDI to utilize
18 something called LIF or Laser Induced
19 Fluorescent Technology to better assess our
20 more complicated sites. This technology
21 allows an overview of the site, helping them
22 to better find contaminant fuels during the
23 assessment period and to better focus on the
24 activities on the actual sources. Our hope
25 is this will help reduce to time on these

1 complicated sites, thus reducing the cost of
2 the fund. Active remediation cost typically
3 can run anywhere from 35 to 100 thousand
4 dollars a year. Thus, reducing this
5 remediation period has potentially to
6 dramatically lower the closure cost. We
7 feel we can knock a couple years off of
8 remediation time, we may make some
9 substantial savings, and the typically cost
10 we are seeing on this technology is anywhere
11 from 25 to 35 thousand dollars. So, it
12 seemed like a reasonable approach. It is a
13 logging technology that they actually can go
14 in -- where, typically, they will go in and
15 do maybe five to ten boardings, and they get
16 an overview of the site; they don't get a
17 whole list of the viewing site. This they
18 are actually putting in 40 to 50 boardings
19 over a bigger span making -- they get a much
20 better picture of the idea. They go deeper;
21 they go faster. The results so far are very
22 promising.

23 MR. FULTON:

24 You have been using it on older sites,
25 the long term sites, and we find it is

1 locating where it is at, and then we can
2 focus our remediations at that location. It
3 is way more accurate in finding.

4 MR. BAKER:

5 With the department, they utilize three
6 separate vendors, and have done six sites
7 for far. We are currently assessing the
8 information provided, and we are hoping to
9 develop some trust fund daily unit rates
10 this spring for performing these
11 assessments.

12 MR. FULTON:

13 Other states have been using it as well.

14 MR. BAKER:

15 It has a big potential for reducing cost
16 and also with time. Does anybody have any
17 questions about that? The department would
18 like to thank Steve Burnham for his six
19 years of outstanding service in the trust
20 fund. He is rotating off this year, so we
21 would like to express our appreciation.

22 MR. BURNHAM:

23 It was an honor. Thank you.

24 MR. ST. ROMAIN:

25 I have one question for you. You said

1 the actuary would have a recommendation
2 before the February?

3 MR. BAKER:

4 Yes, sir.

5 MR. ST. ROMAIN:

6 And is that going to be emailed out to
7 those members of the board?

8 MR. BAKER:

9 Absolutely. We recognize that last year
10 was problematic. It was our first year. We
11 had a contract in place. There were a lot
12 of hiccups. So, right now our goal, we are
13 working on the contract and the time table
14 right now, and we are shooting for a report
15 for hopefully by the end of January, and the
16 next meeting -- well, we haven't voted on
17 that yet. Like I said, our goal is to at
18 least prior to the meeting.

19 MR. ST. ROMAIN:

20 Thank you. Any other questions for
21 Jeff? If there is no questions, can I get
22 motion to accept the trust fund status
23 report?

24 MR. FULTON:

25 Motion.

1 MR. ST. ROMAIN:

2 Motion from Gary. Can I get a second?

3 MR. GUILLORY:

4 Second.

5 MR. KING:

6 Second.

7 MR. ST. ROMAIN:

8 Three seconds. All right. We will move
9 on to item number six, Third Party Claim
10 Status with Perry.

11 MR. THERIOT:

12 I am still happy to report we have no
13 new clients, and we have no pending clients.

14 MR. ST. ROMAIN:

15 Great. All right. No questions for
16 Perry? We will get a motion to except that.

17 MR. GUILLORY:

18 Motion.

19 MR. ST. ROMAIN:

20 All right. Can I get a second?

21 MR. FULTON:

22 Second.

23 MR. ST. ROMAIN:

24 Thank you, Gary. We will move onto item
25 number seven, other business. We have one

1 item under there. It is consideration of
2 tentative dates for board meetings in 2020,
3 and I see there is a paper on the desk, and
4 I will read them out for the record. We
5 have Tuesday, February 18, 2020, and
6 Tuesday, May 19, 2020, and then a Thursday,
7 August 20, 2020, and a Thursday, November
8 19, 2020.

9 MR. BAKER:

10 We had to move the normal date to a
11 Thursdays. Unfortunately, somebody beat me
12 to this room for the two weeks around them.
13 So, if it is okay with the board, we moved
14 them to Tuesdays for the first two quarters.

15 MR. ST. ROMAIN:

16 Anybody have conflicts with that? If
17 you could briefly look at your calendars to
18 check that.

19 MS. DELAFOSSE:

20 At this point, really, the February is
21 obviously the most important because we have
22 had to move the other ones during the year
23 because things come up.

24 MR. ST. ROMAIN:

25 We will hear a motion to accept those

1 dates.

2 MR. FULTON:

3 Motion to accept.

4 MR. ST. ROMAIN:

5 We got a motion from Gary.

6 MR. GUILLORY:

7 Second.

8 MR. ST. ROMAIN:

9 Second from Michael. For now, we will
10 go with those dates. Any other business
11 while we are in business while we are in the
12 business section? If not, we will move onto
13 the close the meeting. Can I get a motion
14 to close?

15 MR. FULTON:

16 Motion to close.

17 MR. GUILLORY:

18 Second.

19 MR. ST. ROMAIN:

20 Thank you guys for your time.

21

22

23

24 (WHEREUPON THE HEARING CONCLUDED)

25

C E R T I F I C A T E

1
2 This certification is valid only for a
3 transcript accompanied by my original
4 signature and official seal on this page.

5 I, TORI GONOR, Certified Court Reporter,
6 in and for the State of Louisiana, as the
7 officer before whom this deposition was
8 taken, do hereby certify that **NO WITNESSES**,
9 after having been first duly sworn by me
10 upon authority of R.S. 37:2554, did testify
11 as hereinbefore set forth in the foregoing
12 29 pages;

13 That the testimony was reported by me in
14 the voice-writing method, and was prepared
15 and transcribed by me or under my personal
16 direction and supervision, and is a true and
17 correct transcript to the best of my ability
18 and understanding;

19 That the transcript has been prepared in
20 compliance with transcript format guidelines
21 required by statute or by rules of the
22 board, and that I am informed about the
23 complete arrangement, financial or
24 otherwise, with the person or entity making
25 arrangements for deposition services;

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R E P O R T E R ' S P A G E

I, TORI GONOR, Certified Court Reporter
in and for the State of Louisiana, before
whom this sworn testimony was taken, do
hereby state on the Record:

That due to the interaction in the
spontaneous discourse of this proceeding,
dashes (--) have been used to indicate
pauses, changes in thought, and/or
talkovers;

That same is the proper method for a
Court Reporter's transcription of
proceedings, and that the dashes (--) do not
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R E P O R T E R ' S P A G E

I, TORI GONOR, Certified Court Reporter in and for the State of Louisiana, before whom this sworn testimony was taken, do hereby state on the Record:

That due to the interaction in the spontaneous discourse of this proceeding, dashes (--) have been used to indicate pauses, changes in thought, and/or talkovers;

That same is the proper method for a Court Reporter's transcription of proceedings, and that the dashes (--) do not indicate that words or phrases have been left out of this transcript;

That any words and/or names which could not be verified through reference material have been denoted with the phrase "(spelled phonetically)."

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	18:1	12:14	bring (1)	6:14;24:10
\$	age (1)	Audit (3)	17:2	clean (1)
\$1,734.95 (1)	18:5	3:25;10:20,23	brought (1)	11:6
11:3	agenda (1)	auditors (3)	18:9	clients (2)
\$11,733.24 (1)	7:17	10:18;20:2,7	BROUSSARD (2)	24:14,14
11:12	ages (1)	auditor's (1)	4:8,9	clock (1)
\$120,305.20 (1)	13:20	12:19	budget (2)	15:22
12:12	ahead (4)	audits (2)	14:7,16	close (3)
\$2,343.14 (1)	3:3;6:4;7:12;9:10	11:6,19	budgets (2)	26:14,15,17
11:18	Alexandra (1)	August (3)	14:9,12	closed (3)
\$2,755.43 (1)	5:22	5:3,21;25:8	bulk (1)	11:17,20;14:3
12:5	allowed (1)	average (4)	6:3	closure (5)
\$32.09 (1)	15:16	13:19;16:16,18;	BURNHAM (8)	14:2;16:15,18;17:3;
12:8	allows (1)	18:25	3:13,14;5:9;12:20;	21:7
\$978.17 (1)	20:22	averages (1)	15:18;16:5;22:19,23	collected (2)
11:4	almost (2)	17:24	business (4)	11:3,19
	9:3;14:22	awaiting (1)	25:1;26:11,12,13	collection (1)
	amazingly (1)	11:1		11:24
A	16:6		C	column (5)
	amount (2)	B	calculated (1)	5:19,22,25;7:24;
above (1)	12:7,11	back (1)	17:9	17:12
8:2	amounts (1)	8:22	calendars (1)	coming (1)
Absolutely (1)	15:6	BAKER (11)	25:18	8:14
23:10	annual (1)	3:7,8;13:4,5;15:23;	call (4)	compared (1)
accept (6)	20:2	16:7;22:5,15;23:4,9;	3:2,4;7:13;19:13	6:4
10:8;12:19,21;23:23;	anticipate (1)	25:10	called (1)	comparison (2)
26:1,4	11:10	balance (8)	20:19	5:24;16:20
accounts (2)	appeared (1)	8:16,17,24;9:8;11:4;	Can (18)	complete (1)
13:19;17:9	12:6	12:5;14:14;16:24	5:7;10:3,8;12:18,23;	14:14
accurate (1)	application (4)	bases (1)	13:19,22;14:3;16:21;	completed (1)
22:4	14:4;15:21;19:9,11	8:3	17:4;21:4,8,14;22:2;	19:24
action (10)	applications (3)	beat (1)	23:22;24:3,21;26:14	complicated (2)
13:18,23;14:6,9;	15:5,13,15	25:12	CAP (4)	20:21;21:2
16:11,22;17:1,2;18:22,	appreciation (1)	beginning (1)	14:9,11;17:3;18:6	conclude (1)
24	22:22	8:16	CAPs (2)	12:16
active (9)	approach (1)	below (1)	18:10,11	CONCLUDED (1)
13:15,25;14:7;15:9;	21:13	12:15	case (3)	26:25
17:19;18:18;19:3,8;	approved (3)	better (4)	11:13;12:2,6	conflicts (1)
21:3	14:7,11;16:10	20:20,23,24;21:21	cases (7)	25:17
activities (2)	approximately (4)	big (1)	10:23;11:1,8,17,22,	consider (1)
17:2;20:25	14:10,15;15:6,13	22:16	23;12:10	5:2
actual (3)	areas (1)	bigger (1)	cash (4)	consideration (1)
20:4,15,25	10:1	21:20	6:25;8:3,22,24	25:2
actually (4)	around (3)	bill (1)	categories (3)	Consultant (2)
7:1;8:5;21:14,19	9:17,21;25:13	6:22	13:20;17:23;18:6	4:5,7
actuary (6)	assess (1)	bit (1)	categorize (1)	contaminant (1)
6:22;9:6;19:18;20:7,	20:20	13:9	18:8	20:23
9:23;2	assessed (1)	BLANCHARD (2)	category (4)	continue (2)
added (1)	11:18	4:16,17	14:6;16:13,14;18:9	6:8;8:13
11:13	assessing (1)	board (6)	certain (1)	continues (1)
additional (1)	22:8	5:3;19:24;20:1;23:8;	13:12	12:2
11:14	assessment (4)	25:3,14	certified (1)	contract (3)
administrative (1)	11:7;12:7;17:20;	boardings (2)	15:8	6:22;23:12,14
8:7	20:24	21:16,19	changes (1)	contracts (1)
admitted (1)	assessments (3)	bottom (3)	9:19	9:4
12:4	11:2,11;22:12	8:15;15:10;16:17	charge (3)	COOK (2)
adoption (1)	Assessor (3)	box (1)	7:2;8:2,18	4:6,7
5:2	4:15,17,19	breakdown (2)	charges (3)	corrective (8)
Afternoon (2)	Associates (1)	13:17;17:6	6:25;7:3;15:16	13:18,23;14:6,9;
10:20;13:6	3:14	briefly (1)	check (2)	16:11,22;17:1,2
again (10)	Association (1)	25:18	19:11;25:19	cost (16)
6:13;8:2,10,18,23;	3:17		claim (2)	8:8;12:14;13:21;
9:1,17;16:11;17:20;	attorney (1)			16:15,16,18,22;17:4;

18:25;19:6,10;21:2,3,7, 10;22:16 costing (2) 16:14;17:23 count (1) 14:4 couple (2) 19:6;21:8 court (1) 12:14 cover (1) 8:7 credit (1) 11:5 cube (1) 14:2 current (6) 5:25;9:4;13:21;16:4; 17:22;18:17 currently (2) 19:19;22:8 Cy (4) 3:25;10:18,20;12:18	18:10 direction (1) 8:12 disbursement (1) 6:15 disbursements (1) 6:20 discuss (1) 7:21 discussed (3) 5:21;7:20;9:5 distribution (2) 6:3;8:13 Division (3) 4:9,13;10:24 dollars (15) 6:6;8:6,25;9:8,17; 14:5,11,13,15;15:6,14, 15;19:1;21:5,12 done (1) 22:7 down (3) 14:1,17;15:3 dramatically (3) 16:23;17:4;21:7 dues (1) 20:3 during (2) 20:23;25:23 Durwood (1) 4:24	estimated (1) 16:15 everyone (1) 5:16 except (1) 24:17 expenditures (1) 9:20 express (1) 22:22	15:2 following (1) 8:4 four (5) 10:21;11:17,19,22; 12:10 FRANKLIN (2) 4:23,24 fuel (2) 10:23;18:14 fuels (1) 20:23 full (2) 11:19;12:9 fulls (1) 9:2 FULTON (11) 3:9,10;5:4;10:14; 12:24;21:24;22:13; 23:25;24:22;26:3,16 Fund (28) 3:8;4:3,11,24;7:25; 8:1,20;9:14;13:3,13, 16;14:21,23;15:12; 16:19;17:19;18:14,16, 21,23;20:3,5,13,18; 21:3;22:10,21;23:23 funds (2) 8:5;9:13 further (2) 18:22,24 future (1) 20:13	halfway (1) 9:24 hand (1) 7:24 happened (1) 8:11 happening (1) 20:14 happens (1) 19:8 Happy (2) 5:16;24:13 hear (1) 26:1 HEARING (1) 26:25 help (2) 18:10;21:1 helping (1) 20:22 Hey (2) 5:16;7:9 hiccups (1) 23:13 high (1) 18:11 HILL (4) 7:6,7,14,15 himself (1) 7:10 history (1) 18:25 honor (1) 22:24 hope (1) 20:25 hopefully (2) 9:21;23:16 hoping (1) 22:9
D		F		
daily (1) 22:10 data (4) 10:4;15:25;20:15,15 date (4) 16:4;19:15,21;25:11 dates (3) 25:3;26:2,11 day (1) 6:18 Debt (1) 11:24 deeper (1) 21:21 DELAFOSSE (6) 3:21,22;5:15;7:8,16; 25:20 delivery (1) 12:12 Department (5) 3:6;20:4,10;22:6,18 DEQ (12) 3:6,8,22,25;4:3,9,11, 15,17,19,24;10:20 desk (1) 25:4 details (1) 10:22 determination (3) 19:23;20:5,12 determinations (1) 20:10 determined (2) 11:9;14:21 develop (1) 22:10 differentiate (1)	E earnings (1) 6:10 easier (1) 13:10 EFFERSON (2) 4:10,11 eligibility (1) 14:24 eligible (3) 13:16;18:14,17 eligibly (1) 14:21 else (1) 5:1 email (1) 19:14 emailed (1) 23:7 end (7) 5:18;6:1;9:15;13:14, 25;15:3;23:16 Engineering (1) 3:14 ensure (1) 20:11 Environmental (4) 3:12;8:1,20;9:14 equity (1) 9:7	fall (1) 5:16 far (5) 8:9;14:12;18:24; 21:22;22:8 faster (1) 21:22 February (4) 20:1;23:3;25:6,21 feel (1) 21:8 fees (4) 6:4;8:13;12:12,14 field (3) 7:25;9:13;12:12 fifth (1) 12:6 final (1) 11:1 finalized (2) 9:3;11:9 Financial (6) 3:23;5:13,17;7:18; 10:2,9 financing (2) 7:22,23 find (3) 13:10;20:23;22:1 finding (1) 22:4 firm (1) 20:9 first (17) 5:18,19,23;6:2,5,19; 7:19;10:21;13:7,11,14; 15:11,19,21;17:20; 23:11;25:15 fiscal (11) 5:19,20,23;6:2,24; 8:1;9:15;11:13;15:11; 18:17;19:21 five (3) 13:3,7;21:16 flip (1) 9:10 Fluorescent (1) 20:20 focus (2) 20:24;22:3 follow (1)	G Gary (5) 3:10;5:7;24:3,25; 26:6 gives (6) 9:7;13:16;16:13; 17:14,21;18:2 goal (3) 19:23;23:13,18 goes (1) 16:23 good (5) 5:24;6:13;10:20; 13:6;15:24 granted (1) 18:22 great (2) 6:6;24:16 GUILLORY (7) 3:18,19;10:10;24:4, 18;26:7,18 guys (1) 26:21	I idea (2) 16:13;21:21 important (1) 25:22 improve (1) 19:20 included (3) 16:17;17:7;19:10 increase (1) 6:11 increases (1) 9:23 in-depth (1) 9:25 individual (1) 17:14 individuals (1) 17:7 Induced (1) 20:19
			H half (1) 15:19	

information (8) 6:1;10:3;13:13;17:8, 14;18:2,5;22:9	20:19		16:24;21:20	ones (2) 11:14;25:23
initial (1) 16:1	last (15) 5:23;6:4,11,17,17; 8:19;11:12;12:4,8; 14:21;16:3;19:9,19; 20:7;23:10	M	N	only (1) 18:8
interest (7) 6:10;8:22,25;10:2; 12:15;19:17;20:17	late (1) 12:13	major (1) 17:9	name (1) 4:22	onto (4) 5:13;10:17;24:25; 26:13
interim (2) 17:1;18:9	LDEQ (1) 16:10	making (2) 16:25;21:20	need (1) 7:9	open (1) 10:22
into (2) 16:22;17:3	least (3) 11:11;19:25;23:19	Marketer (1) 3:16	negative (2) 8:10;9:7	order (1) 3:3
introduce (2) 7:9,12	leaving (2) 11:4;12:5	Marketers (1) 3:20	net (1) 8:9	out (2) 23:7;25:5
investigation (5) 13:18,24;17:19,22; 18:4	left (1) 14:15	may (3) 19:1;21:9;25:7	new (3) 11:12;12:5;24:14	outflow (1) 8:9
issued (1) 19:5	Legal (4) 3:6;10:23;11:22; 12:10	maybe (1) 21:16	Next (10) 9:24;11:16;14:6,17; 16:9;17:18,25;18:13, 20;23:17	outstanding (2) 12:11;22:20
item (6) 5:13;7:17;13:2; 24:10,25;25:2	legislative (1) 20:1	meetings (1) 25:3	NFA (1) 19:5	over (4) 14:5,21;20:11;21:20
J	level (1) 20:11	Melissa (1) 4:3	Nick (1) 3:16	overall (1) 16:24
January (1) 23:16	liability (3) 9:5;20:5,13	members (2) 19:25;23:8	normal (1) 25:11	oversee (1) 20:9
Jason (1) 4:11	LIF (1) 20:19	methodology (1) 20:9	note (6) 13:19;14:10;15:7; 18:22,25;19:2	overview (2) 20:22;21:17
JDI (1) 20:18	line (1) 6:16	Michael (3) 3:19;10:13;26:10	notes (1) 9:18	P
Jeff (4) 3:8;13:4;15:19; 23:22	list (12) 11:13,16,16,18;12:2, 7,10;19:3,4,8,15;21:18	middle (2) 5:22;6:15	November (5) 5:16;10:25;11:24; 12:3;25:8	packets (1) 13:7
Jones (1) 3:12	listed (1) 19:2	million (18) 6:5,18,20;8:6,17,18, 23,24,25;9:7,8,17;14:5, 11,12,15;15:6,14	number (9) 7:17;8:12;9:5,6; 12:2;13:3,7;24:10;25:1	page (20) 7:20;9:9,11,11; 10:22;11:21;13:15; 15:10,17;16:9,9,17; 17:5,13,16,17,21,25; 18:13,20
July (2) 6:23;7:2	little (2) 13:9,9	minutes (1) 5:3	numbers (1) 20:16	paid (4) 7:1,2;12:9;20:2
June (1) 9:6	locating (1) 22:2	modifying (1) 19:20	O	paper (1) 25:4
juridical (1) 12:14	location (2) 17:11;22:3	money (1) 6:13	obligation (2) 19:22;20:12	part (1) 20:6
K	logging (1) 21:14	months (1) 19:12	obviously (1) 25:22	Partners (1) 7:15
keep (1) 19:15	long (2) 16:6;22:1	more (4) 9:25;16:8;20:21; 22:4	October (1) 12:4	Party (1) 24:10
Kerry (5) 7:7,9,13,15,17	look (6) 9:14;13:11;14:4,17; 19:13;25:18	MORIN (4) 3:24,25;10:19,20	ODR (1) 12:1	payment (2) 12:4,13
kind (1) 13:8	looked (1) 20:11	most (1) 25:22	off (3) 19:11;21:8;22:21	payments (2) 11:25;12:3
KING (3) 3:11,12;24:6	looking (2) 20:14,15	Motion (17) 5:5,7;10:8,11,13; 12:19,21;23:23;24:1,3, 17,19;26:1,4,6,14,17	Office (1) 11:23	penalties (1) 12:13
knock (1) 21:8	looks (1) 6:7	motor (4) 7:25;10:22;12:12; 18:14	officially (1) 3:2	pending (3) 11:1;15:4;24:14
Kristine (1) 4:5	lot (2) 16:25;23:12	move (12) 5:2,13;10:17;13:2; 14:1;15:3,10;24:9,25; 25:11,23;26:13	Oil (4) 3:16,19;7:15;9:13	performing (1) 22:11
Kyle (1) 4:17	Louisiana (4) 3:16,19,22;7:15	much (2) 8:5;25:14	older (1) 21:25	period (3) 6:23;20:24;21:6
L	LOUPE (2) 4:12,13		Once (1) 17:3	Perry (3) 3:6;24:11,17
Lasar (1)	lower (2) 16:24;21:7		one (5) 11:5,12;19:25;23:1; 25:1	phase (8) 13:23,24;14:9;15:20; 16:22;17:3,20;19:20

phases (1) 13:19	provided (1) 22:9	6:14;13:21;14:19,20, 25;15:16;16:2,3,19	4:7	set (1) 15:25
phone (1) 4:21	provides (2) 5:24;17:7	reimbursements (3) 16:14;17:11;18:7	right (13) 5:13;7:19,22,23; 8:25;10:7;15:8;20:3; 23:13,15;24:9,16,21	seven (3) 11:6,8;25:1
picture (1) 21:21	providing (1) 13:12	related (3) 6:21;7:4;17:8	right-hand (1) 5:25	Shawn (1) 3:12
Pinnacle (2) 19:18;20:10	pulls (1) 7:4	relates (1) 17:13	roll (2) 3:4;7:13	shooting (1) 23:15
place (1) 23:12	purposes (1) 16:20	release (1) 18:21	ROMAIN (27) 3:1,15,16;4:20,25; 5:6,11;7:11;10:6,12, 16;12:17,22;13:1; 22:25;23:6,20;24:2,8, 15,20,24;25:16,25; 26:5,9,20	show (1) 19:7
planned (1) 11:15	putting (1) 21:19	rely (1) 10:2	run (2) 19:12;21:4	shown (1) 16:16
plans (1) 16:11	Q	remain (2) 9:20;11:23	S	shows (1) 17:23
please (1) 10:2	quarter (9) 5:18,23;6:2,5,19; 9:24;13:14,25;15:12	remaining (1) 14:16	Sam (1) 4:9	significant (1) 9:19
Plus (1) 12:13	quarters (2) 19:6;25:15	remains (1) 11:22	same (6) 9:16,21;11:22;17:10; 18:2,5	site (12) 9:4;13:16;14:2,14; 15:20;16:16;17:8,10; 18:1;20:22;21:17,18
point (7) 8:21;9:18;14:3;15:7, 20;20:17;25:21	R	remediation (4) 9:3;21:3,6,9	rotating (1) 22:21	sites (36) 13:17,20,21,22,25; 14:3,8,8,13,18,22,23; 15:2,9;16:10,12,18,21, 25;17:7,9,15,19,21; 18:3,16,18,21,23;19:1, 2;20:21;21:2,25;22:1,7
points (1) 19:17	RACs (2) 15:8,9	remediations (1) 22:3	savings (1) 21:10	six (4) 19:12;22:7,19;24:10
possible (1) 19:15	rates (1) 22:10	removed (2) 11:17;12:9	saw (2) 6:10;17:15	small (1) 12:7
potential (5) 11:2,5,6;18:15;22:16	read (1) 25:5	Report (17) 5:14;7:18;10:9,18, 22;12:8,16,19;13:3; 16:1;18:1;19:12,24; 20:8;23:15,24;24:13	schedule (1) 6:4	somebody (1) 25:12
potentially (2) 11:11;21:6	reads (1) 16:1	reports (1) 13:8	scope (1) 19:20	sometimes (1) 19:5
PPM (2) 4:5,7	really (1) 25:21	represent (1) 12:11	second (17) 5:8,10,12;9:11,11; 10:15,17;12:23,25; 24:3,5,7,21,23;26:8,10, 19	sources (1) 20:25
predictable (2) 6:7,9	reason (1) 16:23	represents (1) 18:18	second (17) 5:8,10,12;9:11,11; 10:15,17;12:23,25; 24:3,5,7,21,23;26:8,10, 19	span (1) 21:20
prepared (1) 7:21	reasonable (2) 20:12;21:13	request (3) 14:25;16:1,3	seconds (1) 24:9	SPEAKER (2) 4:14,18
present (1) 10:5	received (4) 6:22;11:25;15:12; 18:23	requested (3) 14:19,20;15:5	section (9) 6:15;13:16;14:17; 15:11;17:6,18;18:3,12; 26:13	specific (2) 17:8;18:1
presentation (1) 10:1	recently (1) 18:9	requesting (1) 16:19	sections (1) 7:21	spent (1) 14:12
previous (3) 17:13,16;18:3	recognize (1) 23:10	research (1) 10:4	seeing (2) 9:22;21:11	spoke (1) 19:18
previously (1) 6:24	recommendation (1) 23:2	result (1) 11:9	seemed (1) 21:13	spring (1) 22:11
prior (2) 19:25;23:19	record (1) 25:5	results (1) 21:22	separate (1) 22:7	ST (27) 3:1,15,16;4:20,25; 5:6,11;7:11;10:6,12, 16;12:17,22;13:1; 22:25;23:6,20;24:2,8, 15,20,24;25:16,25; 26:5,9,20
problematic (1) 23:11	Recovery (1) 11:24	retained (1) 20:8	September (1) 15:4	STANLEY (2) 4:4,5
process (1) 15:5	reduce (1) 21:1	returned (1) 15:14	service (1) 22:20	start (2) 3:3;15:22
product (1) 18:6	reducing (3) 21:2,5;22:16	revenues (2) 6:7;9:20	Services (4) 3:23;5:14;7:18;10:9	state (1) 4:22
program (2) 8:8;10:3	refer (1) 13:6	review (6) 11:1,2;19:19,21,24; 20:6		statement (4)
progress (1) 11:8	reflect (2) 6:25;9:19	reviewed (1) 18:16		
projecting (2) 9:16,17	reflected (2) 8:4,20	reviewing (1) 20:7		
projection (1) 9:12	regular (1) 12:3	reviews (1) 20:11		
promising (1) 21:23	reimbursement (9)	Rhonda (1)		
provide (1) 19:22				

5:18,20;6:25;8:3 states (1) 22:14 status (7) 10:18;11:21;13:3; 18:24;19:5;23:23; 24:11 stay (1) 9:22 Steve (3) 3:14;5:12;22:19 still (2) 11:8;24:13 Storage (1) 3:10 stuff (1) 13:10 submit (2) 14:25;19:9 substantial (1) 21:10 summary (6) 13:12;14:7;15:11; 16:12;17:15,21 sure (1) 10:4	25:7,8 Thursdays (1) 25:12 thus (3) 18:24;21:2,5 today (2) 9:24;12:10 top (3) 7:20;13:15;17:12 total (8) 8:23,25;11:18;12:11; 14:4;16:15;17:12,23 totaling (4) 11:3,11;13:24;15:13 towards (2) 8:15;14:13 track (1) 9:22 transfer (6) 7:24;8:7,11,19;9:13, 21 Trust (24) 3:8;4:3,11,24;7:25; 8:1,20;9:13,14;13:3,13, 16;14:21;15:12;16:19; 17:19;18:14,16,21,23; 20:17;22:10,20;23:23	5:21;15:2,25;16:23; 17:4;19:7,15;25:24 updated (1) 19:22 used (3) 9:1;18:8;20:9 uses (2) 7:22,23 using (2) 21:25;22:14 UST (2) 4:9,13 utilize (2) 20:18;22:6 utilizing (1) 20:4	12,17,17,19;8:1,4,16, 19,21;9:15,25;11:14; 13:14;15:8,11,12; 18:17;19:19,21;21:5; 22:21;23:10,11;25:23 year-end (1) 5:20 years (3) 14:22;21:8;22:20 year's (1) 20:7	13:14;25:3,6,7,8,9 233 (1) 15:12 25 (1) 21:12 262 (1) 19:1 266 (1) 13:25 28 (1) 12:4 288 (1) 14:5 29 (1) 15:9
T	try (2) 13:9;19:14 trying (1) 13:8 Tuesday (2) 25:6,7 Tuesdays (1) 25:15 turn (9) 5:17;10:21;11:21; 15:21;16:9;17:5,25; 18:13,20 tweek (1) 13:8 two (9) 7:20;11:2,11,14,21; 12:2;19:20;25:13,15 typically (3) 21:3,10,15	V	1	3
tab (3) 5:17;10:21;13:7 table (1) 23:14 Tad (1) 4:13 Tank (4) 3:10;7:4;9:2,2 technically (1) 6:23 Technology (4) 20:20,21;21:11,14 tells (1) 18:3 ten (4) 10:25;18:15,18; 21:16 tentative (1) 25:3 term (1) 22:1 Theresa (4) 3:22;5:14;10:7; 19:17 THERIOT (3) 3:5,6;24:12 Third (1) 24:10 thousand (6) 6:12;7:2;15:15;19:1; 21:4,12 three (3) 14:22;22:6;24:9 Thursday (2)	try (2) 13:9;19:14 trying (1) 13:8 Tuesday (2) 25:6,7 Tuesdays (1) 25:15 turn (9) 5:17;10:21;11:21; 15:21;16:9;17:5,25; 18:13,20 tweek (1) 13:8 two (9) 7:20;11:2,11,14,21; 12:2;19:20;25:13,15 typically (3) 21:3,10,15	validation (1) 20:6 various (1) 17:11 vendors (1) 22:7 verifying (1) 20:16 vicinity (1) 9:16 viewing (1) 21:18 VIZINAT (2) 4:2,3 voted (1) 23:17	1 (2) 4:14;11:23 1,416 (1) 14:3 100 (1) 21:4 109 (2) 8:17,23 112 (1) 8:17 12 (2) 8:25;15:14 121 (1) 8:24 132 (1) 13:23 134 (1) 13:22 13th (1) 6:23 142 (1) 15:15 15 (2) 5:3;18:23 153 (1) 9:7 17 (1) 10:22 18 (1) 25:6 18.7 (1) 14:15 19 (4) 8:2;14:22;25:7,9	288 (1) 14:5 29 (1) 15:9
	U	W	2	4
	uncommon (1) 19:4 under (5) 13:15;14:1;17:22; 18:4;25:2 Underground (1) 3:10 Unfortunately (1) 25:12 unit (1) 22:10 unusual (1) 15:1 up (8)	way (4) 15:25,25;17:10;22:4 week (1) 19:25 weeks (1) 25:13 WHEREUPON (1) 26:25 whole (1) 21:18 without (1) 8:22 work (1) 9:2 working (2) 20:18;23:14 worksheet (1) 13:11	2 (1) 4:18 2.7 (1) 8:10 20 (4) 5:19;6:2;11:14;25:8 2018 (1) 9:6 2019 (7) 5:3,20;10:25;11:25; 12:5;15:4;19:21 2020 (6)	3 (4) 5:13,17;7:17;11:23 3.2 (1) 6:19 3.3 (1) 6:18 3.6 (1) 15:13 30 (1) 9:6 35 (2) 21:4,12
		Y		5
		y'all (3) 10:1,5;13:10 year (30) 5:19,20,24;6:2,5,12,		4 (1) 11:23 40 (1) 21:19 41 (1) 15:8 44 (1) 9:8 44.68 (1) 11:5 48 (1) 15:4
				5 (1) 10:25 5.3 (1) 9:18 5.56 (1) 8:6 50 (1) 21:19 500 (1) 9:17 540 (1) 6:11 585 (2) 6:12,12 5th (2)

11:25;12:3				
6				
600 (1) 6:5 66 (1) 7:2				
7				
70 (1) 14:12 756.78 (1) 11:4				
8				
89.6 (1) 14:11				

In The Matter Of:
Louisiana Department of Environmental Quality

DEQ Trust Fund Meeting
November 14, 2019

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Page 1

1 LOUISIANA DEPARTMENT OF
2 ENVIRONMENTAL QUALITY
3
4
5
6 IN RE: DEQ TRUST FUND MEETING
7
8 Louisiana Department of Environmental
9 Quality Meeting, taken at the 602 North 5th
10 Street, Baton Rouge, Louisiana 70802 on
11 November 14, 2019.
12
13 *****
14
15 Louisiana Department of
16 Environmental Quality
17 602 North 5th Street
18 P.O. Box 4302
19 Baton Rouge, Louisiana 70802
20
21
22
23
24
25

Page 3

1 MR. ST. ROMAIN:
2 I will officially call this meeting to
3 order, and we will go ahead and start with
4 roll call.
5 MR. THERIOT:
6 Perry Theriot, Legal Department DEQ.
7 MR. BAKER:
8 Jeff Baker, Trust Fund DEQ.
9 MR. FULTON:
10 Gary Fulton, Underground Storage Tank.
11 MR. KING:
12 Shawn King, Jones Environmental.
13 MR. BURNHAM:
14 Steve Burnham, Engineering Associates.
15 MR. ST. ROMAIN:
16 Nick St. Romain, Louisiana Oil Marketer
17 Association.
18 MR. GUILLORY:
19 Michael Guillory, Louisiana Oil
20 Marketers.
21 MS. DELAFOSSE:
22 Theresa Delafosse, Louisiana DEQ
23 Financial Services.
24 MR. MORIN:
25 Cy Morin, DEQ Audit.

Page 2

1 A P P E A R A N C E S
2
3 CY MORIN
4 THERESA DELAFUSSE
5 MICHAEL GUILLORY
6 NICK ST. ROMAIN
7 STEVE BURNHAM
8 GARY FULTON
9 JEFF BAKER
10 PERRY THERIOT
11 SHAWN KING
12 KERRY HILL
13 DURWOOD FRANKLIN
14 KRISTINE STANLEY
15 RHONDA COOK
16 MELISSA VIZINAT
17 SAMUEL BROUSSARD
18 JASON EFFERSON
19 KYLE BLANCHARD
20 TAD LOUPE
21 CLINTON TULLY
22
23
24
25

Page 4

1
2 MS. VIZINAT:
3 Melissa Vizinat, DEQ Trust Fund.
4 MS. STANLEY:
5 Kristine Stanley, PPM Consultant.
6 MS. COOK:
7 Rhonda Cook, PPM Consultant.
8 MR. BROUSSARD:
9 Sam Broussard, DEQ UST Division.
10 MR. EFFERSON:
11 Jason Efferson, DEQ Trust Fund.
12 MR. LOUPE:
13 Tad Loupe, UST Division.
14 SPEAKER 1:
15 DEQ Assessor.
16 MR. BLANCHARD:
17 Kyle Blanchard, DEQ Assessor.
18 SPEAKER 2:
19 DEQ Assessor.
20 MR. ST. ROMAIN:
21 Okay. For those on the phone if you
22 could state your name.
23 MR. FRANKLIN:
24 Durwood Franklin, DEQ Trust Fund.
25 MR. ST. ROMAIN:

Page 5

1 Anyone else? Okay. Thank you. We will
2 now move to consider the adoption of the
3 August 15, 2019 board minutes.
4 MR. FULTON:
5 Motion.
6 MR. ST. ROMAIN:
7 I got a motion from Gary. Can I get a
8 second?
9 MR. BURNHAM:
10 Second.
11 MR. ST. ROMAIN:
12 Second. Thank you, Mr. Steve. All
13 right. We will move onto item 3, Financial
14 Services Report with Theresa.
15 MS. DELAFOSSE:
16 Hey, everyone. Happy November and fall.
17 If you turn to tab 3, we have the financial
18 statement as of the end of the first quarter
19 of fiscal year 20. The first column of the
20 year-end statement from fiscal year 2019,
21 which we discussed at our August meeting up
22 in Alexandra. The middle column is - that
23 is as of the first quarter of last fiscal
24 year which provides a good comparison to the
25 right-hand column which is current

Page 6

1 information. That is as of the end of this
2 quarter, the first fiscal year of 20.
3 So, you will see that bulk distribution
4 fees were ahead of schedule compared to last
5 year. The first quarter was at 600 million
6 dollars, and that is great. You know, those
7 revenues are very predictable, and it looks
8 like there are going to continue to be
9 predictable.
10 Our interest earnings, we saw an
11 increase in those as well, about 540 last
12 year and 585 this year, 585 thousand. So,
13 that is some good money, again.
14 Our claim for reimbursement are in the
15 middle there. In the disbursement section
16 you will see they are in line with where
17 they were last year at this time. Last year
18 is was 3.3 million, and as of the day of the
19 first quarter this year, we have had 3.2
20 million. We had some other disbursements.
21 Some of that is related, I believe, to that
22 actuary contract. That bill was received in
23 July which is technically the 13th period of
24 the previously fiscal but because this is a
25 cash statement, we reflect those charges

Page 7

1 when they are actually paid, and those were
2 paid in July. In the 66 thousand charge
3 that you see there and the other charges,
4 that's related to some of those tank pulls
5 -
6 MR. HILL:
7 Kerry Hill.
8 MS. DELAFOSSE:
9 Hey, Kerry. Does he need to introduce
10 himself?
11 MR. ST. ROMAIN:
12 Yeah. Go ahead and introduce yourself
13 for roll call, Kerry.
14 MR. HILL:
15 Kerry Hill, Louisiana Oil Partners.
16 MS. DELAFOSSE:
17 Kerry, we are on agenda item number 3.
18 I am doing the Financial Services Report
19 right now. I'm going through the first
20 page, and I have discussed the top two
21 sections, and I'm prepared to discuss the
22 other financing uses right now.
23 In other financing uses, in the right
24 hand column you see that was the transfer
25 from the motor field trust fund to the

Page 8

1 environmental trust fund for fiscal year
2 19. Again, like the charge above, that is
3 because the cash bases statement; it is
4 reflected in the following year because of
5 when we actually moved those funds, so it
6 was 5.56 million dollars is what that
7 transfer was to cover the administrative
8 cost of the program.
9 So, we had a net outflow so far of
10 negative 2.7 but, again, that is because the
11 transfer happened. You should see that
12 number go in the other direction when you
13 continue to have the distribution fees
14 coming in.
15 So, then towards the bottom you see the
16 balance was, at the beginning of the year,
17 112 million. The balance now is 109
18 million. Again, because that charge from
19 last year from the transfer to the
20 environmental trust fund is reflected at
21 this point in the year.
22 So, cash back without interest at this
23 time is, again, at 109 million. Our total
24 cash balance is 121 million. So, we have a
25 total interest right at 12 million dollars

<p style="text-align: right;">Page 9</p> <p>1 which, again, that is going to be used for 2 the tank work. We have tank fulls and we 3 are almost finalized on the remediation 4 contracts as well. So, our current site 5 liability number we have discussed, that's 6 the actuary number as of June 30, 2018 of 7 153 million which gives us a negative equity 8 balance of 44 million dollars. Any 9 questions on that page? 10 Okay. Let's go ahead and flip to the 11 second page. The second page is a 12 projection of what we believe at this time 13 the transfer from the oil field trust funds, 14 the environmental trust fund will look like. 15 As of the end of this fiscal year, we are 16 projecting it to be in the same vicinity, 17 around again 500 million dollars, projecting 18 5.3 at this point in time. That notes 19 doesn't reflect any significant changes. It 20 is revenues; the expenditures should remain 21 around the same, so hopefully the transfer 22 will on track to stay. I am not seeing any 23 increases. So, that is all I have for 24 today. Next quarter when we are halfway 25 through the year, I will do a more in-depth</p>	<p style="text-align: right;">Page 11</p> <p>1 cases awaiting review and pending final 2 review, we have two potential assessments 3 totaling \$1,734.95. We have collected 4 \$978.17 of this leaving a balance of 756.78. 5 We have one potential credit of 44.68, and 6 seven potential clean audits with no 7 assessment. 8 We have seven cases still in progress 9 with result to be determined and finalized. 10 With that being said, we do anticipate at 11 least two assessments, potentially totaling 12 \$11,733.24. Since the last meeting, one new 13 case has been added to this list for fiscal 14 year 20. We do have two additional ones 15 planned already as well but they didn't make 16 this list. They will be on the next list. 17 Four cases have been closed and removed from 18 the list, a total of \$2,343.14 was assessed 19 and collected in full for the four audits 20 that were closed. Any questions? 21 We will turn to page two. The status 22 remains the same for these four legal cases. 23 Cases 1, 3 and 4 remain with the Office of 24 Debt Recovery for collection as of November 25 the 5th 2019. We have received no payments</p>
<p style="text-align: right;">Page 10</p> <p>1 presentation. If y'all have any areas of 2 interest, please rely this to financial 3 information with the program and I can do 4 some research and get some data to make sure 5 we present everything to y'all. Thank you. 6 MR. ST. ROMAIN: 7 All right. Any questions for Theresa? 8 Now, can I get a motion to accept the 9 financial services report? 10 MR. GUILLORY: 11 Motion. 12 MR. ST. ROMAIN: 13 I got a motion from Michael. 14 MR. FULTON: 15 Second. 16 MR. ST. ROMAIN: 17 Second. Thank you. We will move onto 18 the auditors status report with Cy. 19 MR. MORIN: 20 Good Afternoon. Cy Morin, DEQ Audit. 21 If you will turn to tab four. The first 22 page of this report details 17 open motor 23 fuel audit cases that are not in our legal 24 division. 25 As of November 5, 2019, we have ten</p>	<p style="text-align: right;">Page 12</p> <p>1 from ODR. 2 Case number two on the list continues to 3 make regular payments as of November 5th. 4 The last payment was admitted on October 28, 5 2019, leaving a new balance of \$2,755.43. 6 There was a fifth case that appeared on the 7 list with a small amount of assessment of 8 \$32.09 from my last report. It has been 9 paid in full and has been removed from the 10 list. As of today, these four legal cases 11 represent a total outstanding amount of 12 \$120,305.20 in motor field delivery fees and 13 late payment penalties. Plus, there is 14 attorney fees, court cost and juridical 15 interest just below that. That will 16 conclude my report. Any questions? 17 MR. ST. ROMAIN: 18 Okay. No questions for Cy. Can I get a 19 motion to accept the auditor's report? 20 MR. BURNHAM: 21 Motion to accept. 22 MR. ST. ROMAIN: 23 Can I get a second? 24 MR. FULTON: 25 Second.</p>

Page 13

1 MR. ST. ROMAIN:
2 Okay. We will move on to the item
3 number five, Trust Fund Status Report with
4 Jeff Baker.
5 MR. BAKER:
6 Good afternoon. If you refer to the
7 first tab, number five in your packets. We
8 are trying to kind of tweek our reports a
9 little bit to try to make them a little
10 easier for y'all to find stuff on them. So,
11 if you will look at the first worksheet.
12 This is providing a summary of certain
13 information with the trust fund as of the
14 end of the first quarter in this year 2020.
15 At the top of the page, under active
16 trust fund eligible site section, this gives
17 you a breakdown of the sites and the
18 investigation of the corrective action
19 phases. You can note the accounts, average
20 ages of the sites in these categories, the
21 current reimbursement cost of the sites.
22 So, you can see that we have 134 sites
23 in the corrective action phase and 132 in
24 the investigation phase for a totaling of
25 266 active sites at the end of this quarter.

Page 14

1 If you move on down, you will see under
2 the cube of this site closure. At this
3 point, we have closed 1,416 sites. You can
4 look at the application count for a total of
5 over 288 million dollars.
6 The next category is corrective action
7 approved budget summary for the active
8 sites. These are the sites that are in the
9 corrective action phase and CAP budgets.
10 You will note that we have approximately
11 89.6 million dollars in approved CAP
12 budgets. We have spent, so far, 70 million
13 dollars towards those sites, and when the
14 site is complete and the balance will be
15 approximately 18.7 million dollars left for
16 the budget remaining.
17 If you look on down to the next section,
18 you will see we have sites that have
19 requested reimbursement but have not
20 requested reimbursement but have been
21 determined trust fund eligibly over the last
22 three years for almost 19 sites. So, these
23 are sites that come to the fund, that have
24 asked for eligibility, and they have yet to
25 submit a request for reimbursement. It is

Page 15

1 not unusual. It takes a while and on some
2 sites we had to follow up on.
3 If you move on down, at the end of
4 September 2019, we had 48 pending
5 applications to process which have requested
6 amounts in approximately a million dollars.
7 You will note at this point in time, we have
8 41 certified RACs for the year. Right now
9 29 of those RACs have active sites.
10 If you move the bottom of that page in
11 the fiscal year summary section, the first
12 quarter of this year trust fund received 233
13 applications, totaling approximately 3.6
14 million dollars. We returned 12
15 applications, and had 142 thousand dollars
16 allowed charges for reimbursement. Does
17 anybody have any questions on this page?
18 MR. BURNHAM:
19 Jeff, on the very first thing, the half
20 of the site phase, is that a point in which
21 they turn in their first application, or
22 when does that clock start?
23 MR. BAKER:
24 That is a good question. Because of the
25 way our data is set up and the way this

Page 16

1 report reads, it is from the initial request
2 of reimbursement. It is the time from the
3 last request for reimbursement to the
4 current date.
5 MR. BURNHAM:
6 That is an amazingly long time.
7 MR. BAKER:
8 Does anybody have any more questions?
9 If you will turn to the next page, this page
10 is about the sites with LDEQ approved
11 corrective action plans. Again, this is a
12 summary of the sites that are in this
13 category. This gives you an idea of the
14 reimbursements by costing category. The
15 estimated total cost of closure and the
16 average cost of site is also shown at the
17 bottom of the page. It also included the
18 average closure cost from all sites
19 requesting trust fund reimbursement for
20 comparison purposes.
21 So, as you can tell, when a sites get
22 into the corrective action phase, the cost
23 goes up dramatically. The reason the
24 balance is overall so much lower is because
25 a lot of those sites are making the

Page 17

1 corrective action or they will do interim
 2 corrective action activities that bring in
 3 the closure. Once they get into CAP phase,
 4 they cost can go up dramatically.
 5 If you will turn the page in this
 6 section, you will see a breakdown of all the
 7 individuals sites included. This provides
 8 site specific information related to the
 9 accounts, major sites and it is calculated
 10 the same way. You will see the site
 11 location and the various reimbursements.
 12 The column total as you see in the top here
 13 relates to the previous page. So, this
 14 gives you individual information for the
 15 sites that you saw the summary for on the
 16 previous page. Does anybody have any
 17 questions about this page?
 18 If you go to the next section, this is
 19 active trust fund sites in the investigation
 20 and assessment phase. Again, this first
 21 page gives you a summary of the sites that
 22 are current and under investigation and
 23 shows the costing categories total and the
 24 averages.
 25 If you will turn to the next page,

Page 18

1 again, this is a site specific report. It
 2 gives you the same information that was on
 3 the previous section. It tells you if sites
 4 are under investigation, and you will see
 5 that this is the same information, age,
 6 product categories. You will see some CAP
 7 reimbursements here. This is because of how
 8 we used to categorize things. We only
 9 recently brought in the interim category to
 10 help differentiate between the CAPs and the
 11 high CAPs. Does anybody have any questions
 12 on this section?
 13 If you will turn to the next page, this
 14 is eligible for the motor fuel trust fund.
 15 You will see that we have ten potential
 16 trust fund sites that we reviewed and made
 17 eligible in the current fiscal year, and
 18 this represents ten active sites. Any
 19 questions?
 20 If you will turn to the next page, this
 21 is trust fund sites that had a release
 22 granted no further action. Note, there are
 23 15 trust fund sites that have received no
 24 further action status thus far. This
 25 history here, note, the average cost in

Page 19

1 sites are 262 thousand dollars. You may
 2 note that some of the sites, they are listed
 3 on this list but are also on our active
 4 list. That is not uncommon. They have been
 5 issued a NFA status, and sometimes it takes
 6 a couple of quarters for all the cost to
 7 come in. And so, they will show up here but
 8 also be on active list. So, what happens
 9 here when they submit the last application
 10 with all the cost included, they is a box on
 11 the application to check off. What I do is
 12 about every six months, I run a report and I
 13 go through and look at them and I will call
 14 or email and say what is going on. We try
 15 to keep this list as up to date as possible.
 16 Any questions on that?
 17 Just some points of interest, Theresa
 18 and I spoke with Pinnacle, the actuary from
 19 last year, to review. We are currently
 20 modifying our phase two scope to improve the
 21 review of the fiscal year of 2019 date.
 22 They will provide an updated obligation
 23 determination. Our goal is to have that
 24 review completed and a report to the board
 25 members at least one week prior to the

Page 20

1 February board meeting. The legislative
 2 auditors are also have paid their annual
 3 dues of the fund right now. Since the
 4 department is now utilizing the actual
 5 liability determination at its fund
 6 validation as part of their review, the
 7 auditors are reviewing last year's actuary
 8 report. They have also retained another
 9 actuary firm to oversee the methodology used
 10 by Pinnacle determinations. The department
 11 looked over this level of reviews to ensure
 12 the obligation determination are reasonable
 13 on future liability of the fund. So, what
 14 is happening is they are in there looking at
 15 the data and looking at the actual data and
 16 verifying that the numbers were correct.
 17 Another point of interest is the trust
 18 fund has been working with JDI to utilize
 19 something called LIF or Laser Induced
 20 Fluorescent Technology to better assess our
 21 more complicated sites. This technology
 22 allows an overview of the site, helping them
 23 to better find contaminant fuels during the
 24 assessment period and to better focus on the
 25 activities on the actual sources. Our hope

Page 21

1 is this will help reduce to time on these
2 complicated sites, thus reducing the cost of
3 the fund. Active remediation cost typically
4 can run anywhere from 35 to 100 thousand
5 dollars a year. Thus, reducing this
6 remediation period has potentially to
7 dramatically lower the closure cost. We
8 feel we can knock a couple years off of
9 remediation time, we may make some
10 substantial savings, and the typically cost
11 we are seeing on this technology is anywhere
12 from 25 to 35 thousand dollars. So, it
13 seemed like a reasonable approach. It is a
14 logging technology that they actually can go
15 in - where, typically, they will go in and
16 do maybe five to ten boardings, and they get
17 an overview of the site; they don't get a
18 whole list of the viewing site. This they
19 are actually putting in 40 to 50 boardings
20 over a bigger span making - they get a much
21 better picture of the idea. They go deeper;
22 they go faster. The results so far are very
23 promising.
24 MR. FULTON:
25 You have been using it on older sites,

Page 22

1 the long term sites, and we find it is
2 locating where it is at, and then we can
3 focus our remediations at that location. It
4 is way more accurate in finding.
5 MR. BAKER:
6 With the department, they utilize three
7 separate vendors, and have done six sites
8 for far. We are currently assessing the
9 information provided, and we are hoping to
10 develop some trust fund daily unit rates
11 this spring for performing these
12 assessments.
13 MR. FULTON:
14 Other states have been using it as well.
15 MR. BAKER:
16 It has a big potential for reducing cost
17 and also with time. Does anybody have any
18 questions about that? The department would
19 like to thank Steve Burnham for his six
20 years of outstanding service in the trust
21 fund. He is rotating off this year, so we
22 would like to express our appreciation.
23 MR. BURNHAM:
24 It was an honor. Thank you.
25 MR. ST. ROMAIN:

Page 23

1 I have one question for you. You said
2 the actuary would have a recommendation
3 before the February?
4 MR. BAKER:
5 Yes, sir.
6 MR. ST. ROMAIN:
7 And is that going to be emailed out to
8 those members of the board?
9 MR. BAKER:
10 Absolutely. We recognize that last year
11 was problematic. It was our first year. We
12 had a contract in place. There were a lot
13 of hiccups. So, right now our goal, we are
14 working on the contract and the time table
15 right now, and we are shooting for a report
16 for hopefully by the end of January, and the
17 next meeting - well, we haven't voted on
18 that yet. Like I said, our goal is to at
19 least prior to the meeting.
20 MR. ST. ROMAIN:
21 Thank you. Any other questions for
22 Jeff? If there is no questions, can I get
23 motion to accept the trust fund status
24 report?
25 MR. FULTON:

Page 24

1 Motion.
2 MR. ST. ROMAIN:
3 Motion from Gary. Can I get a second?
4 MR. GUILLORY:
5 Second.
6 MR. KING:
7 Second.
8 MR. ST. ROMAIN:
9 Three seconds. All right. We will move
10 on to item number six, Third Party Claim
11 Status with Perry.
12 MR. THERIOT:
13 I am still happy to report we have no
14 new clients, and we have no pending clients.
15 MR. ST. ROMAIN:
16 Great. All right. No questions for
17 Perry? We will get a motion to except that.
18 MR. GUILLORY:
19 Motion.
20 MR. ST. ROMAIN:
21 All right. Can I get a second?
22 MR. FULTON:
23 Second.
24 MR. ST. ROMAIN:
25 Thank you, Gary. We will move onto item

Page 25

1 number seven, other business. We have one
 2 item under there. It is consideration of
 3 tentative dates for board meetings in 2020,
 4 and I see there is a paper on the desk, and
 5 I will read them out for the record. We
 6 have Tuesday, February 18, 2020, and
 7 Tuesday, May 19, 2020, and then a Thursday,
 8 August 20, 2020, and a Thursday, November
 9 19, 2020.
 10 MR. BAKER:
 11 We had to move the normal date to a
 12 Thursdays. Unfortunately, somebody beat me
 13 to this room for the two weeks around them.
 14 So, if it is okay with the board, we moved
 15 them to Tuesdays for the first two quarters.
 16 MR. ST. ROMAIN:
 17 Anybody have conflicts with that? If
 18 you could briefly look at your calendars to
 19 check that.
 20 MS. DELAFOSSE:
 21 At this point, really, the February is
 22 obviously the most important because we have
 23 had to move the other ones during the year
 24 because things come up.
 25 MR. ST. ROMAIN:

Page 26

1 We will hear a motion to accept those
 2 dates.
 3 MR. FULTON:
 4 Motion to accept.
 5 MR. ST. ROMAIN:
 6 We got a motion from Gary.
 7 MR. GUILLORY:
 8 Second.
 9 MR. ST. ROMAIN:
 10 Second from Michael. For now, we will
 11 go with those dates. Any other business
 12 while we are in business while we are in the
 13 business section? If not, we will move onto
 14 the close the meeting. Can I get a motion
 15 to close?
 16 MR. FULTON:
 17 Motion to close.
 18 MR. GUILLORY:
 19 Second.
 20 MR. ST. ROMAIN:
 21 Thank you guys for your time.
 22
 23
 24
 25 (WHEREUPON THE HEARING CONCLUDED)

Page 27

C E R T I F I C A T E

1
 2 This certification is valid only for a
 3 transcript accompanied by my original
 4 signature and official seal on this page.
 5 I, TORI GONOR, Certified Court Reporter,
 6 in and for the State of Louisiana, as the
 7 officer before whom this deposition was
 8 taken, do hereby certify that NO WITNESSES,
 9 after having been first duly sworn by me
 10 upon authority of R.S. 37:2554, did testify
 11 as hereinbefore set forth in the foregoing
 12 29 pages;
 13 That the testimony was reported by me in
 14 the voice-writing method, and was prepared
 15 and transcribed by me or under my personal
 16 direction and supervision, and is a true and
 17 correct transcript to the best of my ability
 18 and understanding;
 19 That the transcript has been prepared in
 20 compliance with transcript format guidelines
 21 required by statute or by rules of the
 22 board, and that I am informed about the
 23 complete arrangement, financial or
 24 otherwise, with the person or entity making
 25 arrangements for deposition services;

Page 28

1 That I have acted in compliance with the
 2 prohibition on contractual relationships, as
 3 defined by Louisiana Code of Civil Procedure
 4 Article 1434 and in rules and advisory
 5 opinions of the board;
 6 That I have no actual knowledge of any
 7 prohibited employment or contractual
 8 relationship, direct or indirect, between a
 9 court reporting firm and any party litigant
 10 in this matter nor is there any such
 11 relationship between myself and a party
 12 litigant in this matter; and
 13 That I am not related to counsel or to
 14 the parties herein, nor am I otherwise
 15 interested in the outcome of this matter.
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TORI GONOR
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1 REPORTER'S PAGE

2

3 I, TORI GONOR, Certified Court Reporter in
4 and for the State of Louisiana, before whom
5 this sworn testimony was taken, do hereby
6 state on the Record:

7 That due to the interaction in the
8 spontaneous discourse of this proceeding,
9 dashes (--) have been used to indicate pauses,
10 changes in thought, and/or talkovers;

11 That same is the proper method for a Court
12 Reporter's transcription of proceedings, and
13 that the dashes (--) do not indicate that
14 words or phrases have been left out of this
15 transcript;

16 That any words and/or names which could
17 not be verified through reference material
18 have been denoted with the phrase "(spelled
19 phonetically)."

20

21

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23 CERTIFIED COURT REPORTER
24 LICENSE NO. 2018014

25

	18:1	12:14	bring (1)	6:14;24:10
\$	age (1)	Audit (3)	17:2	clean (1)
	18:5	3:25;10:20,23	brought (1)	11:6
\$1,734.95 (1)	agenda (1)	auditors (3)	18:9	clients (2)
11:3	7:17	10:18;20:2,7	BROUSSARD (2)	24:14,14
\$11,733.24 (1)	ages (1)	auditor's (1)	4:8,9	clock (1)
11:12	13:20	12:19	budget (2)	15:22
\$120,305.20 (1)	ahead (4)	audits (2)	14:7,16	close (3)
12:12	3:3;6:4;7:12;9:10	11:6,19	budgets (2)	26:14,15,17
\$2,343.14 (1)	Alexandra (1)	August (3)	14:9,12	closed (3)
11:18	5:22	5:3,21;25:8	bulk (1)	11:17,20;14:3
\$2,755.43 (1)	allowed (1)	average (4)	6:3	closure (5)
12:5	15:16	13:19;16:16,18;	BURNHAM (8)	14:2;16:15,18;17:3;
\$32.09 (1)	allows (1)	18:25	3:13,14;5:9;12:20;	21:7
12:8	20:22	averages (1)	15:18;16:5;22:19,23	collected (2)
\$978.17 (1)	almost (2)	17:24	business (4)	11:3,19
11:4	9:3;14:22	awaiting (1)	25:1;26:11,12,13	collection (1)
	amazingly (1)	11:1		11:24
A	16:6		C	column (5)
	amount (2)	B		5:19,22,25;7:24;
above (1)	12:7,11	back (1)	calculated (1)	17:12
8:2	amounts (1)	8:22	17:9	coming (1)
Absolutely (1)	15:6	BAKER (11)	calendars (1)	8:14
23:10	annual (1)	3:7,8;13:4,5;15:23;	25:18	compared (1)
accept (6)	20:2	16:7;22:5,15;23:4,9;	call (4)	6:4
10:8;12:19,21;23:23;	anticipate (1)	25:10	3:2,4;7:13;19:13	comparison (2)
26:1,4	11:10	balance (8)	called (1)	5:24;16:20
accounts (2)	appeared (1)	8:16,17,24;9:8;11:4;	20:19	complete (1)
13:19;17:9	12:6	12:5;14:14;16:24	Can (18)	14:14
accurate (1)	application (4)	bases (1)	5:7;10:3,8;12:18,23;	completed (1)
22:4	14:4;15:21;19:9,11	8:3	13:19,22;14:3;16:21;	19:24
action (10)	applications (3)	beat (1)	17:4;21:4,8,14;22:2;	complicated (2)
13:18,23;14:6,9;	15:5,13,15	25:12	23:22;24:3,21;26:14	20:21;21:2
16:11,22;17:1,2;18:22,	appreciation (1)	beginning (1)	CAP (4)	conclude (1)
24	22:22	8:16	14:9,11;17:3;18:6	12:16
active (9)	approach (1)	below (1)	CAPs (2)	CONCLUDED (1)
13:15,25;14:7;15:9;	21:13	12:15	18:10,11	26:25
17:19;18:18;19:3,8;	approved (3)	better (4)	case (3)	conflicts (1)
21:3	14:7,11;16:10	20:20,23,24;21:21	11:13;12:2,6	25:17
activities (2)	approximately (4)	big (1)	cases (7)	consider (1)
17:2;20:25	14:10,15;15:6,13	22:16	10:23;11:1,8,17,22,	5:2
actual (3)	areas (1)	bigger (1)	23;12:10	consideration (1)
20:4,15,25	10:1	21:20	cash (4)	25:2
actually (4)	around (3)	bill (1)	6:25;8:3,22,24	Consultant (2)
7:1;8:5;21:14,19	9:17,21;25:13	6:22	categories (3)	4:5,7
actuary (6)	assess (1)	bit (1)	13:20;17:23;18:6	contaminant (1)
6:22;9:6;19:18;20:7,	20:20	13:9	categorize (1)	20:23
9;23:2	assessed (1)	BLANCHARD (2)	18:8	continue (2)
added (1)	11:18	4:16,17	category (4)	6:8;8:13
11:13	assessing (1)	board (6)	14:6;16:13,14;18:9	continues (1)
additional (1)	22:8	5:3;19:24;20:1;23:8;	certain (1)	12:2
11:14	assessment (4)	25:3,14	13:12	contract (3)
administrative (1)	11:7;12:7;17:20;	boardings (2)	certified (1)	6:22;23:12,14
8:7	20:24	21:16,19	15:8	contracts (1)
admitted (1)	assessments (3)	bottom (3)	changes (1)	9:4
12:4	11:2,11;22:12	8:15;15:10;16:17	9:19	COOK (2)
adoption (1)	Assessor (3)	box (1)	charge (3)	4:6,7
5:2	4:15,17,19	19:10	7:2;8:2,18	corrective (8)
Afternoon (2)	Associates (1)	breakdown (2)	charges (3)	13:18,23;14:6,9;
10:20;13:6	3:14	13:17;17:6	6:25;7:3;15:16	16:11,22;17:1,2
again (10)	Association (1)	briefly (1)	check (2)	cost (16)
6:13;8:2,10,18,23;	3:17	25:18	19:11;25:19	8:8;12:14;13:21;
9:1,17;16:11;17:20;	attorney (1)		claim (2)	16:15,16,18,22;17:4;

18:25;19:6,10;21:2,3,7, 10;22:16 costing (2) 16:14;17:23 count (1) 14:4 couple (2) 19:6;21:8 court (1) 12:14 cover (1) 8:7 credit (1) 11:5 cube (1) 14:2 current (6) 5:25;9:4;13:21;16:4; 17:22;18:17 currently (2) 19:19;22:8 Cy (4) 3:25;10:18,20;12:18	18:10 direction (1) 8:12 disbursement (1) 6:15 disbursements (1) 6:20 discuss (1) 7:21 discussed (3) 5:21;7:20;9:5 distribution (2) 6:3;8:13 Division (3) 4:9,13;10:24 dollars (15) 6:6;8:6,25;9:8,17; 14:5,11,13,15;15:6,14, 15;19:1;21:5,12 done (1) 22:7 down (3) 14:1,17;15:3 dramatically (3) 16:23;17:4;21:7 dues (1) 20:3 during (2) 20:23;25:23 Durwood (1) 4:24	estimated (1) 16:15 everyone (1) 5:16 except (1) 24:17 expenditures (1) 9:20 express (1) 22:22	15:2 following (1) 8:4 four (5) 10:21;11:17,19,22; 12:10 FRANKLIN (2) 4:23,24 fuel (2) 10:23;18:14 fuels (1) 20:23 full (2) 11:19;12:9 fulls (1) 9:2 FULTON (11) 3:9,10;5:4;10:14; 12:24;21:24;22:13; 23:25;24:22;26:3,16 Fund (28) 3:8;4:3,11,24;7:25; 8:1,20;9:14;13:3,13, 16;14:21,23;15:12; 16:19;17:19;18:14,16, 21,23;20:3,5,13,18; 21:3;22:10,21;23:23 funds (2) 8:5;9:13 further (2) 18:22,24 future (1) 20:13	halfway (1) 9:24 hand (1) 7:24 happened (1) 8:11 happening (1) 20:14 happens (1) 19:8 Happy (2) 5:16;24:13 hear (1) 26:1 HEARING (1) 26:25 help (2) 18:10;21:1 helping (1) 20:22 Hey (2) 5:16;7:9 hiccups (1) 23:13 high (1) 18:11 HILL (4) 7:6,7,14,15 himself (1) 7:10 history (1) 18:25 honor (1) 22:24 hope (1) 20:25 hopefully (2) 9:21;23:16 hoping (1) 22:9
D				
daily (1) 22:10 data (4) 10:4;15:25;20:15,15 date (4) 16:4;19:15,21;25:11 dates (3) 25:3;26:2,11 day (1) 6:18 Debt (1) 11:24 deeper (1) 21:21 DELAFOSSÉ (6) 3:21,22;5:15;7:8,16; 25:20 delivery (1) 12:12 Department (5) 3:6;20:4,10;22:6,18 DEQ (12) 3:6,8,22,25;4:3,9,11, 15,17,19,24;10:20 desk (1) 25:4 details (1) 10:22 determination (3) 19:23;20:5,12 determinations (1) 20:10 determined (2) 11:9;14:21 develop (1) 22:10 differentiate (1)	E	fall (1) 5:16 far (5) 8:9;14:12;18:24; 21:22;22:8 faster (1) 21:22 February (4) 20:1;23:3;25:6,21 feel (1) 21:8 fees (4) 6:4;8:13;12:12,14 field (3) 7:25;9:13;12:12 fifth (1) 12:6 final (1) 11:1 finalized (2) 9:3;11:9 Financial (6) 3:23;5:13,17;7:18; 10:2,9 financing (2) 7:22,23 find (3) 13:10;20:23;22:1 finding (1) 22:4 firm (1) 20:9 first (17) 5:18,19,23;6:2,5,19; 7:19;10:21;13:7,11,14; 15:11,19,21;17:20; 23:11;25:15 fiscal (11) 5:19,20,23;6:2,24; 8:1;9:15;11:13;15:11; 18:17;19:21 five (3) 13:3,7;21:16 flip (1) 9:10 Fluorescent (1) 20:20 focus (2) 20:24;22:3 follow (1)	G	
			G	
			Gary (5) 3:10;5:7;24:3,25; 26:6 gives (6) 9:7;13:16;16:13; 17:14,21;18:2 goal (3) 19:23;23:13,18 goes (1) 16:23 good (5) 5:24;6:13;10:20; 13:6;15:24 granted (1) 18:22 great (2) 6:6;24:16 GUILLORY (7) 3:18,19;10:10;24:4, 18;26:7,18 guys (1) 26:21	
			H	
			half (1) 15:19	
				I
				idea (2) 16:13;21:21 important (1) 25:22 improve (1) 19:20 included (3) 16:17;17:7;19:10 increase (1) 6:11 increases (1) 9:23 in-depth (1) 9:25 individual (1) 17:14 individuals (1) 17:7 Induced (1) 20:19

information (8) 6:1;10:3;13:13;17:8, 14;18:2,5;22:9 initial (1) 16:1 interest (7) 6:10;8:22,25;10:2; 12:15;19:17;20:17 interim (2) 17:1;18:9 into (2) 16:22;17:3 introduce (2) 7:9,12 investigation (5) 13:18,24;17:19,22; 18:4 issued (1) 19:5 item (6) 5:13;7:17;13:2; 24:10,25;25:2	20:19 last (15) 5:23;6:4,11,17,17; 8:19;11:12;12:4,8; 14:21;16:3;19:9,19; 20:7;23:10 late (1) 12:13 LDEQ (1) 16:10 least (3) 11:11;19:25;23:19 leaving (2) 11:4;12:5 left (1) 14:15 Legal (4) 3:6;10:23;11:22; 12:10 legislative (1) 20:1 level (1) 20:11 liability (3) 9:5;20:5,13 LIF (1) 20:19 line (1) 6:16 list (12) 11:13,16,16,18;12:2, 7,10;19:3,4,8,15;21:18 listed (1) 19:2 little (2) 13:9,9 locating (1) 22:2 location (2) 17:11;22:3 logging (1) 21:14 long (2) 16:6;22:1 look (6) 9:14;13:11;14:4,17; 19:13;25:18 looked (1) 20:11 looking (2) 20:14,15 looks (1) 6:7 lot (2) 16:25;23:12 Louisiana (4) 3:16,19,22;7:15 LOUPE (2) 4:12,13 lower (2) 16:24;21:7	M major (1) 17:9 making (2) 16:25;21:20 Marketer (1) 3:16 Marketers (1) 3:20 may (3) 19:1;21:9;25:7 maybe (1) 21:16 meeting (7) 3:2;5:21;11:12;20:1; 23:17,19;26:14 meetings (1) 25:3 Melissa (1) 4:3 members (2) 19:25;23:8 methodology (1) 20:9 Michael (3) 3:19;10:13;26:10 middle (2) 5:22;6:15 million (18) 6:5,18,20;8:6,17,18, 23,24,25;9:7,8,17;14:5, 11,12,15;15:6,14 minutes (1) 5:3 modifying (1) 19:20 money (1) 6:13 months (1) 19:12 more (4) 9:25;16:8;20:21; 22:4 MORIN (4) 3:24,25;10:19,20 most (1) 25:22 Motion (17) 5:5,7;10:8,11,13; 12:19,21;23:23;24:1,3, 17,19;26:1,4,6,14,17 motor (4) 7:25;10:22;12:12; 18:14 move (12) 5:2,13;10:17;13:2; 14:1;15:3,10;24:9,25; 25:11,23;26:13 moved (2) 8:5;25:14 much (2)	16:24;21:20 N name (1) 4:22 need (1) 7:9 negative (2) 8:10;9:7 net (1) 8:9 new (3) 11:12;12:5;24:14 Next (10) 9:24;11:16;14:6,17; 16:9;17:18,25;18:13, 20;23:17 NFA (1) 19:5 Nick (1) 3:16 normal (1) 25:11 note (6) 13:19;14:10;15:7; 18:22,25;19:2 notes (1) 9:18 November (5) 5:16;10:25;11:24; 12:3;25:8 number (9) 7:17;8:12;9:5,6; 12:2;13:3,7;24:10;25:1 numbers (1) 20:16 O obligation (2) 19:22;20:12 obviously (1) 25:22 October (1) 12:4 ODR (1) 12:1 off (3) 19:11;21:8;22:21 Office (1) 11:23 officially (1) 3:2 Oil (4) 3:16,19;7:15;9:13 older (1) 21:25 Once (1) 17:3 one (5) 11:5,12;19:25;23:1; 25:1	ones (2) 11:14;25:23 only (1) 18:8 onto (4) 5:13;10:17;24:25; 26:13 open (1) 10:22 order (1) 3:3 out (2) 23:7;25:5 outflow (1) 8:9 outstanding (2) 12:11;22:20 over (4) 14:5,21;20:11;21:20 overall (1) 16:24 oversee (1) 20:9 overview (2) 20:22;21:17 P packets (1) 13:7 page (20) 7:20;9:9,11,11; 10:22;11:21;13:15; 15:10,17;16:9,9,17; 17:5,13,16,17,21,25; 18:13,20 paid (4) 7:1,2;12:9;20:2 paper (1) 25:4 part (1) 20:6 Partners (1) 7:15 Party (1) 24:10 payment (2) 12:4,13 payments (2) 11:25;12:3 penalties (1) 12:13 pending (3) 11:1;15:4;24:14 performing (1) 22:11 period (3) 6:23;20:24;21:6 Perry (3) 3:6;24:11,17 phase (8) 13:23,24;14:9;15:20; 16:22;17:3,20;19:20
J January (1) 23:16 Jason (1) 4:11 JDI (1) 20:18 Jeff (4) 3:8;13:4;15:19; 23:22 Jones (1) 3:12 July (2) 6:23;7:2 June (1) 9:6 juridical (1) 12:14	K keep (1) 19:15 Kerry (5) 7:7,9,13,15,17 kind (1) 13:8 KING (3) 3:11,12;24:6 knock (1) 21:8 Kristine (1) 4:5 Kyle (1) 4:17	L Laser (1)		

<p>phases (1) 13:19</p> <p>phone (1) 4:21</p> <p>picture (1) 21:21</p> <p>Pinnacle (2) 19:18;20:10</p> <p>place (1) 23:12</p> <p>planned (1) 11:15</p> <p>plans (1) 16:11</p> <p>please (1) 10:2</p> <p>Plus (1) 12:13</p> <p>point (7) 8:21;9:18;14:3;15:7, 20;20:17;25:21</p> <p>points (1) 19:17</p> <p>possible (1) 19:15</p> <p>potential (5) 11:2,5,6;18:15;22:16</p> <p>potentially (2) 11:11;21:6</p> <p>PPM (2) 4:5,7</p> <p>predictable (2) 6:7,9</p> <p>prepared (1) 7:21</p> <p>present (1) 10:5</p> <p>presentation (1) 10:1</p> <p>previous (3) 17:13,16;18:3</p> <p>previously (1) 6:24</p> <p>prior (2) 19:25;23:19</p> <p>problematic (1) 23:11</p> <p>process (1) 15:5</p> <p>product (1) 18:6</p> <p>program (2) 8:8;10:3</p> <p>progress (1) 11:8</p> <p>projecting (2) 9:16,17</p> <p>projection (1) 9:12</p> <p>promising (1) 21:23</p> <p>provide (1) 19:22</p>	<p>provided (1) 22:9</p> <p>provides (2) 5:24;17:7</p> <p>providing (1) 13:12</p> <p>pulls (1) 7:4</p> <p>purposes (1) 16:20</p> <p>putting (1) 21:19</p> <p style="text-align: center;">Q</p> <p>quarter (9) 5:18,23;6:2,5,19; 9:24;13:14,25;15:12</p> <p>quarters (2) 19:6;25:15</p> <p style="text-align: center;">R</p> <p>RACs (2) 15:8,9</p> <p>rates (1) 22:10</p> <p>read (1) 25:5</p> <p>reads (1) 16:1</p> <p>really (1) 25:21</p> <p>reason (1) 16:23</p> <p>reasonable (2) 20:12;21:13</p> <p>received (4) 6:22;11:25;15:12; 18:23</p> <p>recently (1) 18:9</p> <p>recognize (1) 23:10</p> <p>recommendation (1) 23:2</p> <p>record (1) 25:5</p> <p>Recovery (1) 11:24</p> <p>reduce (1) 21:1</p> <p>reducing (3) 21:2,5;22:16</p> <p>refer (1) 13:6</p> <p>reflect (2) 6:25;9:19</p> <p>reflected (2) 8:4,20</p> <p>regular (1) 12:3</p> <p>reimbursement (9)</p>	<p>6:14;13:21;14:19,20, 25;15:16;16:2,3,19</p> <p>reimbursements (3) 16:14;17:11;18:7</p> <p>related (3) 6:21;7:4;17:8</p> <p>relates (1) 17:13</p> <p>release (1) 18:21</p> <p>rely (1) 10:2</p> <p>remain (2) 9:20;11:23</p> <p>remaining (1) 14:16</p> <p>remains (1) 11:22</p> <p>remediation (4) 9:3;21:3,6,9</p> <p>remediations (1) 22:3</p> <p>removed (2) 11:17;12:9</p> <p>Report (17) 5:14;7:18;10:9,18, 22;12:8,16,19;13:3; 16:1;18:1;19:12,24; 20:8;23:15,24;24:13</p> <p>reports (1) 13:8</p> <p>represent (1) 12:11</p> <p>represents (1) 18:18</p> <p>request (3) 14:25;16:1,3</p> <p>requested (3) 14:19,20;15:5</p> <p>requesting (1) 16:19</p> <p>research (1) 10:4</p> <p>result (1) 11:9</p> <p>results (1) 21:22</p> <p>retained (1) 20:8</p> <p>returned (1) 15:14</p> <p>revenues (2) 6:7;9:20</p> <p>review (6) 11:1,2;19:19,21,24; 20:6</p> <p>reviewed (1) 18:16</p> <p>reviewing (1) 20:7</p> <p>reviews (1) 20:11</p> <p>Rhonda (1)</p>	<p>4:7</p> <p>right (13) 5:13;7:19,22,23; 8:25;10:7;15:8;20:3; 23:13,15;24:9,16,21</p> <p>right-hand (1) 5:25</p> <p>roll (2) 3:4;7:13</p> <p>ROMAIN (27) 3:1,15,16;4:20,25; 5:6,11;7:11;10:6,12, 16;12:17,22;13:1; 22:25;23:6,20;24:2,8, 15,20,24;25:16,25; 26:5,9,20</p> <p>room (1) 25:13</p> <p>rotating (1) 22:21</p> <p>run (2) 19:12;21:4</p> <p style="text-align: center;">S</p> <p>Sam (1) 4:9</p> <p>same (6) 9:16,21;11:22;17:10; 18:2,5</p> <p>savings (1) 21:10</p> <p>saw (2) 6:10;17:15</p> <p>schedule (1) 6:4</p> <p>scope (1) 19:20</p> <p>second (17) 5:8,10,12;9:11,11; 10:15,17;12:23,25; 24:3,5,7,21,23;26:8,10, 19</p> <p>seconds (1) 24:9</p> <p>section (9) 6:15;13:16;14:17; 15:11;17:6,18;18:3,12; 26:13</p> <p>sections (1) 7:21</p> <p>seeing (2) 9:22;21:11</p> <p>seemed (1) 21:13</p> <p>separate (1) 22:7</p> <p>September (1) 15:4</p> <p>service (1) 22:20</p> <p>Services (4) 3:23;5:14;7:18;10:9</p>	<p>set (1) 15:25</p> <p>seven (3) 11:6,8;25:1</p> <p>Shawn (1) 3:12</p> <p>shooting (1) 23:15</p> <p>show (1) 19:7</p> <p>shown (1) 16:16</p> <p>shows (1) 17:23</p> <p>significant (1) 9:19</p> <p>site (12) 9:4;13:16;14:2,14; 15:20;16:16;17:8,10; 18:1;20:22;21:17,18</p> <p>sites (36) 13:17,20,21,22,25; 14:3,8,8,13,18,22,23; 15:2,9;16:10,12,18,21, 25;17:7,9,15,19,21; 18:3,16,18,21,23;19:1, 2;20:21;21:2,25;22:1,7</p> <p>six (4) 19:12;22:7,19;24:10</p> <p>small (1) 12:7</p> <p>somebody (1) 25:12</p> <p>sometimes (1) 19:5</p> <p>sources (1) 20:25</p> <p>span (1) 21:20</p> <p>SPEAKER (2) 4:14,18</p> <p>specific (2) 17:8;18:1</p> <p>spent (1) 14:12</p> <p>spoke (1) 19:18</p> <p>spring (1) 22:11</p> <p>ST (27) 3:1,15,16;4:20,25; 5:6,11;7:11;10:6,12, 16;12:17,22;13:1; 22:25;23:6,20;24:2,8, 15,20,24;25:16,25; 26:5,9,20</p> <p>STANLEY (2) 4:4,5</p> <p>start (2) 3:3;15:22</p> <p>state (1) 4:22</p> <p>statement (4)</p>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------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<p>5:18,20;6:25;8:3 states (1) 22:14 status (7) 10:18;11:21;13:3; 18:24;19:5;23:23; 24:11 stay (1) 9:22 Steve (3) 3:14;5:12;22:19 still (2) 11:8;24:13 Storage (1) 3:10 stuff (1) 13:10 submit (2) 14:25;19:9 substantial (1) 21:10 summary (6) 13:12;14:7;15:11; 16:12;17:15,21 sure (1) 10:4</p>	<p>25:7,8 Thursdays (1) 25:12 thus (3) 18:24;21:2,5 today (2) 9:24;12:10 top (3) 7:20;13:15;17:12 total (8) 8:23,25;11:18;12:11; 14:4;16:15;17:12,23 totaling (4) 11:3,11;13:24;15:13 towards (2) 8:15;14:13 track (1) 9:22 transfer (6) 7:24;8:7,11,19;9:13, 21 Trust (24) 3:8;4:3,11,24;7:25; 8:1,20;9:13,14;13:3,13, 16;14:21;15:12;16:19; 17:19;18:14,16,21,23; 20:17;22:10,20;23:23 try (2) 13:9;19:14 trying (1) 13:8 Tuesday (2) 25:6,7 Tuesdays (1) 25:15 turn (9) 5:17;10:21;11:21; 15:21;16:9;17:5,25; 18:13,20 tweek (1) 13:8 two (9) 7:20;11:2,11,14,21; 12:2;19:20;25:13,15 typically (3) 21:3,10,15</p>	<p>5:21;15:2,25;16:23; 17:4;19:7,15;25:24 updated (1) 19:22 used (3) 9:1;18:8;20:9 uses (2) 7:22,23 using (2) 21:25;22:14 UST (2) 4:9,13 utilize (2) 20:18;22:6 utilizing (1) 20:4</p>	<p>12,17,17,19;8:1,4,16, 19,21;9:15,25;11:14; 13:14;15:8,11,12; 18:17;19:19,21;21:5; 22:21;23:10,11;25:23 year-end (1) 5:20 years (3) 14:22;21:8;22:20 year's (1) 20:7</p>	<p>13:14;25:3,6,7,8,9 233 (1) 15:12 25 (1) 21:12 262 (1) 19:1 266 (1) 13:25 28 (1) 12:4 288 (1) 14:5 29 (1) 15:9</p>
T		V	1	3
<p>tab (3) 5:17;10:21;13:7 table (1) 23:14 Tad (1) 4:13 Tank (4) 3:10;7:4;9:2,2 technically (1) 6:23 Technology (4) 20:20,21;21:11,14 tells (1) 18:3 ten (4) 10:25;18:15,18; 21:16 tentative (1) 25:3 term (1) 22:1 Theresa (4) 3:22;5:14;10:7; 19:17 THERIOT (3) 3:5,6;24:12 Third (1) 24:10 thousand (6) 6:12;7:2;15:15;19:1; 21:4,12 three (3) 14:22;22:6;24:9 Thursday (2)</p>	<p>try (2) 13:9;19:14 trying (1) 13:8 Tuesday (2) 25:6,7 Tuesdays (1) 25:15 turn (9) 5:17;10:21;11:21; 15:21;16:9;17:5,25; 18:13,20 tweek (1) 13:8 two (9) 7:20;11:2,11,14,21; 12:2;19:20;25:13,15 typically (3) 21:3,10,15</p>	<p>validation (1) 20:6 various (1) 17:11 vendors (1) 22:7 verifying (1) 20:16 vicinity (1) 9:16 viewing (1) 21:18 VIZINAT (2) 4:2,3 voted (1) 23:17</p>	<p>1 (2) 4:14;11:23 1,416 (1) 14:3 100 (1) 21:4 109 (2) 8:17,23 112 (1) 8:17 12 (2) 8:25;15:14 121 (1) 8:24 132 (1) 13:23 134 (1) 13:22 13th (1) 6:23 142 (1) 15:15 15 (2) 5:3;18:23 153 (1) 9:7 17 (1) 10:22 18 (1) 25:6 18.7 (1) 14:15 19 (4) 8:2;14:22;25:7,9</p>	<p>3 (4) 5:13,17;7:17;11:23 3.2 (1) 6:19 3.3 (1) 6:18 3.6 (1) 15:13 30 (1) 9:6 35 (2) 21:4,12</p>
		W	2	4
		<p>way (4) 15:25,25;17:10;22:4 week (1) 19:25 weeks (1) 25:13 WHEREUPON (1) 26:25 whole (1) 21:18 without (1) 8:22 work (1) 9:2 working (2) 20:18;23:14 worksheet (1) 13:11</p>	<p>2 (1) 4:18 2.7 (1) 8:10 20 (4) 5:19;6:2;11:14;25:8 2018 (1) 9:6 2019 (7) 5:3,20;10:25;11:25; 12:5;15:4;19:21 2020 (6)</p>	<p>4 (1) 11:23 40 (1) 21:19 41 (1) 15:8 44 (1) 9:8 44.68 (1) 11:5 48 (1) 15:4</p>
	U	Y		5
	<p>uncommon (1) 19:4 under (5) 13:15;14:1;17:22; 18:4;25:2 Underground (1) 3:10 Unfortunately (1) 25:12 unit (1) 22:10 unusual (1) 15:1 up (8)</p>	<p>y'all (3) 10:1,5;13:10 year (30) 5:19,20,24;6:2,5,12,</p>	<p>5 (1) 10:25 5.3 (1) 9:18 5.56 (1) 8:6 50 (1) 21:19 500 (1) 9:17 540 (1) 6:11 585 (2) 6:12,12 5th (2)</p>	

11:25;12:3				
6				
600 (1) 6:5 66 (1) 7:2				
7				
70 (1) 14:12 756.78 (1) 11:4				
8				
89.6 (1) 14:11				