

STATE OF MICHIGAN
OFFICE OF THE MUSKEGON COUNTY DRAIN COMMISSIONER

IN THE MATTER OF:

PETERSON DRAIN

Board of Determination for
Peterson Drain

September 22, 2020
10:33 A.M.

Meeting via Zoom

Board of Determination:
Mr. Don Munski (chairman)
Mr. David Split (secretary)
Ms. Sharon Ackerman
Mr. Jeff Marcinkowski (alternate)

Zoom meeting host:
Steve Koski

Engineer:
Ryan McEnhill

Attorney:
Stacy Hissong

Drain Commissioner:
Brenda Moore

RECORDED BY: Michelle M. McKee, CSR 3841
Certified Shorthand Reporter

1 MS. BRENDA MOORE: Welcome to everyone who
2 has joined us on the Zoom meeting. We have four
3 citizen volunteers who are Board of Determination
4 members. They have to live in the county but they
5 can not own property in the district on which we're
6 speaking today. It's David Split, Sharon Ackerman,
7 Don Munski and Jeff Marcinkowski are our Board of
8 Determination members.

9 Also online with us today is Mr. Steven
10 Koski. He is an attorney with Fahey. He is
11 orchestrating the meeting for us. And Stacy Hissong
12 is our counsel for the drain office and for the
13 district. And we also have the project engineer,
14 which is Ryan McEnhill, and he will be making a
15 presentation a little bit later.

16 I'm Brenda Moore, the county drain
17 commissioner. I'm still getting used to Zoom. I
18 appreciate everybody taking the time to get on this
19 meeting. And I think I'll ask Stacy or Steven to
20 talk about the Zoom procedures, please.

21 MR. STEVE KOSKI: I can do that. Again,
22 good morning to everybody and welcome to this Board
23 of Determination meeting. As Brenda mentioned and as
24 you're all clearly aware, this is being held
25 electronically and that is to comply with the

1 governor of Michigan's executive orders, as well as
2 federal and state agency recommendations related to
3 COVID-19.

4 We will make every effort to ensure that
5 there is full participation and transparency for all
6 of those in attendance. For each vote, we will ask
7 that -- or recommend, I should say, that the Board
8 will do a roll call vote after a motion has been made
9 and seconded, and I can read the roll for the Board
10 at that time.

11 With respect to those of you from the
12 public that are attending, we ask that you remain
13 muted during the meeting. This is simply just to
14 help with everybody to hear everything that's going
15 on and to make sure that there's no noise from
16 people's microphones that are -- that's getting
17 picked up. So if I happen to mute you, it's nothing
18 personal. I just want to make sure that everybody
19 can hear.

20 And there will be an opportunity, as you
21 see in the agenda, for public testimony. I will help
22 the chair facilitate that. And so when it comes time
23 for public testimony, you can indicate that you would
24 like to give comment by selecting the raise-your-hand
25 option that is -- that you'll find on your screen.

1 If you go to the Participants List, under the
2 Participants List, there is a raise-your-hand option,
3 so you can select that. If you're calling in by
4 telephone, you can dial star 9. That will also
5 indicate that you would like to raise your hand. And
6 so when it comes time for public comment, I will call
7 in the order that people have raised their hands on
8 here.

9 There also is an option to message me on
10 the chat function on here. You'll see the chat
11 button, as well, near the participant's button. And
12 that -- If you would prefer to give your comment
13 through chat, that is fine. I'd be happy to read
14 that for you, but I would ask that you give your full
15 -- or give your name -- your full name and address
16 for the record. And that goes for people making
17 comment, as well. Prior to making comment, we'll ask
18 that you give your name and address for the record.

19 Brenda, I believe there's a court reporter
20 here today. Right?

21 MS. BRENDA MOORE: Yes. I was going to
22 say that before I gave the oath. Michelle McKee is
23 taking a verbatim transcript of the meeting which
24 will be available. She's usually good about getting
25 it to us within a week of the meeting that we will

1 post on our website.

2 MR. STEVE KOSKI: Okay. Great. And so if
3 either the court reporter or myself think that
4 something wasn't clear, we may ask you to repeat that
5 so just -- And again, we'll ask that you state your
6 name and address when giving comment and just so
7 everything is on the record for this meeting.

8 Also, for public comment, we will
9 recommend to the Board that there be a three-minute
10 comment period, comment time limit for people and one
11 comment per person, and that's just to keep
12 everything moving. After everybody's been heard
13 once, the Board can decide if -- you know, if other
14 comments are warranted or if they have heard
15 everything they need to make their decision.

16 For those of you that are on here
17 electronically through your computer, there is the
18 mute button which you probably see. When you're
19 muted, it says unmute. And when you're unmuted, it
20 will say mute. So that's what you will select in
21 order to unmute yourself when it's time for your
22 public comment. For those of you on telephone, if
23 you dial star 6 will unmute your phone. So you can
24 dial star 6 to toggle between mute and unmute on
25 that. So, again, on your telephone, it's star 9 to

1 raise your hand and star 6 to mute and unmute
2 yourself. And I will go over those again just prior
3 to the public comment in case anybody forgets that.

4 If you have any connection issues and
5 you're on a computer or other device, we recommend
6 that you log out of the meeting and log back in.
7 Usually, that solves a lot of those problems. If you
8 still have issues, then you should try just dialing
9 in on the telephone to the meeting using the
10 information from your notice.

11 For the Board members, if a connection is
12 lost, we will pause the meeting and wait for them to
13 try to log back in. And again, we will ask them, if
14 they can't log back in, to try to call in by
15 telephone. And if for some reason we still can't get
16 them connected, at that point we would move on with
17 the meeting with the alternate member. And so it's
18 important for the alternate member to take the oath
19 and the alternate member can also participate
20 throughout the meeting up until the actual vote.

21 Again, just try to be clear and remain
22 muted, unless you're giving comment, just so we can
23 make sure we make life a little easier for the court
24 reporter.

25 So at this point, I will turn it back over

1 to the drain commissioner. And again, I'll go over
2 the procedures to participate once we get closer to
3 the public comment portion.

4 MS. BRENDA MOORE: Thanks, Steven. So for
5 our BOD members, you were sent a packet and there's
6 an oath in there. And you're all familiar with this.
7 I'm going to administer the oath. But as we have
8 done before in other Zoom meetings, if you could sign
9 your particular piece of paper for oaths or your
10 determination and send them back, I've sent you a
11 stamped addressed envelope. We will assemble that
12 full legal document with separate signature pages,
13 which worked out pretty well last time.

14 So if we could have our BOD members raise
15 your right hand. We each solemnly swear that we will
16 faithfully --

17 MR. DON MUNSKI: -- we will faithfully
18 perform and discharge the duties imposed upon us, as
19 required by law, as members of the Board of
20 Determination appointed by the Muskegon County Drain
21 Commissioner to determine the necessity to locate,
22 establish and construct proposed Peterson Road Drain,
23 located in Laketon Township, in said county. We each
24 affirm that we are land owners and residents of
25 Muskegon County, but do not own land or reside in

1 Laketon Township.

2 MS. BRENDA MOORE: Beautiful, Don. Do you
3 all agree with that, our members?

4 MR. DON MUNSKI: I do.

5 MS. BRENDA MOORE: Steven?

6 MR. DAVID SPLIT: I agree.

7 MS. BRENDA MOORE: Sharon?

8 MS. SHARON ACKERMAN: I do.

9 MS. BRENDA MOORE: Jeff?

10 MR. JEFF MARCINKOWSKI: Yes.

11 MS. BRENDA MOORE: Thank you all very
12 much. So now I turn it over to the Board of
13 Determination to select a secretary and chairperson.

14 MR. DAVID SPLIT: Okay. I'd like to make
15 a motion Don Munski serve as chairman.

16 MS. SHARON ACKERMAN: I'll support that.

17 MR. DAVID SPLIT: Any discussion?

18 (Whereupon, no audible response.)

19 MR. DAVID SPLIT: All in favor, Don?

20 MR. DON MUNSKI: Aye.

21 MR. DAVID SPLIT: Aye.

22 MS. BRENDA MOORE: That was David's voice
23 I heard. Right?

24 MR. DAVID SPLIT: Yes.

25 MS. BRENDA MOORE: Okay.

1 MR. DON MUNSKI: All opposed?

2 (Whereupon, no audible response.)

3 MR. DON MUNSKI: Hearing none, motion
4 carries.

5 MS. STACY HISSONG: Can everybody hear me
6 now?

7 MR. STEVE KOSKI: Yeah. We can do a roll
8 call vote.

9 MS. STACY HISSONG: Yeah.

10 MR. DON MUNSKI: Okay.

11 MS. STACY HISSONG: We need a roll call
12 vote.

13 MR. STEVE KOSKI: I'll just do -- I'll do
14 the roll call vote for you guys.

15 Mr. DON MUNSKI: Okay.

16 MR. STEVE KOSKI: David Split?

17 MR. DAVID SPLIT: Aye.

18 MR. STEVE KOSKI: Sharon Ackerman?

19 MS. SHARON ACKERMAN: Aye.

20 MR. STEVE KOSKI: And Don Munski?

21 MR. DON MUNSKI: Aye.

22 MS. BRENDA MOORE: Thank you. Who's going
23 to go over the rules of public comment?

24 MR. STEVE KOSKI: Secretary.

25 MR. DON MUNSKI: Before that, we need --

1 MS. BRENDA MOORE: I'm sorry. Secretary.

2 MR. DON MUNSKI: Yep.

3 MS. BRENDA MOORE: Forgive me.

4 MR. DON MUNSKI: Do I hear a motion for a
5 secretary for the Board of Determination?

6 MS. SHARON ACKERMAN: I make a motion that
7 David Split act as our chair -- as our secretary.

8 MR. DON MUNSKI: I second that motion.
9 Any discussion?

10 (Whereupon, no audible response.)

11 MR. DON MUNSKI: Hearing none, I will call
12 for a roll call vote.

13 MR. STEVE KOSKI: David Split?

14 MR. DAVID SPLIT: Aye.

15 MR. STEVE KOSKI: Sharon Ackerman?

16 MS. SHARON ACKERMAN: Yes.

17 MR. STEVE KOSKI: Don Munski?

18 MR. DON MUNSKI: Yes. The motion is
19 passed and David Split will be serving as the
20 secretary of the Board of Determination.

21 Do I hear a motion to limit the public
22 comment to three minutes?

23 MR. DAVID SPLIT: I would like to make a
24 motion to limit the public comment to two minutes.
25 Because of the amount of signatures we've had, they

1 could be lengthy with three minutes.

2 MR. DON MUNSKI: Do I heard a second on
3 the motion?

4 MS. SHARON ACKERMAN: I'll second that, as
5 long as we have a point if we have enough time that
6 people have additional comments, we can bring them
7 in. Is that correct?

8 MR. DON MUNSKI: Yes.

9 MS. SHARON ACKERMAN: Okay. Then I'll
10 second that.

11 MR. DON MUNSKI: Any discussion?

12 MR. DAVID SPLIT: No. I'm fine with that,
13 having a second shot at comments.

14 MR. DON MUNSKI: Okay. Hearing no further
15 discussion, call for a roll call vote.

16 MR. STEVE KOSKI: David Split?

17 MR. DAVID SPLIT: Aye.

18 MR. STEVE KOSKI: Sharon Ackerman?

19 MS. SHARON ACKERMAN: Aye.

20 MR. STEVE KOSKI: And Don Munski?

21 MR. DON MUNSKI: Aye. Motion passed that
22 public comment shall be limited to two minutes per
23 person.

24 Moving on the agenda, call -- the next
25 item on the agenda is the outline of the Board of

1 Determination procedures. First is role and function
2 of the Board. And Stacy, would you take that,
3 please?

4 MS. STACY HISSONG: Yes, absolutely. So
5 under the drain code, basically this is a hearing to
6 determine whether a new drain should be constructed.
7 So under the drain code, there was an application to
8 lay out and designate a drainage district. And I'll
9 explain a little bit of that in a minute. That was
10 executed and delivered to the drain office. There
11 was an order laying out and designating the drainage
12 district, and then many property owners within that
13 area filed -- signed and filed a petition to locate
14 and establish a drain.

15 When that happens, the drain commissioner
16 is under the responsibility to hold the hearing we're
17 having today, which is a hearing of necessity where
18 the three board members hear evidence from the
19 engineer and hear evidence from the property owners
20 as to whether it's necessary and conducive to the
21 public health, convenience or welfare to establish --
22 construct and establish a drain.

23 So Steve, can you put up the third slide
24 in the engineer's Power Point, because I want to
25 explain a little bit what we're here for. So a drain

1 under the drain code, it can be a watercourse, a
2 ditch, a river, a stream, but it could also be storm
3 sewer pipes. And in the blue in what's being shown
4 on the screen is what is being proposed to be
5 established as the drain for this situation. Not
6 every pipe or every river or every stream is
7 established as a drain, only those that go through
8 this specific set of proceedings under the drain code
9 can become under the jurisdiction of the drain
10 commissioner.

11 So in this situation, what is being
12 proposed -- And again, the route and course can
13 change if it's found necessary. -- is the area found
14 in blue to be established and under the jurisdiction
15 of the drain commissioner. That route, if found
16 necessary, can be altered if the engineer and the
17 drain commissioner deem it appropriate, but that's
18 what is being proposed today.

19 The pink line is what's called the
20 drainage district. And what that is is basically
21 when a drop of water falls within the area of land
22 within the pink line, it eventually gets to the blue
23 line. So basically, when a drop of water falls
24 within the drainage district area, it contributes
25 water -- storm water to that drain. So, in essence,

1 it's the drain's watershed. So a drainage district
2 and the watershed are, for all intents and purposes,
3 the same thing.

4 So the drainage district serves as the
5 drain's watershed and it also serves as the drain's
6 special assessment district. So every property
7 within the drainage district helps pay for and every
8 municipal entity within the drainage district helps
9 pay for the cost incurred for a drain project. So
10 that can include the county for benefit to county
11 roads; in situations where there's state highways,
12 M-DOT for benefit to state highways; any city or
13 township or village within the municipal boundaries
14 would be assessed for a benefit at large; and then
15 the property owners or the properties within that
16 drainage district are liable for a potential
17 assessment, as well.

18 When you're looking at this pink line, you
19 can see that it doesn't necessarily follow property
20 boundaries. So that means, if we have a piece of
21 property that's 10 acres, and 2 acres are within the
22 pink line and 8 acres are without, then only 2 acres
23 of that 10-acre parcel would be liable for an
24 assessment, and we actually take that down to the
25 hundredth of an acre when we're reviewing drainage

1 district boundary lines.

2 So what the purpose of today's meeting is
3 is that everyone that is within the drainage district
4 boundary received notice of today's meeting and to
5 provide testimony, along with the engineer, to the
6 Board of Determination members to assist them in
7 determining whether a drain is necessary and
8 conducive to the public health, convenience or
9 welfare. That is the only vote that the Board of
10 Determination makes. They decide yes, it is
11 necessary; or no, it is not necessary. And so it's
12 very important to provide information when you're
13 giving testimony during the public comment period as
14 to what you're experiencing in terms of drainage as
15 to whether it is or is not necessary to establish a
16 drain in this situation. So that is what the Board
17 does.

18 If it is found necessary, then the drain
19 commissioner will work with an engineer to develop a
20 project scope, get whatever easements might be
21 necessary, permits might be necessary, design a
22 project, and take bids and end up constructing a
23 project. If it is found not necessary then this
24 proceeding ends, the drain commissioner does not take
25 jurisdiction over the drain and no new petition can

1 be filed for a period of one year. So, if it is a
2 yes, then the drain commissioner can move forward
3 with engineering in developing a project. If it is a
4 no, then the proceedings stop, at least for a period
5 of one year before a new petition can be filed.

6 Now, when the Board makes a decision,
7 let's talk about what the Board does. We did,
8 necessary or not necessary. But more importantly,
9 what does the Board not do. So the Board does not
10 decide what the project scope is or what will
11 actually be constructed. So the Board can't say --
12 and I'm going to pick on the chair. The Board chair
13 can't say: Yes, I find it necessary, but not the
14 entirety of the drain, only the portion of the drain
15 that's in the road right of way. Nothing else is
16 necessary and that's how we're going. That cannot be
17 done. That decision is actually up to the drain
18 commissioner as to the scope. They just decide yes
19 or no.

20 Similarly, the Board can't decide yes,
21 it's necessary, but you can only spend \$1,000 on the
22 project. Again, that is up to the discretion of the
23 drain commissioner. So we don't know what the
24 project scope is exactly because full engineering has
25 not taken place. We have an idea of how much it

1 might cost and what it might be, but that has not
2 been finally decided because easement acquisition and
3 permits have not been obtained. So the Board can't
4 say what the project is, how much the project will
5 cost. That's the decision of the drain commissioner.

6 Likewise, if they don't know how much it's
7 going to cost, can they tell you how much your
8 assessment is? No. Again, once a project has been
9 fully determined and bids have been taken, there will
10 be another meeting where everyone is invited to go
11 over the specifics of the project and the cost at
12 that time.

13 So, does any of the Board members have
14 questions as to what will take place or, more
15 importantly, not take place today?

16 MR. DAVID SPLIT: No.

17 MR. DON MUNSKI: I do not.

18 MS. SHARON ACKERMAN: No.

19 MS. STACY HISSONG: And then if it's okay,
20 Mr. Chair, if we can ask if any of the property
21 owners in attendance have any questions as to the
22 process. We'll get into the testimony about whether
23 it's necessary or not, but does anyone have any
24 questions as to the process?

25 MR. DON MUNSKI: If any member of the

1 public has questions about the process, please raise
2 your hand to be recognized.

3 MS. STACY HISSONG: And Steve, you can
4 take this map down now -- for right now.

5 MR. STEVE KOSKI: And again, if you're
6 calling in by telephone, you can raise your hand by
7 dialing star 6. Otherwise, if you're on a computer
8 or device, just select the raise-your-hand option
9 that you'll find under the Participants List.

10 MS. STACY HISSONG: And if there's no
11 questions, I think we can move on to the engineer's
12 presentation, if that is acceptable to the Chair.

13 MR. DON MUNSKI: Yes. Let's move on to
14 the engineering presentation, please. Ryan?

15 MR. RYAN McENHILL: Okay. Just a second
16 here. I'm going to share my screen.

17 Okay. Well, good morning, everyone. My
18 name is Ryan McEnhill with ENG. I am a professional
19 engineer in the State of Michigan and our firm works
20 with county drain commissioners, water resource
21 commissioners all across the state, really.

22 And the Muskegon County Drain
23 Commissioner's office got us involved upon receipt of
24 the Chapter 3 Application, which Stacy talked about.
25 And once that Chapter 3 Application is submitted,

1 she's required to assign a competent engineer to
2 determine the lands drained by what this new drain
3 would encompass. So part of our scope -- And we try
4 to, in these early phases of the project, prior to a
5 BOD, we obviously try to keep costs to a minimum. In
6 the event that this Board would determine this
7 project not necessary, we obviously don't want to
8 accumulate significant amounts of funds early on in
9 the process. So we try to keep our work to a
10 minimum, but also enough information that this Board,
11 obviously, is able to make a decision that's in the
12 best interest of everybody.

13 So determining the land's drain, that's
14 the watershed of this drain, everything that gets
15 into this proposed route and course, which I will
16 talk about shortly. We spent a lot of time with
17 boots on the ground evaluating the system. Again,
18 although we're calling this a new drain, actually a
19 lot of this infrastructure is currently already in
20 place. There's already an open channel system,
21 there's road culverts and things of that nature. But
22 we're just looking to establish that as county drain
23 and improvement as necessary for the entire
24 watershed.

25 So identify any potential issues that we

1 saw. We did speak with -- with residents and just
2 talked with them about some of their issues that
3 they've encountered over the past year, specifically,
4 and then just put together an independent and
5 unbiased assessment of those findings and what we
6 found within the drainage district and report on all
7 those here today so that the Board can make a
8 decision.

9 So Stacy went through kind of what this
10 slide all entails. Obviously, the blue line on the
11 southern end begins at Kern Road and then extends
12 northerly past Fenner Road. That's that blue-dashed
13 line. The system to the south continues on all the
14 way to Muskegon Lake. We felt that at Kern Road was
15 an adequate outlet for the system. A lot of the
16 petitioners and issues were kind of in the Fenner
17 Road-Peterson Road corridor.

18 So how do we delineate the watershed? And
19 the watershed is all the water that's contributing to
20 that blue line. We have a lot of tools available to
21 us to be able to do that. Obviously, the county has
22 a very extensive LiDAR and topographic mapping system
23 that allows us to determine what lands are draining
24 towards this blue line. We work with the road
25 commission to get their culvert inventories to see

1 how water is being transmitted across roadways to
2 assist us. And then we also do sight visits in the
3 field where we can visually see maybe where exactly
4 maybe we have to fine tune the lines and things of
5 that nature to be able to pinpoint this watershed
6 pretty closely.

7 And for this district, we're talking about
8 422 acres of land. This is entirely located within
9 Laketon Township.

10 So just a brief overview just to start
11 before I get into a lot of the photos of the
12 conditions that we witnessed. Obviously, a large
13 contributing area and an inadequate conveyance
14 system. And when I talk about that, basically the
15 infrastructure that's currently in place today is
16 road commission ditches, which were primarily
17 designed to only drain the roadway. So when you talk
18 about a watershed of this size, obviously road
19 commission systems are typically not sized to be able
20 to convey the entire watershed. They're mostly
21 worried about the roadway. So that's -- that's one
22 of the issues.

23 The culverts that were installed, again,
24 only sized to convey road water runoff, not for
25 runoff from private residences. So there's culvert

1 restrictions and sizing issues because of that, which
2 results in, obviously, significant flooding in
3 several locations. The downstream watercourse kind
4 of to the south of Fenner, which would be in this
5 region here (indicating), obviously is a cross lot
6 system. Being a private watercourse now, there's no
7 mechanism in place for that to be properly
8 maintained, so there's a lot of debris. There's
9 obstructions at the culverts, those types of things,
10 and a lot of obstructions that are kind of limiting
11 capacity, as well.

12 So the red arrows there are existing
13 culverts that are in place. Those range from -- you
14 know, anywhere from 15 inch to 18 inch in diameter.
15 You know, and if I go back here one slide, you can
16 see how much land area is draining to the south
17 towards these culverts and how a 15-inch or 18-inch
18 culvert obviously would not be capable of conveying
19 those flows very well, so just to give the Board an
20 overview of the soil conditions that are out there.

21 Obviously, being close to Lake Michigan,
22 we're used to sandy soils and this area is no
23 exception. Primarily, culvert pipes thrown in
24 plainfield sands. And these are -- A lot of people
25 get confused by this, but we're talking about a

1 shallow water table. You can see there that these
2 are typically well-drained soils. And they have a
3 hydrological soil group, excuse me, that is A or it
4 can be a D. And when they're classified as an A,
5 that means they infiltrate very well, there's no
6 issues. But then there's some cases where that water
7 table rises and they become a D, and the D is where
8 there is not capable any more of infiltrating soils.
9 They can be both of those. And a lot of times what
10 happens in soils such as this is if you get seasonal
11 time periods, obviously the spring where groundwater
12 levels are rising, these types of soils can
13 contribute to a lot of surface water runoff.

14 So I just wanted to bring the soils
15 information to your attention because I know it's a
16 question that sometimes comes up later on by board
17 members.

18 Now I'm just going to get into some of the
19 photographic evidence of some of these issues. This
20 is at the downstream end of the system that we're
21 looking to establish as county drain (indicating).
22 This is at Kern Road. Obviously, there's an 18-inch
23 -- 18-inch culvert there. You can see obviously a
24 lot of the debris that starts to build up in these
25 areas. And that goes back, again, to this just being

1 a private watercourse where basically you're relying
2 on private land owners to maintain the system in its
3 current form.

4 A lot of these next couple photos are from
5 the May, 2020, rainfall event, obviously where we
6 had, you know, significant floodings county wide.
7 This is the intersection of Peterson Road and Fenner
8 Road. You can see there is actually a culvert that
9 goes across the road here and actually another one
10 across the road just to the north in that photo are
11 just overly taxed and are not able to convey all that
12 runoff that they're seeing from the northern part of
13 the district.

14 This is another section on Peterson Road
15 north of Fenner Road. You can see that the runoff
16 obviously has overcome the road ditches and is
17 actually made its way all the way up to the frontage
18 of homes.

19 This is to the west of Peterson Road.
20 Using my cursor here, Peterson Road in this direction
21 and then this is Fenner (indicating). So west of
22 that intersection, this is a rear yard area that
23 obviously has a lot of standing water.

24 So that's just some of the photographic
25 evidence of some of the issues that these folks have

1 encountered. We did get correspondence from folks
2 that obviously this happens a lot during seasonal
3 periods, widespread flooding kind of all along
4 Peterson Road. And again, a lot of it just alludes
5 to, you know, the road commission aren't maintaining
6 the ditches and the culverts. But, again, they're
7 sized to accommodate roadway runoff. And when we
8 have such a large contributing area to these ditches,
9 it's just not capable of conveying that type of land
10 area.

11 And then the other thing is just a lack of
12 maintenance, obviously, with the downstream system
13 being a rear-lot-cross-country-type system, it just
14 hasn't seen the routine maintenance that you would
15 see if it were a county drain that's able to be done
16 on a periodic basis to keep it free and clear.

17 So just the next steps, and I'll just wrap
18 up my portion. There is a public testimony period.
19 Obviously, it's very important for these Board
20 members to hear from the public. Obviously, all of
21 you live there. You experience this. It's important
22 for them to hear maybe what issues you have or even
23 what issues you -- there are no issues, maybe, in
24 some circumstances. So they're here to determine the
25 necessity of the petition based on all that public

1 testimony.

2 As Stacy mentioned, if this project is not
3 found necessary, this project ends, so nothing would
4 be done after this point. If it is found necessary,
5 that's where we begin to kind of evaluate the scope
6 of the project, some of the design alternatives. In
7 a lot of cases, we would set up a scope meeting to
8 review the design with the property owners to make
9 sure that we're addressing a lot of the issues that
10 are out there. It's not a requirement, but it is
11 something that we like to hold so that we can get
12 input before we bid the project.

13 And then we finalize the design, obtain
14 easements, permits in some cases from the state when
15 we establish a new drain as county drain as a
16 requirement, and then we bid the project out to
17 contractors in a competitive environment to get the
18 best price that we can.

19 So that is all I have today. If the Board
20 members have any questions for me, I'm more than
21 happy to answer them at this time.

22 MR. DON MUNSKI: Dave, do you have any
23 questions?

24 MR. DAVID SPLIT: Are there any designated
25 wetlands in these wooded areas?

1 MR. RYAN McENHILL: So if you go on the
2 State of Michigan Wetland Viewer, they're listed as
3 just hydric soils. They're not necessarily listed as
4 regulated wetlands. And a lot of times when you're
5 looking at hydric soils, it goes back to kind of that
6 soils map that I showed where you just have very high
7 water table and very hydric materials. So they're
8 not necessarily wetlands, per se, but until you got a
9 qualified wetland scientist out there, you can't -- I
10 guess I couldn't say with 100 percent certainty that
11 they are or are not.

12 MR. DAVID SPLIT: Yeah, what extent.
13 Sure.

14 MR. DON MUNSKI: Sharon, do you have any
15 questions? You have your mute on.

16 MS. SHARON ACKERMAN: Yes. I have one
17 question. Is there a history of the road flooding in
18 this area?

19 MR. RYAN McENHILL: So correspondence that
20 we got from property owners during just our research,
21 they say that there is. I can't say putting my eyes
22 on it over time that there is or isn't and I don't
23 think there is a representative from the road
24 commission on this call that would be able to confirm
25 that.

1 MR. DON MUNSKI: Okay. Any other
2 questions from Dave or Sharon?

3 MS. SHARON ACKERMAN: No.

4 MR. DON MUNSKI: Seeing no further
5 questions, let's move on to the next phase of the
6 meeting, which is public testimony. And reminders
7 that public testimony currently is limited to two
8 minutes. And we ask that you state your name and
9 address and identify whether you live or have lands
10 in the drainage district, and then I will read the
11 letters and correspondence that we've received.

12 MR. STEVE KOSKI: And Mr. Chair, if I
13 could just remind everybody about how to raise their
14 hand and those matters. If you select the
15 raise-your-hand button, which you can find by pulling
16 up the Participants List, it should be at the bottom
17 of the Participants List. If you are calling in by
18 telephone, you can dial star 9. That will also
19 indicate that you would like to comment. And if
20 you're having trouble with either of those, you can
21 waive your hands in front of your camera and I will
22 call on you. Also, you can send your -- your comment
23 in a chat. Just be sure to include your name and
24 address with that comment.

25 Okay. So looks like the first comment we

1 have is from Mark Sullivan. So if you could state
2 your name and address for the record, please, before
3 your comment.

4 MR. MARK SULLIVAN: Yes. My name is Mark
5 Sullivan. My address is 1686 Margate Place, Westlake
6 Village, California. My family owns property in the
7 northern -- at the northern end of the proposed
8 district.

9 The question I have is is this proposed
10 district on its east end going to be exactly
11 contiguous with the Schwemer Drain District? It kind
12 of looks like it is.

13 And the second question I have is, in
14 determining the public necessity, do you make a
15 determination of the adequacy, you know, for the road
16 itself of the drainage made by the road commission?
17 In other words, do you make an assessment as to, with
18 the flooding that's out there, how much of the total
19 project is going to basically be the property owners
20 versus the road commission? You know, if the road
21 commission is -- If the road drainage is -- needs --
22 is inadequate then, you know, some of the -- it would
23 seem to me their road -- the road drainage would have
24 to be improved or should not be property owners', you
25 know, responsibility.

1 Those are my two questions.

2 MS. STACY HISSONG: So Mr. Chair, I'll
3 handle the second one and I'll let Ryan handle the
4 first one. So this Board doesn't make the
5 determination as to the adequacy or inadequacy or the
6 cost split with the road commission. If it's found
7 necessary, the drain commissioner will be evaluating
8 the road drainage. The county does receive an
9 assessment for benefit to county roads. If there are
10 upgrades that are necessary for road purposes, the
11 drain commissioner has a long history of negotiating
12 with the road commission for cost sharing where the
13 situation merits it, but we can't determine that at
14 this time. But it is definitely looked at later in
15 the process if it is found necessary.

16 As to the Schwemer Drain District
17 boundaries as compared to this, I'll ask Ryan.

18 MR. RYAN McENHILL: Yeah. Mark, they --
19 on the eastern side, we do match up with the Schwemer
20 Drain, so there's no gap in that -- in those
21 boundaries.

22 MR. MARK SULLIVAN: Thank you. Those are
23 my questions.

24 MR. DON MUNSKI: Thank you, Mark. Any
25 other one -- anyone else have their hand up?

1 (Whereupon, no audible response.)

2 MR. DON MUNSKI: I don't see any
3 electronic hands up.

4 MR. STEVE KOSKI: No, I don't see anybody
5 else's hand up. I do have one message in the chat.

6 MR. DON MUNSKI: All right.

7 MR. STEVE KOSKI: And that is from
8 Katherine Kibbey, K-I-B-B-E-Y, although she did say
9 that she sent some information to the drain
10 commissioner, so I don't know if that is already
11 being planned to be read into the record.

12 MR. DON MUNSKI: Brenda, do you have those
13 comments that were sent to you?

14 MR. STEVE KOSKI: It may be the one that
15 -- One minute. Yeah, I can actually -- I do have
16 that. I can read that, if you would like, Mr. Chair.

17 MR. DON MUNSKI: Yes, please, Steve.

18 MR. STEVE KOSKI: Okay. So this --
19 Again, this is from Katherine Kibbey, K-I-B-B-E-Y, at
20 944 North Peterson Road. And she says: Good
21 morning. My husband and I talked and our questions
22 are as follows:

23 Can they run the drain system up past 956
24 Peterson to the north corner of their ditch? They
25 were flooded four inches in their house when the

1 ditches were overflowing. I believe they were going
2 to e-mail pictures. Also, we had water up to our
3 front porch and nearly to the house in the backyard.
4 I will forward a few pictures to you from my phone.

5 The second question is: When are they
6 expecting to do this and what will the cost be? Does
7 the new drain take the place of the current ditches?

8 Third, there's a -- there's a culvert that
9 runs under the road just south of us and we believe
10 that it is crushed or clogged. If this new drain
11 were to start at 813, we'd like something done with
12 that culvert to be sure the water flows.

13 And then fourth, please be aware, when the
14 ditches overflow and the water is high, there is
15 flooding from Peterson Road all the way to Weber
16 Road. The entire area is under water, which includes
17 our backyards. So the problem isn't just our road,
18 but all the area east of us, as well.

19 And I believe there were pictures that
20 were sent, as well, that Brenda passed along. Would
21 you like me to pull those up, Mr. Chair?

22 MR. DON MUNSKI: Yes, please.

23 MR. STEVE KOSKI: I believe these are the
24 pictures that went along with that (indicating).

25 MR. DON MUNSKI: Thank you, Steve. Does

1 anyone on the Board have any questions in regards to
2 the pictures?

3 MS. BRENDA MOORE: Mr. Chair, this is
4 Brenda. Can you hear me okay?

5 MR. DON MUNSKI: Yes.

6 MS. BRENDA MOORE: I have a couple of
7 guests that came in because they don't -- they wanted
8 to participate in Zoom and I think they would like to
9 make a comment, if we could do that.

10 MR. DON MUNSKI: Okay. Yes, please.
11 Please identify yourself, your name and your address.

12 MS. MARGIE SANGSTER: My name is Margie
13 Sangster. I live at 480 Peterson. That's five
14 houses south of Fenner on the east side.

15 We do not have any water problem, but the
16 drainage ditch goes -- stops just before our house --
17 house, the one that they put in like 30 some years
18 ago. And they've never, as far as I know, never
19 maintained the ditch at all that goes behind the
20 houses on the opposite side of the street on the --
21 on the west side. And the culverts crisscrossing
22 Weber and Peterson at the corner there are all -- all
23 full of junk and that's why the water won't go
24 through.

25 And even the culvert before Weber is full

1 of junk. And I don't know if what that woman said
2 was right, it's crushed, I don't know. But the
3 ditches haven't been maintained at all down Peterson
4 Road. We can see when we go down River Road that
5 they're totally maintained, and I don't even see
6 where they have that much water problem. And it's
7 just a matter of the drain is already there.

8 Is this what your meeting is about,
9 maintaining the drain or making it better?

10 MS. STACY HISSONG: Yes.

11 MR. DON MUNSKI: Yes.

12 MS. MARGIE SANGSTER: That's good, because
13 it's never been done. My husband saw one man one
14 time some years ago, quite a few years ago, sitting
15 there with a shovel after -- where it crosses on
16 Peterson just -- just south of Fenner and goes into
17 the woods behind the west side across the street. He
18 saw a man shoveling the ditch one time and he says:
19 I'll take care of this. Well, shoot, there's like a
20 six-inch opening that goes into the drain on the east
21 side and goes out the other side, maybe about eight
22 inches of water come through there, and the ditches
23 are totally full. The drain is totally full of junk.

24 And -- and the roads, I don't know how
25 they expect the ditches to ever maintain a drainage,

1 because a guy comes down twice a year and cuts all
2 the trees down with a big side cutter and all the
3 branches fall into the -- into the ditch and nobody
4 ever cleans them out. I don't think the people were
5 ever told that they have to clean them out.

6 But that's my comment.

7 MR. DON MUNSKI: Thank you for your
8 comment.

9 MS. BRENDA MOORE: May I also -- I'm
10 sorry, Mr. Chair. I e-mailed the engineer at the
11 road commission because there was a question about
12 water over the road. May I read his answer?

13 MR. DON MUNSKI: Yes, please read his --
14 Please provide his name.

15 MS. BRENDA MOORE: Paul Bowman is the
16 county road commission engineer that I texted. And
17 my question to him is: We are on the Peterson Road
18 BOD. There was a question about water going over the
19 road. His answer: Probably has. The culverts are
20 small and easily plugged. I have seen water sitting
21 up to the level of the shoulder.

22 MR. DON MUNSKI: Thank you.

23 MS. BRENDA MOORE: Thank you.

24 MR. DON MUNSKI: I see another person with
25 their hand up on the telephone.

1 MR. STEVE KOSKI: That's from the number
2 ending in 3450. Can you state your name and address
3 for the record, please.

4 MS. BRITNEY ANDERSEN: Yes. My name is
5 Britney Andersen, 3280 Fenner. I'm watching on my
6 computer and listening through my phone.

7 I have a question in regards to the pink
8 line on the map. I don't quite understand what that
9 pink line means. I live in one of the properties
10 that is -- my whole yard is flooded, so does that
11 mean that I'm on the edge of where my water drains
12 to?

13 And then I just wanted to make a comment
14 about we constantly have water in our crawl space
15 that is damaging our house. We have tried to pump it
16 with three pumps multiple times. Right now, we don't
17 have water. But during that May rain event, we tried
18 to pump it and pump it and pump it, but the water has
19 nowhere to go. Just a frustrating situation to be
20 in.

21 But just wanted to comment on that.

22 MR. DON MUNSKI: Thank you very much.

23 MR. RYAN McENHILL: Do you want me to
24 respond to her question at all?

25 MR. DON MUNSKI: Yes, Ryan, could you

1 explain the boundary determination?

2 MR. RYAN McENHILL: If you want -- If I
3 could share my screen real quick, I'll show you her
4 property.

5 MR. DON MUNSKI: Yes.

6 MR. RYAN McENHILL: Okay. Okay. So she's
7 actually -- Her property is mostly in the Schwemer
8 district and then she does have this little bit over
9 here (indicating) that would be in this Peterson Road
10 Drain. We actually already have an active petition
11 going, as well, on the Schwemer Drain.

12 So to answer her question, I think we
13 would be able to service her property with either one
14 of these two projects, whichever made the most sense,
15 to be able to give her relief, assuming that the
16 Peterson Road did move forward. If it didn't, we
17 would probably just look at seeing what we could do
18 with this Schwemer Drain project.

19 MR. DON MUNSKI: Okay. Thank you very
20 much, Ryan. Let's see if there's any other questions
21 or comments.

22 MR. STEVE KOSKI: I don't see -- I don't
23 see any on the list, but I do have one more on the
24 chat if you would like me to read that.

25 MR. DON MUNSKI: Yes. Please do, Steve.

1 MR. STEVE KOSKI: So this is from Kris
2 Genson-Boersema, G-E-N-S-O-N, B-O-E-R-S-E-M-A. And
3 the address is 473 North Peterson Road.

4 And the question is: Can anyone describe
5 what actual infrastructure would be utilized? I
6 understand possibly larger culverts, but what would
7 -- what would the remainder just be -- dug out
8 larger?

9 MR. DON MUNSKI: I think that gets into
10 the design of the solution, if the Board of
11 Determination goes forward -- approves the petition
12 and moves this forward. So the actual design does
13 not take place at this meeting, so I'm not exactly
14 sure if that would satisfy their -- their question or
15 provide an adequate answer to their question. But I
16 think, Ryan, maybe you can -- as the engineer, you
17 can prepares provide some insight into the options
18 for improving drainage, if that is determined that's
19 what's necessary.

20 MR. RYAN McENHILL: Yeah. Mr. Chair, I
21 think you're on -- you're on the right track there.
22 Having not done any survey work on this system yet,
23 being so early on, it's -- it's hard to tell
24 precisely, I guess, what we would do. But just in
25 most cases, yes, we would look to enlarge culverts,

1 we would evaluate the existing capacity of the road
2 ditches to make sure that they are capable of
3 conveying the same amount of runoff as those
4 culverts, so you could be potentially looking at
5 deepening the culverts -- or excuse me, deepening the
6 road ditches or widening them or a combination of
7 both.

8 MR. DON MUNSKI: Okay. Thank you, Ryan.
9 Steve, do you see any other people with hands up or
10 do you have any other comments that have been sent to
11 you?

12 MR. STEVE KOSKI: I do not have any other
13 comments that were sent to me. And I do not see
14 anybody with their hands raised at this time.

15 MR. DON MUNSKI: Okay. Brenda, do you
16 have any other comments that were sent to you prior
17 to the meeting?

18 MS. BRENDA MOORE: No, sir. I just sent
19 -- I had the Kibbey comments, which Steven already
20 read for us, that was it on this particular drain
21 petition.

22 MR. DON MUNSKI: Okay. So now we've
23 finished the public testimony. I'll just review
24 quickly here. I don't see anyone's hand up, so we'll
25 move on to the decision of the Board of

1 Determination. And this is whether construction
2 establishment of the drain is necessary and conducive
3 to public health, convenience or welfare. Do I hear
4 a motion from --

5 MS. SHARON ACKERMAN: Yes.

6 MR. DON MUNSKI: -- anyone on the Board?
7 Sharon?

8 MS. SHARON ACKERMAN: Yes. I would like
9 to make a motion that the location, establishment and
10 construction of Peterson Road Drain is necessary and
11 conducive to the public health, convenience or
12 welfare.

13 MR. DON MUNSKI: And do I hear a second?

14 MR. DAVID SPLIT: I would second that.

15 MR. DON MUNSKI: Thank you. Any
16 discussion by the Board members?

17 (Whereupon, no audible response.)

18 MR. DON MUNSKI: Hearing none, I call for
19 a vote. All those in favor of the --

20 MR. STEVE KOSKI: Roll call.

21 MR. DON MUNSKI: Roll call.

22 MR. STEVE KOSKI: David Split?

23 MR. DAVID SPLIT: Aye.

24 MR. STEVE KOSKI: Sharon Ackerman?

25 MS. SHARON ACKERMAN: Yes.

1 MR. STEVE KOSKI: And Don Munski?

2 MR. DON MUNSKI: Yes. The motion is
3 carried by unanimous vote.

4 And next, Stacy, would you describe the
5 appeal process for us, please?

6 MS. STACY HISSONG: Absolutely. So anyone
7 aggrieved by the decision of the Board of
8 Determination today may challenge that decision by
9 filing an appeal with the Muskegon County Circuit
10 Court within 10 days.

11 MR. DON MUNSKI: Thank you, Stacy. Do I
12 hear a motion to adjourn the meeting?

13 MS. SHARON ACKERMAN: I will make that
14 motion to adjourn.

15 MR. DON MUNSKI: Do I hear a second?

16 MR. DAVID SPLIT: I would second that.

17 MR. DON MUNSKI: Any discussion?

18 (Whereupon, no audible response.)

19 MR. DON MUNSKI: Hearing none, I call for
20 a roll call vote, please, Steve.

21 MR. STEVE KOSKI: David Split?

22 MR. DAVID SPLIT: Yes.

23 MR. STEVE KOSKI: Sharon Ackerman?

24 MS. SHARON ACKERMAN: Yes.

25 MR. STEVE KOSKI: And Don Munski?

1 MR. DON MUNSKI: Yes. The meeting is now
2 adjourned. Thank you everyone for your
3 participation.

4 (Whereupon, meeting concluded
5 at 11:27:56 A.M..)

6 --ooOoo--

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STATE OF MICHIGAN)
) ss.
COUNTY OF MUSKEGON)

I, Michelle M. McKee, Certified Shorthand Reporter (CSR-3841), and Notary Public in and for the County of Muskegon and State of Michigan, do hereby certify that the foregoing meeting was taken before me at the time and via Zoom conferencing.

I further certify that said meeting was recorded by me stenographically, and subsequently transcribed under my directions and supervision; and that the foregoing is a full, true, and correct transcript of my original shorthand notes.

I further certify that I am not counsel for or related to any of the parties to the foregoing cause, or employed by them or their attorneys, and am not interested in the subject matter or outcome thereof.

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Dated at Muskegon, Michigan, this 30th day of September, 2020.

Michelle M. McKee, CSR-3841
Notary Public, Muskegon County, Michigan
My commission expires June 7, 2021

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\$1,000 [1] - 16:21				
1				
10 [2] - 14:21, 41:10 10-acre [1] - 14:23 100 [1] - 27:10 10:33 [1] - 1:10 11:27:56 [1] - 42:5 15 [1] - 22:14 15-inch [1] - 22:17 1686 [1] - 29:5 18 [1] - 22:14 18-inch [3] - 22:17, 23:22, 23:23	A.M. [1] - 42:5 able [9] - 19:11, 20:21, 21:5, 21:19, 24:11, 25:15, 27:24, 37:13, 37:15 absolutely [2] - 12:4, 41:6 acceptable [1] - 18:12 accommodate [1] - 25:7 accumulate [1] - 19:8 ACKERMAN [16] - 8:8, 8:16, 9:19, 10:6, 10:16, 11:4, 11:9, 11:19, 17:18, 27:16, 28:3, 40:5, 40:8, 40:25, 41:13, 41:24 Ackerman [7] - 1:17, 2:6, 9:18, 10:15, 11:18, 40:24, 41:23 acquisition [1] - 17:2 acre [1] - 14:25 acres [5] - 14:21, 14:22, 21:8 act [1] - 10:7 active [1] - 37:10 actual [3] - 6:20, 38:5, 38:12 additional [1] - 11:6 address [10] - 4:15, 4:18, 5:6, 28:9, 28:24, 29:2, 29:5, 33:11, 36:2, 38:3 addressed [1] - 7:11 addressing [1] - 26:9 adequacy [2] - 29:15, 30:5 adequate [2] - 20:15, 38:15 adjourn [2] - 41:12, 41:14 adjourned [1] - 42:2 administer [1] - 7:7 affirm [1] - 7:24 agency [1] - 3:2 agenda [3] - 3:21, 11:24, 11:25 aggrieved [1] - 41:7 ago [3] - 33:18, 34:14 agree [2] - 8:3, 8:6 allows [1] - 20:23 alludes [1] - 25:4 altered [1] - 13:16 alternate [4] - 1:17, 6:17, 6:18, 6:19 alternatives [1] - 26:6 amount [2] - 10:25, 39:3 amounts [1] - 19:8 ANDERSEN [1] - 36:4	Andersen [1] - 36:5 answer [5] - 26:21, 35:12, 35:19, 37:12, 38:15 appeal [2] - 41:5, 41:9 application [1] - 12:7 Application [2] - 18:24, 18:25 apply [1] - 43:15 appointed [1] - 7:20 appreciate [1] - 2:18 appropriate [1] - 13:17 approves [1] - 38:11 area [13] - 12:13, 13:13, 13:21, 13:24, 21:13, 22:16, 22:22, 24:22, 25:8, 25:10, 27:18, 32:16, 32:18 areas [2] - 23:25, 26:25 arrows [1] - 22:12 assemble [1] - 7:11 assessed [1] - 14:14 assessment [7] - 14:6, 14:17, 14:24, 17:8, 20:5, 29:17, 30:9 assign [1] - 19:1 assist [2] - 15:6, 21:2 assuming [1] - 37:15 attendance [2] - 3:6, 17:21 attending [1] - 3:12 attention [1] - 23:15 attorney [1] - 2:10 Attorney [1] - 1:21 attorneys [1] - 43:13 audible [6] - 8:18, 9:2, 10:10, 31:1, 40:17, 41:18 available [2] - 4:24, 20:20 aware [2] - 2:24, 32:13 Aye [10] - 8:20, 8:21, 9:17, 9:19, 9:21, 10:14, 11:17, 11:19, 11:21, 40:23	begins [1] - 20:11 behind [2] - 33:19, 34:17 benefit [4] - 14:10, 14:12, 14:14, 30:9 best [2] - 19:12, 26:18 better [1] - 34:9 between [1] - 5:24 bid [2] - 26:12, 26:16 bids [2] - 15:22, 17:9 big [1] - 35:2 bit [4] - 2:15, 12:9, 12:25, 37:8 blue [7] - 13:3, 13:14, 13:22, 20:10, 20:12, 20:20, 20:24 blue-dashed [1] - 20:12 Board [41] - 1:7, 1:15, 2:3, 2:7, 2:22, 3:7, 3:9, 5:9, 5:13, 6:11, 7:19, 8:12, 10:5, 10:20, 11:25, 12:2, 15:6, 15:9, 15:16, 16:6, 16:7, 16:9, 16:11, 16:12, 16:20, 17:3, 17:13, 19:6, 19:10, 20:7, 22:19, 25:19, 26:19, 30:4, 33:1, 38:10, 39:25, 40:6, 40:16, 41:7 board [2] - 12:18, 23:16 BOD [4] - 7:5, 7:14, 19:5, 35:18 Boersema [1] - 38:2 boots [1] - 19:17 bottom [1] - 28:16 boundaries [4] - 14:13, 14:20, 30:17, 30:21 boundary [3] - 15:1, 15:4, 37:1 Bowman [1] - 35:15 branches [1] - 35:3 Brenda [8] - 1:23, 2:16, 2:23, 4:19, 31:12, 32:20, 33:4, 39:15 BRENDA [19] - 2:1, 4:21, 7:4, 8:2, 8:5, 8:7, 8:9, 8:11, 8:22, 8:25, 9:22, 10:1, 10:3, 33:3, 33:6, 35:9, 35:15, 35:23, 39:18 brief [1] - 21:10 bring [2] - 11:6, 23:14 BRITNEY [1] - 36:4 Britney [1] - 36:5	build [1] - 23:24 button [4] - 4:11, 5:18, 28:15 BY [1] - 1:25
2	2 [2] - 14:21, 14:22 2020 [3] - 1:10, 24:5, 43:18 2021 [1] - 43:22 22 [1] - 1:10			C
3	3 [2] - 18:24, 18:25 30 [1] - 33:17 30th [1] - 43:17 3280 [1] - 36:5 3450 [1] - 36:2 3841 [1] - 1:25			California [1] - 29:6 camera [1] - 28:21 cannot [1] - 16:16 capable [4] - 22:18, 23:8, 25:9, 39:2 capacity [2] - 22:11, 39:1 care [1] - 34:19 carried [1] - 41:3 carries [1] - 9:4 case [1] - 6:3 cases [4] - 23:6, 26:7, 26:14, 38:25 certainty [1] - 27:10 certification [1] - 43:15 Certified [2] - 1:25, 43:6 certify [3] - 43:7, 43:9, 43:12 certifying [1] - 43:16 Chair [4] - 18:12, 28:12, 33:3, 38:20 chair [9] - 3:22, 10:7, 16:12, 17:20, 30:2, 31:16, 32:21, 35:10 chairman [2] - 1:16, 8:15 chairperson [1] - 8:13 challenge [1] - 41:8 change [1] - 13:13 channel [1] - 19:20 Chapter [2] - 18:24, 18:25 chat [6] - 4:10, 4:13, 28:23, 31:5, 37:24 Circuit [1] - 41:9 circumstances [1] - 25:24 citizen [1] - 2:3 city [1] - 14:12 classified [1] - 23:4 clean [1] - 35:5 cleans [1] - 35:4 clear [3] - 5:4, 6:21, 25:16 clearly [1] - 2:24 clogged [1] - 32:10 close [1] - 22:21 closely [1] - 21:6 closer [1] - 7:2 code [4] - 12:5, 12:7, 13:1, 13:8
4	422 [1] - 21:8 473 [1] - 38:3 480 [1] - 33:13			
6	6 [4] - 5:23, 5:24, 6:1, 18:7			
7	7 [1] - 43:22			
8	8 [1] - 14:22 813 [1] - 32:11			
9	9 [3] - 4:4, 5:25, 28:18 944 [1] - 31:20 956 [1] - 31:23			
A				
A.M. [1] - 1:10				
		B		
		B-O-E-R-S-E-M-A [1] - 38:2 backyard [1] - 32:3 backyards [1] - 32:17 based [1] - 25:25 basis [1] - 25:16 beautiful [1] - 8:2 become [2] - 13:9, 23:7 begin [1] - 26:5		

<p>combination [1] - 39:6 comment [29] - 3:24, 4:6, 4:12, 4:17, 5:6, 5:8, 5:10, 5:11, 5:22, 6:3, 6:22, 7:3, 9:23, 10:22, 10:24, 11:22, 15:13, 28:19, 28:22, 28:24, 28:25, 29:3, 33:9, 35:6, 35:8, 36:13, 36:21 comments [9] - 5:14, 11:6, 11:13, 31:13, 37:21, 39:10, 39:13, 39:16, 39:19 commission [13] - 20:25, 21:16, 21:19, 25:5, 27:24, 29:16, 29:20, 29:21, 30:6, 30:12, 35:11, 35:16, 43:22 COMMISSIONER [1] - 1:2 commissioner [15] - 2:17, 7:1, 12:15, 13:10, 13:15, 13:17, 15:19, 15:24, 16:2, 16:18, 16:23, 17:5, 30:7, 30:11, 31:10 Commissioner [2] - 1:23, 7:21 Commissioner's [1] - 18:23 commissioners [2] - 18:20, 18:21 compared [1] - 30:17 competent [1] - 19:1 competitive [1] - 26:17 comply [1] - 2:25 computer [4] - 5:17, 6:5, 18:7, 36:6 concluded [1] - 42:4 conditions [2] - 21:12, 22:20 conductive [3] - 12:20, 15:8, 40:2 conductive [1] - 40:11 conferencing [1] - 43:8 confirm [1] - 27:24 confused [1] - 22:25 connected [1] - 6:16 connection [2] - 6:4, 6:11 constantly [1] - 36:14 construct [2] - 7:22, 12:22 constructed [2] - 12:6, 16:11 constructing [1] -</p>	<p>15:22 construction [2] - 40:1, 40:10 contiguous [1] - 29:11 continues [1] - 20:13 contractors [1] - 26:17 contribute [1] - 23:13 contributes [1] - 13:24 contributing [3] - 20:19, 21:13, 25:8 control [1] - 43:16 convenience [4] - 12:21, 15:8, 40:3, 40:11 convey [3] - 21:20, 21:24, 24:11 conveyance [1] - 21:13 conveying [3] - 22:18, 25:9, 39:3 corner [2] - 31:24, 33:22 correct [2] - 11:7, 43:10 correspondence [3] - 25:1, 27:19, 28:11 corridor [1] - 20:17 cost [8] - 14:9, 17:1, 17:5, 17:7, 17:11, 30:6, 30:12, 32:6 costs [1] - 19:5 counsel [2] - 2:12, 43:12 country [1] - 25:13 COUNTY [2] - 1:2, 43:4 County [6] - 7:20, 7:25, 18:22, 41:9, 43:7, 43:22 county [15] - 2:4, 2:16, 7:23, 14:10, 18:20, 19:22, 20:21, 23:21, 24:6, 25:15, 26:15, 30:8, 30:9, 35:16 couple [2] - 24:4, 33:6 course [2] - 13:12, 19:15 Court [1] - 41:10 court [3] - 4:19, 5:3, 6:23 COVID-19 [1] - 3:3 crawl [1] - 36:14 crisscrossing [1] - 33:21 cross [2] - 22:5, 25:13 crosses [1] - 34:15 crushed [2] - 32:10, 34:2</p>	<p>CSR [1] - 1:25 CSR-3841 [2] - 43:6, 43:21 culvert [9] - 20:25, 21:25, 22:18, 22:23, 23:23, 24:8, 32:8, 32:12, 33:25 culverts [12] - 19:21, 21:23, 22:9, 22:13, 22:17, 25:6, 33:21, 35:19, 38:6, 38:25, 39:4, 39:5 current [2] - 24:3, 32:7 cursor [1] - 24:20 cuts [1] - 35:1 cutter [1] - 35:2</p> <p style="text-align: center;">D</p> <p>damaging [1] - 36:15 dashed [1] - 20:12 Dated [1] - 43:17 Dave [2] - 26:22, 28:2 DAVID [18] - 8:6, 8:14, 8:17, 8:19, 8:21, 8:24, 9:17, 10:14, 10:23, 11:12, 11:17, 17:16, 26:24, 27:12, 40:14, 40:23, 41:16, 41:22 David [9] - 1:16, 2:6, 9:16, 10:7, 10:13, 10:19, 11:16, 40:22, 41:21 David's [1] - 8:22 days [1] - 41:10 debris [2] - 22:8, 23:24 decide [5] - 5:13, 15:10, 16:10, 16:18, 16:20 decided [1] - 17:2 decision [9] - 5:15, 16:6, 16:17, 17:5, 19:11, 20:8, 39:25, 41:7, 41:8 deem [1] - 13:17 deepening [2] - 39:5 definitely [1] - 30:14 delineate [1] - 20:18 delivered [1] - 12:10 describe [2] - 38:4, 41:4 design [6] - 15:21, 26:6, 26:8, 26:13, 38:10, 38:12 designate [1] - 12:8 designated [1] - 26:24 designating [1] - 12:11</p>	<p>designed [1] - 21:17 determination [4] - 7:10, 29:15, 30:5, 37:1 Determination [15] - 1:7, 1:15, 2:3, 2:8, 2:23, 7:20, 8:13, 10:5, 10:20, 12:1, 15:6, 15:10, 38:11, 40:1, 41:8 determine [7] - 7:21, 12:6, 19:2, 19:6, 20:23, 25:24, 30:13 determined [2] - 17:9, 38:18 determining [3] - 15:7, 19:13, 29:14 develop [1] - 15:19 developing [1] - 16:3 device [2] - 6:5, 18:8 dial [4] - 4:4, 5:23, 5:24, 28:18 dialing [2] - 6:8, 18:7 diameter [1] - 22:14 direct [1] - 43:16 direction [1] - 24:20 directions [1] - 43:10 discharge [1] - 7:18 discretion [1] - 16:22 discussion [6] - 8:17, 10:9, 11:11, 11:15, 40:16, 41:17 District [2] - 29:11, 30:16 district [21] - 2:5, 2:13, 12:8, 12:12, 13:20, 13:24, 14:1, 14:4, 14:6, 14:7, 14:8, 14:16, 15:1, 15:3, 20:6, 21:7, 24:13, 28:10, 29:8, 29:10, 37:8 ditch [6] - 13:2, 31:24, 33:16, 33:19, 34:18, 35:3 ditches [12] - 21:16, 24:16, 25:6, 25:8, 32:1, 32:7, 32:14, 34:3, 34:22, 34:25, 39:2, 39:6 document [1] - 7:12 Don [10] - 1:16, 2:7, 8:2, 8:15, 8:19, 9:20, 10:17, 11:20, 41:1, 41:25 DON [60] - 7:17, 8:4, 8:20, 9:1, 9:3, 9:10, 9:15, 9:21, 9:25, 10:2, 10:4, 10:8, 10:11, 10:18, 11:2,</p>	<p>11:8, 11:11, 11:14, 11:21, 17:17, 17:25, 18:13, 26:22, 27:14, 28:1, 28:4, 30:24, 31:2, 31:6, 31:12, 31:17, 32:22, 32:25, 33:5, 33:10, 34:11, 35:7, 35:13, 35:22, 35:24, 36:22, 36:25, 37:5, 37:19, 37:25, 38:9, 39:8, 39:15, 39:22, 40:6, 40:13, 40:15, 40:18, 40:21, 41:2, 41:11, 41:15, 41:17, 41:19, 42:1 done [7] - 7:8, 16:17, 25:15, 26:4, 32:11, 34:13, 38:22 DOT [1] - 14:12 down [6] - 14:24, 18:4, 34:3, 34:4, 35:1, 35:2 downstream [3] - 22:3, 23:20, 25:12 drain [54] - 2:12, 2:16, 7:1, 12:5, 12:6, 12:7, 12:10, 12:14, 12:15, 12:22, 12:25, 13:1, 13:5, 13:7, 13:8, 13:9, 13:15, 13:17, 13:25, 14:9, 15:7, 15:16, 15:18, 15:24, 15:25, 16:2, 16:14, 16:17, 16:23, 17:5, 18:20, 19:2, 19:13, 19:14, 19:18, 19:22, 21:17, 23:21, 25:15, 26:15, 30:7, 30:11, 31:9, 31:23, 32:7, 32:10, 34:7, 34:9, 34:20, 34:23, 39:20, 40:2 DRAIN [2] - 1:2, 1:5 Drain [12] - 1:8, 1:23, 7:20, 7:22, 18:22, 29:11, 30:16, 30:20, 37:10, 37:11, 37:18, 40:10 drain's [3] - 14:1, 14:5 drainage [21] - 12:8, 12:11, 13:20, 13:24, 14:1, 14:4, 14:7, 14:8, 14:16, 14:25, 15:3, 15:14, 20:6, 28:10, 29:16, 29:21, 29:23, 30:8, 33:16, 34:25, 38:18 drained [2] - 19:2, 23:2 draining [2] - 20:23,</p>
--	--	---	--	---

<p>22:16 drains [1] - 36:11 drop [2] - 13:21, 13:23 dug [1] - 38:7 during [5] - 3:13, 15:13, 25:2, 27:20, 36:17 duties [1] - 7:18</p>	<p>essence [1] - 13:25 establish [8] - 7:22, 12:14, 12:21, 12:22, 15:15, 19:22, 23:21, 26:15 established [3] - 13:5, 13:7, 13:14 establishment [2] - 40:2, 40:9 evaluate [2] - 26:5, 39:1 evaluating [2] - 19:17, 30:7 event [3] - 19:6, 24:5, 36:17 eventually [1] - 13:22 evidence [4] - 12:18, 12:19, 23:19, 24:25 exactly [4] - 16:24, 21:3, 29:10, 38:13 exception [1] - 22:23 excuse [2] - 23:3, 39:5 executed [1] - 12:10 executive [1] - 3:1 existing [2] - 22:12, 39:1 expect [1] - 34:25 expecting [1] - 32:6 experience [1] - 25:21 experiencing [1] - 15:14 expires [1] - 43:22 explain [3] - 12:9, 12:25, 37:1 extends [1] - 20:11 extensive [1] - 20:22 extent [1] - 27:12 eyes [1] - 27:21</p>	<p>16:5 filing [1] - 41:9 finalize [1] - 26:13 finally [1] - 17:2 findings [1] - 20:5 fine [3] - 4:13, 11:12, 21:4 finished [1] - 39:23 firm [1] - 18:19 first [3] - 12:1, 28:25, 30:4 five [1] - 33:13 flooded [2] - 31:25, 36:10 flooding [5] - 22:2, 25:3, 27:17, 29:18, 32:15 floodings [1] - 24:6 flows [2] - 22:19, 32:12 folks [2] - 24:25, 25:1 follow [1] - 14:19 follows [1] - 31:22 foregoing [4] - 43:7, 43:10, 43:12, 43:15 forgets [1] - 6:3 forgive [1] - 10:3 form [1] - 24:3 forward [5] - 16:2, 32:4, 37:16, 38:11, 38:12 four [2] - 2:2, 31:25 fourth [1] - 32:13 free [1] - 25:16 front [2] - 28:21, 32:3 fronage [1] - 24:17 frustrating [1] - 36:19 full [10] - 3:5, 4:14, 4:15, 7:12, 16:24, 33:23, 33:25, 34:23, 43:10 fully [1] - 17:9 function [2] - 4:10, 12:1 funds [1] - 19:8</p>	<p>38:24 guests [1] - 33:7 guy [1] - 35:1 guys [1] - 9:14</p> <p style="text-align: center;">H</p> <p>hand [14] - 3:24, 4:2, 4:5, 6:1, 7:15, 18:2, 18:6, 18:8, 28:14, 28:15, 30:25, 31:5, 35:25, 39:24 handle [2] - 30:3 hands [5] - 4:7, 28:21, 31:3, 39:9, 39:14 happy [2] - 4:13, 26:21 hard [1] - 38:23 health [4] - 12:21, 15:8, 40:3, 40:11 hear [14] - 3:14, 3:19, 9:5, 10:4, 10:21, 12:18, 12:19, 25:20, 25:22, 33:4, 40:3, 40:13, 41:12, 41:15 heard [4] - 5:12, 5:14, 8:23, 11:2 hearing [7] - 10:11, 11:14, 12:5, 12:16, 12:17, 40:18, 41:19 Hearing [1] - 9:3 held [1] - 2:24 help [2] - 3:14, 3:21 helps [2] - 14:7, 14:8 hereby [1] - 43:7 high [2] - 27:6, 32:14 highways [2] - 14:11, 14:12 Hissong [2] - 1:22, 2:11 HISSONG [10] - 9:5, 9:9, 9:11, 12:4, 17:19, 18:3, 18:10, 30:2, 34:10, 41:6 history [2] - 27:17, 30:11 hold [2] - 12:16, 26:11 homes [1] - 24:18 host [1] - 1:18 house [5] - 31:25, 32:3, 33:16, 33:17, 36:15 houses [2] - 33:14, 33:20 hundredth [1] - 14:25 husband [2] - 31:21, 34:13 hydic [3] - 27:3, 27:5, 27:7 hydrological [1] - 23:3</p>	<p style="text-align: center;">I</p> <p>idea [1] - 16:25 identify [3] - 19:25, 28:9, 33:11 important [4] - 6:18, 15:12, 25:19, 25:21 importantly [2] - 16:8, 17:15 imposed [1] - 7:18 improved [1] - 29:24 improvement [1] - 19:23 improving [1] - 38:18 IN [1] - 1:4 inadequacy [1] - 30:5 inadequate [2] - 21:13, 29:22 inch [3] - 22:14, 34:20 inches [2] - 31:25, 34:22 include [2] - 14:10, 28:23 includes [1] - 32:16 incurred [1] - 14:9 independent [1] - 20:4 indicate [3] - 3:23, 4:5, 28:19 indicating [2] - 22:5, 37:9 indicating [3] - 23:21, 24:21, 32:24 infiltrate [1] - 23:5 infiltrating [1] - 23:8 information [5] - 6:10, 15:12, 19:10, 23:15, 31:9 infrastructure [3] - 19:19, 21:15, 38:5 input [1] - 26:12 insight [1] - 38:17 installed [1] - 21:23 intents [1] - 14:2 interest [1] - 19:12 interested [1] - 43:13 intersection [2] - 24:7, 24:22 inventories [1] - 20:25 invited [1] - 17:10 involved [1] - 18:23 issues [14] - 6:4, 6:8, 19:25, 20:2, 20:16, 21:22, 22:1, 23:6, 23:19, 24:25, 25:22, 25:23, 26:9 item [1] - 11:25 itself [1] - 29:16</p>
<p style="text-align: center;">E</p> <p>e-mail [1] - 32:2 e-mailed [1] - 35:10 early [3] - 19:4, 19:8, 38:23 easement [1] - 17:2 easements [2] - 15:20, 26:14 easier [1] - 6:23 easily [1] - 35:20 east [4] - 29:10, 32:18, 33:14, 34:20 eastern [1] - 30:19 edge [1] - 36:11 effort [1] - 3:4 eight [1] - 34:21 either [3] - 5:3, 28:20, 37:13 electronic [1] - 31:3 electronically [2] - 2:25, 5:17 employed [1] - 43:13 encompass [1] - 19:3 encountered [2] - 20:3, 25:1 end [5] - 15:22, 20:11, 23:20, 29:7, 29:10 ending [1] - 36:2 ends [2] - 15:24, 26:3 ENG [1] - 18:18 Engineer [1] - 1:20 engineer [10] - 2:13, 12:19, 13:16, 15:5, 15:19, 18:19, 19:1, 35:10, 35:16, 38:16 engineer's [2] - 12:24, 18:11 engineering [3] - 16:3, 16:24, 18:14 enlarge [1] - 38:25 ensure [1] - 3:4 entails [1] - 20:10 entire [3] - 19:23, 21:20, 32:16 entirely [1] - 21:8 entirety [1] - 16:14 entity [1] - 14:8 envelope [1] - 7:11 environment [1] - 26:17</p>	<p style="text-align: center;">F</p> <p>facilitate [1] - 3:22 Fahey [1] - 2:10 faithfully [2] - 7:16, 7:17 fall [1] - 35:3 falls [2] - 13:21, 13:23 familiar [1] - 7:6 family [1] - 29:6 far [1] - 33:18 favor [2] - 8:19, 40:19 federal [1] - 3:2 felt [1] - 20:14 Fenner [9] - 20:12, 20:16, 22:4, 24:7, 24:15, 24:21, 33:14, 34:16, 36:5 few [2] - 32:4, 34:14 field [1] - 21:3 filed [4] - 12:13, 16:1,</p>	<p style="text-align: center;">G</p> <p>gap [1] - 30:20 Genson [1] - 38:2 GENSON [1] - 38:2 Genson-Boersema [1] - 38:2 governor [1] - 3:1 great [1] - 5:2 ground [1] - 19:17 groundwater [1] - 23:11 group [1] - 23:3 guess [2] - 27:10,</p>		

<p style="text-align: center;">J</p> <p>JEFF [1] - 8:10 Jeff [3] - 1:17, 2:7, 8:9 joined [1] - 2:2 June [1] - 43:22 junk [3] - 33:23, 34:1, 34:23 jurisdiction [3] - 13:9, 13:14, 15:25</p>	<p>lengthy [1] - 11:1 letters [1] - 28:11 level [1] - 35:21 levels [1] - 23:12 liable [2] - 14:16, 14:23 LiDAR [1] - 20:22 life [1] - 6:23 likewise [1] - 17:6 limit [3] - 5:10, 10:21, 10:24 limited [2] - 11:22, 28:7 limiting [1] - 22:10 line [11] - 13:19, 13:22, 13:23, 14:18, 14:22, 20:10, 20:13, 20:20, 20:24, 36:8, 36:9 lines [2] - 15:1, 21:4 List [5] - 4:1, 4:2, 18:9, 28:16, 28:17 list [1] - 37:23 listed [2] - 27:2, 27:3 listening [1] - 36:6 live [5] - 2:4, 25:21, 28:9, 33:13, 36:9 locate [2] - 7:21, 12:13 located [2] - 7:23, 21:8 location [1] - 40:9 locations [1] - 22:3 log [4] - 6:6, 6:13, 6:14 look [2] - 37:17, 38:25 looked [1] - 30:14 looking [5] - 14:18, 19:22, 23:21, 27:5, 39:4 looks [2] - 28:25, 29:12 lost [1] - 6:12</p>	<p>1:17, 2:7 MARCINKOWSKI [1] - 8:10 Margate [1] - 29:5 MARGIE [2] - 33:12, 34:12 Margie [1] - 33:12 Mark [3] - 29:1, 29:4, 30:24 mark [1] - 30:18 MARK [2] - 29:4, 30:22 match [1] - 30:19 materials [1] - 27:7 matter [2] - 34:7, 43:13 MATTER [1] - 1:4 matters [1] - 28:14 McEnhill [11] - 1:20, 2:14, 18:15, 18:18, 27:1, 27:19, 30:18, 36:23, 37:2, 37:6, 38:20 McKee [4] - 1:25, 4:22, 43:6, 43:21 mean [1] - 36:11 means [4] - 14:20, 23:5, 36:9, 43:16 mechanism [1] - 22:7 Meeting [1] - 1:13 meeting [27] - 1:18, 2:2, 2:11, 2:19, 2:23, 3:13, 4:23, 4:25, 5:7, 6:6, 6:9, 6:12, 6:17, 6:20, 15:2, 15:4, 17:10, 26:7, 28:6, 34:8, 38:13, 39:17, 41:12, 42:1, 42:4, 43:7, 43:9 meetings [1] - 7:8 member [4] - 6:17, 6:18, 6:19, 17:25 members [14] - 2:4, 2:8, 6:11, 7:5, 7:14, 7:19, 8:3, 12:18, 15:6, 17:13, 23:17, 25:20, 26:20, 40:16 mentioned [2] - 2:23, 26:2 merits [1] - 30:13 message [2] - 4:9, 31:5 Michelle [4] - 1:25, 4:22, 43:6, 43:21 Michigan [6] - 18:19, 22:21, 27:2, 43:7, 43:17, 43:22 MICHIGAN [2] - 1:1, 43:3 Michigan's [1] - 3:1</p>	<p>microphones [1] - 3:16 might [4] - 15:20, 15:21, 17:1 minimum [2] - 19:5, 19:10 minute [3] - 5:9, 12:9, 31:15 minutes [5] - 10:22, 10:24, 11:1, 11:22, 28:8 Moore [2] - 1:23, 2:16 MOORE [19] - 2:1, 4:21, 7:4, 8:2, 8:5, 8:7, 8:9, 8:11, 8:22, 8:25, 9:22, 10:1, 10:3, 33:3, 33:6, 35:9, 35:15, 35:23, 39:18 morning [3] - 2:22, 18:17, 31:21 most [2] - 37:14, 38:25 mostly [2] - 21:20, 37:7 motion [16] - 3:8, 8:15, 9:3, 10:4, 10:6, 10:8, 10:18, 10:21, 10:24, 11:3, 11:21, 40:4, 40:9, 41:2, 41:12, 41:14 move [7] - 6:16, 16:2, 18:11, 18:13, 28:5, 37:16, 39:25 moves [1] - 38:12 moving [2] - 5:12, 11:24 MR [118] - 2:21, 5:2, 7:17, 8:4, 8:6, 8:10, 8:14, 8:17, 8:19, 8:20, 8:21, 8:24, 9:1, 9:3, 9:7, 9:10, 9:13, 9:16, 9:17, 9:18, 9:20, 9:21, 9:24, 9:25, 10:2, 10:4, 10:8, 10:11, 10:13, 10:14, 10:15, 10:17, 10:18, 10:23, 11:2, 11:8, 11:11, 11:12, 11:14, 11:16, 11:17, 11:18, 11:20, 11:21, 17:16, 17:17, 17:25, 18:5, 18:13, 18:15, 26:22, 26:24, 27:1, 27:12, 27:14, 27:19, 28:1, 28:4, 28:12, 29:4, 30:18, 30:22, 30:24, 31:2, 31:4, 31:6, 31:7, 31:12, 31:14, 31:17, 31:18,</p>	<p>32:22, 32:23, 32:25, 33:5, 33:10, 34:11, 35:7, 35:13, 35:22, 35:24, 36:1, 36:22, 36:23, 36:25, 37:2, 37:6, 37:19, 37:22, 37:25, 38:1, 38:9, 38:20, 39:12, 39:15, 39:22, 40:6, 40:13, 40:14, 40:15, 40:18, 40:20, 40:21, 40:22, 40:23, 40:24, 41:1, 41:2, 41:11, 41:15, 41:16, 41:17, 41:19, 41:21, 41:22, 41:23, 41:25, 42:1 MS [48] - 2:1, 4:21, 7:4, 8:2, 8:5, 8:7, 8:8, 8:9, 8:11, 8:16, 8:22, 8:25, 9:5, 9:9, 9:11, 9:19, 9:22, 10:1, 10:3, 10:6, 10:16, 11:4, 11:9, 11:19, 12:4, 17:18, 17:19, 18:3, 18:10, 27:16, 28:3, 30:2, 33:3, 33:6, 33:12, 34:10, 34:12, 35:9, 35:15, 35:23, 36:4, 39:18, 40:5, 40:8, 40:25, 41:6, 41:13, 41:24 multiple [1] - 36:16 municipal [2] - 14:8, 14:13 MUNSKI [60] - 7:17, 8:4, 8:20, 9:1, 9:3, 9:10, 9:15, 9:21, 9:25, 10:2, 10:4, 10:8, 10:11, 10:18, 11:2, 11:8, 11:11, 11:14, 11:21, 17:17, 17:25, 18:13, 26:22, 27:14, 28:1, 28:4, 30:24, 31:2, 31:6, 31:12, 31:17, 32:22, 32:25, 33:5, 33:10, 34:11, 35:7, 35:13, 35:22, 35:24, 36:22, 36:25, 37:5, 37:19, 37:25, 38:9, 39:8, 39:15, 39:22, 40:6, 40:13, 40:15, 40:18, 40:21, 41:2, 41:11, 41:15, 41:17, 41:19, 42:1 Munski [8] - 1:16, 2:7, 8:15, 9:20, 10:17, 11:20, 41:1, 41:25 Muskegon [8] - 7:20,</p>
<p style="text-align: center;">K</p> <p>Katherine [2] - 31:8, 31:19 keep [4] - 5:11, 19:5, 19:9, 25:16 Kern [3] - 20:11, 20:14, 23:22 Kibbey [3] - 31:8, 31:19, 39:19 KIBBEY [2] - 31:8, 31:19 kind [8] - 20:9, 20:16, 22:3, 22:10, 25:3, 26:5, 27:5, 29:11 Koski [2] - 1:19, 2:10 KOSKI [32] - 2:21, 5:2, 9:7, 9:13, 9:16, 9:18, 9:20, 9:24, 10:13, 10:15, 10:17, 11:16, 11:18, 11:20, 18:5, 28:12, 31:4, 31:7, 31:14, 31:18, 32:23, 36:1, 37:22, 38:1, 39:12, 40:20, 40:22, 40:24, 41:1, 41:21, 41:23, 41:25 Kris [1] - 38:1</p>	<p>limited [2] - 11:22, 28:7 limiting [1] - 22:10 line [11] - 13:19, 13:22, 13:23, 14:18, 14:22, 20:10, 20:13, 20:20, 20:24, 36:8, 36:9 lines [2] - 15:1, 21:4 List [5] - 4:1, 4:2, 18:9, 28:16, 28:17 list [1] - 37:23 listed [2] - 27:2, 27:3 listening [1] - 36:6 live [5] - 2:4, 25:21, 28:9, 33:13, 36:9 locate [2] - 7:21, 12:13 located [2] - 7:23, 21:8 location [1] - 40:9 locations [1] - 22:3 log [4] - 6:6, 6:13, 6:14 look [2] - 37:17, 38:25 looked [1] - 30:14 looking [5] - 14:18, 19:22, 23:21, 27:5, 39:4 looks [2] - 28:25, 29:12 lost [1] - 6:12</p>	<p>1:17, 2:7 MARCINKOWSKI [1] - 8:10 Margate [1] - 29:5 MARGIE [2] - 33:12, 34:12 Margie [1] - 33:12 Mark [3] - 29:1, 29:4, 30:24 mark [1] - 30:18 MARK [2] - 29:4, 30:22 match [1] - 30:19 materials [1] - 27:7 matter [2] - 34:7, 43:13 MATTER [1] - 1:4 matters [1] - 28:14 McEnhill [11] - 1:20, 2:14, 18:15, 18:18, 27:1, 27:19, 30:18, 36:23, 37:2, 37:6, 38:20 McKee [4] - 1:25, 4:22, 43:6, 43:21 mean [1] - 36:11 means [4] - 14:20, 23:5, 36:9, 43:16 mechanism [1] - 22:7 Meeting [1] - 1:13 meeting [27] - 1:18, 2:2, 2:11, 2:19, 2:23, 3:13, 4:23, 4:25, 5:7, 6:6, 6:9, 6:12, 6:17, 6:20, 15:2, 15:4, 17:10, 26:7, 28:6, 34:8, 38:13, 39:17, 41:12, 42:1, 42:4, 43:7, 43:9 meetings [1] - 7:8 member [4] - 6:17, 6:18, 6:19, 17:25 members [14] - 2:4, 2:8, 6:11, 7:5, 7:14, 7:19, 8:3, 12:18, 15:6, 17:13, 23:17, 25:20, 26:20, 40:16 mentioned [2] - 2:23, 26:2 merits [1] - 30:13 message [2] - 4:9, 31:5 Michelle [4] - 1:25, 4:22, 43:6, 43:21 Michigan [6] - 18:19, 22:21, 27:2, 43:7, 43:17, 43:22 MICHIGAN [2] - 1:1, 43:3 Michigan's [1] - 3:1</p>	<p>microphones [1] - 3:16 might [4] - 15:20, 15:21, 17:1 minimum [2] - 19:5, 19:10 minute [3] - 5:9, 12:9, 31:15 minutes [5] - 10:22, 10:24, 11:1, 11:22, 28:8 Moore [2] - 1:23, 2:16 MOORE [19] - 2:1, 4:21, 7:4, 8:2, 8:5, 8:7, 8:9, 8:11, 8:22, 8:25, 9:22, 10:1, 10:3, 33:3, 33:6, 35:9, 35:15, 35:23, 39:18 morning [3] - 2:22, 18:17, 31:21 most [2] - 37:14, 38:25 mostly [2] - 21:20, 37:7 motion [16] - 3:8, 8:15, 9:3, 10:4, 10:6, 10:8, 10:18, 10:21, 10:24, 11:3, 11:21, 40:4, 40:9, 41:2, 41:12, 41:14 move [7] - 6:16, 16:2, 18:11, 18:13, 28:5, 37:16, 39:25 moves [1] - 38:12 moving [2] - 5:12, 11:24 MR [118] - 2:21, 5:2, 7:17, 8:4, 8:6, 8:10, 8:14, 8:17, 8:19, 8:20, 8:21, 8:24, 9:1, 9:3, 9:7, 9:10, 9:13, 9:16, 9:17, 9:18, 9:20, 9:21, 9:24, 9:25, 10:2, 10:4, 10:8, 10:11, 10:13, 10:14, 10:15, 10:17, 10:18, 10:23, 11:2, 11:8, 11:11, 11:12, 11:14, 11:16, 11:17, 11:18, 11:20, 11:21, 17:16, 17:17, 17:25, 18:5, 18:13, 18:15, 26:22, 26:24, 27:1, 27:12, 27:14, 27:19, 28:1, 28:4, 28:12, 29:4, 30:18, 30:22, 30:24, 31:2, 31:4, 31:6, 31:7, 31:12, 31:14, 31:17, 31:18,</p>	<p>32:22, 32:23, 32:25, 33:5, 33:10, 34:11, 35:7, 35:13, 35:22, 35:24, 36:1, 36:22, 36:23, 36:25, 37:2, 37:6, 37:19, 37:22, 37:25, 38:1, 38:9, 38:20, 39:12, 39:15, 39:22, 40:6, 40:13, 40:14, 40:15, 40:18, 40:20, 40:21, 40:22, 40:23, 40:24, 41:1, 41:2, 41:11, 41:15, 41:16, 41:17, 41:19, 41:21, 41:22, 41:23, 41:25, 42:1 MS [48] - 2:1, 4:21, 7:4, 8:2, 8:5, 8:7, 8:8, 8:9, 8:11, 8:16, 8:22, 8:25, 9:5, 9:9, 9:11, 9:19, 9:22, 10:1, 10:3, 10:6, 10:16, 11:4, 11:9, 11:19, 12:4, 17:18, 17:19, 18:3, 18:10, 27:16, 28:3, 30:2, 33:3, 33:6, 33:12, 34:10, 34:12, 35:9, 35:15, 35:23, 36:4, 39:18, 40:5, 40:8, 40:25, 41:6, 41:13, 41:24 multiple [1] - 36:16 municipal [2] - 14:8, 14:13 MUNSKI [60] - 7:17, 8:4, 8:20, 9:1, 9:3, 9:10, 9:15, 9:21, 9:25, 10:2, 10:4, 10:8, 10:11, 10:18, 11:2, 11:8, 11:11, 11:14, 11:21, 17:17, 17:25, 18:13, 26:22, 27:14, 28:1, 28:4, 30:24, 31:2, 31:6, 31:12, 31:17, 32:22, 32:25, 33:5, 33:10, 34:11, 35:7, 35:13, 35:22, 35:24, 36:22, 36:25, 37:5, 37:19, 37:25, 38:9, 39:8, 39:15, 39:22, 40:6, 40:13, 40:15, 40:18, 40:21, 41:2, 41:11, 41:15, 41:17, 41:19, 42:1 Munski [8] - 1:16, 2:7, 8:15, 9:20, 10:17, 11:20, 41:1, 41:25 Muskegon [8] - 7:20,</p>
<p style="text-align: center;">L</p> <p>lack [1] - 25:11 Lake [2] - 20:14, 22:21 Laketon [3] - 7:23, 8:1, 21:9 land [7] - 7:24, 7:25, 13:21, 21:8, 22:16, 24:2, 25:9 land's [1] - 19:13 lands [3] - 19:2, 20:23, 28:9 large [3] - 14:14, 21:12, 25:8 larger [2] - 38:6, 38:8 last [1] - 7:13 law [1] - 7:19 lay [1] - 12:8 laying [1] - 12:11 least [1] - 16:4 legal [1] - 7:12</p>	<p style="text-align: center;">M</p> <p>M-DOT [1] - 14:12 mail [1] - 32:2 mailed [1] - 35:10 maintain [2] - 24:2, 34:25 maintained [4] - 22:8, 33:19, 34:3, 34:5 maintaining [2] - 25:5, 34:9 maintenance [2] - 25:12, 25:14 man [2] - 34:13, 34:18 map [3] - 18:4, 27:6, 36:8 mapping [1] - 20:22 Marcinkowski [2] -</p>	<p>1:17, 2:7 MARCINKOWSKI [1] - 8:10 Margate [1] - 29:5 MARGIE [2] - 33:12, 34:12 Margie [1] - 33:12 Mark [3] - 29:1, 29:4, 30:24 mark [1] - 30:18 MARK [2] - 29:4, 30:22 match [1] - 30:19 materials [1] - 27:7 matter [2] - 34:7, 43:13 MATTER [1] - 1:4 matters [1] - 28:14 McEnhill [11] - 1:20, 2:14, 18:15, 18:18, 27:1, 27:19, 30:18, 36:23, 37:2, 37:6, 38:20 McKee [4] - 1:25, 4:22, 43:6, 43:21 mean [1] - 36:11 means [4] - 14:20, 23:5, 36:9, 43:16 mechanism [1] - 22:7 Meeting [1] - 1:13 meeting [27] - 1:18, 2:2, 2:11, 2:19, 2:23, 3:13, 4:23, 4:25, 5:7, 6:6, 6:9, 6:12, 6:17, 6:20, 15:2, 15:4, 17:10, 26:7, 28:6, 34:8, 38:13, 39:17, 41:12, 42:1, 42:4, 43:7, 43:9 meetings [1] - 7:8 member [4] - 6:17, 6:18, 6:19, 17:25 members [14] - 2:4, 2:8, 6:11, 7:5, 7:14, 7:19, 8:3, 12:18, 15:6, 17:13, 23:17, 25:20, 26:20, 40:16 mentioned [2] - 2:23, 26:2 merits [1] - 30:13 message [2] - 4:9, 31:5 Michelle [4] - 1:25, 4:22, 43:6, 43:21 Michigan [6] - 18:19, 22:21, 27:2, 43:7, 43:17, 43:22 MICHIGAN [2] - 1:1, 43:3 Michigan's [1] - 3:1</p>	<p>microphones [1] - 3:16 might [4] - 15:20, 15:21, 17:1 minimum [2] - 19:5, 19:10 minute [3] - 5:9, 12:9, 31:15 minutes [5] - 10:22, 10:24, 11:1, 11:22, 28:8 Moore [2] - 1:23, 2:16 MOORE [19] - 2:1, 4:21, 7:4, 8:2, 8:5, 8:7, 8:9, 8:11, 8:22, 8:25, 9:22, 10:1, 10:3, 33:3, 33:6, 35:9, 35:15, 35:23, 39:18 morning [3] - 2:22, 18:17, 31:21 most [2] - 37:14, 38:25 mostly [2] - 21:20, 37:7 motion [16] - 3:8, 8:15, 9:3, 10:4, 10:6, 10:8, 10:18, 10:21, 10:24, 11:3, 11:21, 40:4, 40:9, 41:2, 41:12, 41:14 move [7] - 6:16, 16:2, 18:11, 18:13, 28:5, 37:16, 39:25 moves [1] - 38:12 moving [2] - 5:12, 11:24 MR [118] - 2:21, 5:2, 7:17, 8:4, 8:6, 8:10, 8:14, 8:17, 8:19, 8:20, 8:21, 8:24, 9:1, 9:3, 9:7, 9:10, 9:13, 9:16, 9:17, 9:18, 9:20, 9:21, 9:24, 9:25, 10:2, 10:4, 10:8, 10:11, 10:13, 10:14, 10:15, 10:17, 10:18, 10:23, 11:2, 11:8, 11:11, 11:12, 11:14, 11:16, 11:17, 11:18, 11:20, 11:21, 17:16, 17:17, 17:25, 18:5, 18:13, 18:15, 26:22, 26:24, 27:1, 27:12, 27:14, 27:19, 28:1, 28:4, 28:12, 29:4, 30:18, 30:22, 30:24, 31:2, 31:4, 31:6, 31:7, 31:12, 31:14, 31:17, 31:18,</p>	<p>32:22, 32:23, 32:25, 33:5, 33:10, 34:11, 35:7, 35:13, 35:22, 35:24, 36:1, 36:22, 36:23, 36:25, 37:2, 37:6, 37:19, 37:22, 37:25, 38:1, 38:9, 38:20, 39:12, 39:15, 39:22, 40:6, 40:13, 40:14, 40:15, 40:18, 40:20, 40:21, 40:22, 40:23, 40:24, 41:1, 41:2, 41:11, 41:15, 41:16, 41:17, 41:19, 41:21, 41:22, 41:23, 41:25, 42:1 MS [48] - 2:1, 4:21, 7:4, 8:2, 8:5, 8:7, 8:8, 8:9, 8:11, 8:16, 8:22, 8:25, 9:5, 9:9, 9:11, 9:19, 9:22, 10:1, 10:3, 10:6, 10:16, 11:4, 11:9, 11:19, 12:4, 17:18, 17:19, 18:3, 18:10, 27:16, 28:3, 30:2, 33:3, 33:6, 33:12, 34:10, 34:12, 35:9, 35:15, 35:23, 36:4, 39:18, 40:5, 40:8, 40:25, 41:6, 41:13, 41:24 multiple [1] - 36:16 municipal [2] - 14:8, 14:13 MUNSKI [60] - 7:17, 8:4, 8:20, 9:1, 9:3, 9:</p>

7:25, 18:22, 20:14, 41:9, 43:7, 43:17, 43:22 MUSKEGON [2] - 1:2, 43:4 mute [6] - 3:17, 5:18, 5:20, 5:24, 6:1, 27:15 muted [3] - 3:13, 5:19, 6:22	16:15, 26:3 notice [2] - 6:10, 15:4 nowhere [1] - 36:19 number [1] - 36:1	overly [1] - 24:11 overview [2] - 21:10, 22:20 own [2] - 2:5, 7:25 owners [9] - 7:24, 12:12, 12:19, 14:15, 17:21, 24:2, 26:8, 27:20, 29:19 owners' [1] - 29:24 owns [1] - 29:6	32:15, 33:13, 33:22, 34:3, 34:16, 35:17, 37:9, 37:16, 38:3, 40:10 petition [7] - 12:13, 15:25, 16:5, 25:25, 37:10, 38:11, 39:21 petitioners [1] - 20:16 phase [1] - 28:5 phases [1] - 19:4 phone [3] - 5:23, 32:4, 36:6 photo [1] - 24:10 photographic [2] - 23:19, 24:24 photos [2] - 21:11, 24:4 pick [1] - 16:12 picked [1] - 3:17 pictures [5] - 32:2, 32:4, 32:19, 32:24, 33:2 piece [2] - 7:9, 14:20 pink [6] - 13:19, 13:22, 14:18, 14:22, 36:7, 36:9 pinpoint [1] - 21:5 pipe [1] - 13:6 pipes [2] - 13:3, 22:23 Place [1] - 29:5 place [9] - 16:25, 17:14, 17:15, 19:20, 21:15, 22:7, 22:13, 32:7, 38:13 plainfield [1] - 22:24 planned [1] - 31:11 plugged [1] - 35:20 Point [1] - 12:24 point [4] - 6:16, 6:25, 11:5, 26:4 porch [1] - 32:3 portion [3] - 7:3, 16:14, 25:18 possibly [1] - 38:6 post [1] - 5:1 potential [2] - 14:16, 19:25 potentially [1] - 39:4 Power [1] - 12:24 precisely [1] - 38:24 prefer [1] - 4:12 prepares [1] - 38:17 presentation [3] - 2:15, 18:12, 18:14 pretty [2] - 7:13, 21:6 price [1] - 26:18 primarily [2] - 21:16, 22:23 private [4] - 21:25, 22:6, 24:1, 24:2	problem [3] - 32:17, 33:15, 34:6 problems [1] - 6:7 procedures [3] - 2:20, 7:2, 12:1 proceeding [1] - 15:24 proceedings [2] - 13:8, 16:4 process [6] - 17:22, 17:24, 18:1, 19:9, 30:15, 41:5 professional [1] - 18:18 project [22] - 2:13, 14:9, 15:20, 15:22, 15:23, 16:3, 16:10, 16:22, 16:24, 17:4, 17:8, 17:11, 19:4, 19:7, 26:2, 26:3, 26:6, 26:12, 26:16, 29:19, 37:18 projects [1] - 37:14 properly [1] - 22:7 properties [2] - 14:15, 36:9 property [16] - 2:5, 12:12, 12:19, 14:6, 14:15, 14:19, 14:21, 17:20, 26:8, 27:20, 29:6, 29:19, 29:24, 37:4, 37:7, 37:13 proposed [7] - 7:22, 13:4, 13:12, 13:18, 19:15, 29:7, 29:9 provide [5] - 15:5, 15:12, 35:14, 38:15, 38:17 public [25] - 3:12, 3:21, 3:23, 4:6, 5:8, 5:22, 6:3, 7:3, 9:23, 10:21, 10:24, 11:22, 12:21, 15:8, 15:13, 18:1, 25:18, 25:20, 25:25, 28:6, 28:7, 29:14, 39:23, 40:3, 40:11 Public [2] - 43:6, 43:22 pull [1] - 32:21 pulling [1] - 28:15 pump [4] - 36:15, 36:18 pumps [1] - 36:16 purpose [1] - 15:2 purposes [2] - 14:2, 30:10 put [3] - 12:23, 20:4, 33:17 putting [1] - 27:21
N	O	P		
name [14] - 4:15, 4:18, 5:6, 18:18, 28:8, 28:23, 29:2, 29:4, 33:11, 33:12, 35:14, 36:2, 36:4 nature [2] - 19:21, 21:5 near [1] - 4:11 nearly [1] - 32:3 necessarily [3] - 14:19, 27:3, 27:8 necessary [27] - 12:20, 13:13, 13:16, 15:7, 15:11, 15:15, 15:18, 15:21, 15:23, 16:8, 16:13, 16:16, 16:21, 17:23, 19:7, 19:23, 26:3, 26:4, 30:7, 30:10, 30:15, 38:19, 40:2, 40:10 necessity [4] - 7:21, 12:17, 25:25, 29:14 need [3] - 5:15, 9:11, 9:25 needs [1] - 29:21 negotiating [1] - 30:11 never [3] - 33:18, 34:13 new [8] - 12:6, 15:25, 16:5, 19:2, 19:18, 26:15, 32:7, 32:10 next [5] - 11:24, 24:4, 25:17, 28:5, 41:4 nobody [1] - 35:3 noise [1] - 3:15 none [4] - 9:3, 10:11, 40:18, 41:19 North [2] - 31:20, 38:3 north [3] - 24:10, 24:15, 31:24 northerly [1] - 20:12 northern [3] - 24:12, 29:7 Notary [2] - 43:6, 43:22 notes [1] - 43:11 nothing [3] - 3:17,	oath [4] - 4:22, 6:18, 7:6, 7:7 oaths [1] - 7:9 obstructions [2] - 22:9, 22:10 obtain [1] - 26:13 obtained [1] - 17:3 obviously [21] - 19:5, 19:7, 19:11, 20:10, 20:21, 21:12, 21:18, 22:2, 22:5, 22:18, 22:21, 23:11, 23:22, 23:23, 24:5, 24:16, 24:23, 25:2, 25:12, 25:19, 25:20 OF [5] - 1:1, 1:2, 1:4, 43:3, 43:4 office [3] - 2:12, 12:10, 18:23 OFFICE [1] - 1:2 once [4] - 5:13, 7:2, 17:8, 18:25 One [1] - 31:15 one [19] - 5:10, 16:1, 16:5, 21:21, 22:15, 24:9, 27:16, 30:3, 30:4, 30:25, 31:5, 31:14, 33:17, 34:13, 34:18, 36:9, 37:13, 37:23 online [1] - 2:9 ooOoo [1] - 42:6 open [1] - 19:20 opening [1] - 34:20 opportunity [1] - 3:20 opposed [1] - 9:1 opposite [1] - 33:20 option [4] - 3:25, 4:2, 4:9, 18:8 options [1] - 38:17 orchestrating [1] - 2:11 order [3] - 4:7, 5:21, 12:11 orders [1] - 3:1 original [1] - 43:11 otherwise [1] - 18:7 outcome [1] - 43:13 outlet [1] - 20:15 outline [1] - 11:25 overcome [1] - 24:16 overflow [1] - 32:14 overflowing [1] - 32:1	packet [1] - 7:5 pages [1] - 7:12 paper [1] - 7:9 parcel [1] - 14:23 part [2] - 19:3, 24:12 participant's [1] - 4:11 Participants [5] - 4:1, 4:2, 18:9, 28:16, 28:17 participate [3] - 6:19, 7:2, 33:8 participation [2] - 3:5, 42:3 particular [2] - 7:9, 39:20 parties [1] - 43:12 passed [3] - 10:19, 11:21, 32:20 past [3] - 20:3, 20:12, 31:23 Paul [1] - 35:15 pause [1] - 6:12 pay [2] - 14:7, 14:9 people [7] - 4:7, 4:16, 5:10, 11:6, 22:24, 35:4, 39:9 people's [1] - 3:16 per [3] - 5:11, 11:22, 27:8 percent [1] - 27:10 perform [1] - 7:18 period [5] - 5:10, 15:13, 16:1, 16:4, 25:18 periodic [1] - 25:16 periods [2] - 23:11, 25:3 permits [3] - 15:21, 17:3, 26:14 person [3] - 5:11, 11:23, 35:24 personal [1] - 3:18 PETERSON [1] - 1:5 Peterson [20] - 1:8, 7:22, 20:17, 24:7, 24:14, 24:19, 24:20, 25:4, 31:20, 31:24,		

<p style="text-align: center;">Q</p> <p>qualified [1] - 27:9 questions [15] - 17:14, 17:21, 17:24, 18:1, 18:11, 26:20, 26:23, 27:15, 28:2, 28:5, 30:1, 30:23, 31:21, 33:1, 37:20 quick [1] - 37:3 quickly [1] - 39:24 quite [2] - 34:14, 36:8</p>	<p>remainder [1] - 38:7 remind [1] - 28:13 reminders [1] - 28:6 repeat [1] - 5:4 report [1] - 20:6 Reporter [2] - 1:25, 43:6 reporter [4] - 4:19, 5:3, 6:24, 43:16 representative [1] - 27:23 reproduction [1] - 43:15 required [2] - 7:19, 19:1 requirement [2] - 26:10, 26:16 research [1] - 27:20 reside [1] - 7:25 residences [1] - 21:25 residents [2] - 7:24, 20:1 resource [1] - 18:20 respect [1] - 3:11 respond [1] - 36:24 response [6] - 8:18, 9:2, 10:10, 31:1, 40:17, 41:18 responsibility [2] - 12:16, 29:25 restrictions [1] - 22:1 results [1] - 22:2 review [2] - 26:8, 39:23 reviewing [1] - 14:25 rises [1] - 23:7 rising [1] - 23:12 river [2] - 13:2, 13:6 River [1] - 34:4 road [31] - 16:15, 19:21, 20:24, 21:16, 21:18, 21:24, 24:9, 24:10, 24:16, 25:5, 27:17, 27:23, 29:15, 29:16, 29:20, 29:21, 29:23, 30:6, 30:8, 30:10, 30:12, 32:9, 32:17, 35:11, 35:12, 35:16, 35:19, 39:1, 39:6 Road [24] - 7:22, 20:11, 20:12, 20:14, 20:17, 23:22, 24:7, 24:8, 24:14, 24:15, 24:19, 24:20, 25:4, 31:20, 32:15, 32:16, 34:4, 35:17, 37:9, 37:16, 38:3, 40:10 Road-Peterson [1] - 20:17</p>	<p>roads [3] - 14:11, 30:9, 34:24 roadway [3] - 21:17, 21:21, 25:7 roadways [1] - 21:1 role [1] - 12:1 roll [10] - 3:8, 3:9, 9:7, 9:11, 9:14, 10:12, 11:15, 40:20, 40:21, 41:20 route [3] - 13:12, 13:15, 19:15 routine [1] - 25:14 rules [1] - 9:23 run [1] - 31:23 runoff [7] - 21:24, 21:25, 23:13, 24:12, 24:15, 25:7, 39:3 runs [1] - 32:9 RYAN [8] - 18:15, 27:1, 27:19, 30:18, 36:23, 37:2, 37:6, 38:20 Ryan [10] - 1:20, 2:14, 18:14, 18:18, 30:3, 30:17, 36:25, 37:20, 38:16, 39:8</p>	<p>see [23] - 3:21, 4:10, 5:18, 14:19, 20:25, 21:3, 22:16, 23:1, 23:23, 24:8, 24:15, 25:15, 31:2, 31:4, 34:4, 34:5, 35:24, 37:20, 37:22, 37:23, 39:9, 39:13, 39:24 seeing [3] - 24:12, 28:4, 37:17 seem [1] - 29:23 select [5] - 4:3, 5:20, 8:13, 18:8, 28:14 selecting [1] - 3:24 send [2] - 7:10, 28:22 sense [1] - 37:14 sent [9] - 7:5, 7:10, 31:9, 31:13, 32:20, 39:10, 39:13, 39:16, 39:18 separate [1] - 7:12 September [2] - 1:10, 43:18 serve [1] - 8:15 serves [2] - 14:4, 14:5 service [1] - 37:13 servicing [1] - 10:19 set [2] - 13:8, 26:7 several [1] - 22:3 sewer [1] - 13:3 shall [1] - 11:22 shallow [1] - 23:1 share [2] - 18:16, 37:3 sharing [1] - 30:12 SHARON [16] - 8:8, 8:16, 9:19, 10:6, 10:16, 11:4, 11:9, 11:19, 17:18, 27:16, 28:3, 40:5, 40:8, 40:25, 41:13, 41:24 Sharon [11] - 1:17, 2:6, 8:7, 9:18, 10:15, 11:18, 27:14, 28:2, 40:7, 40:24, 41:23 shoot [1] - 34:19 Shorthand [2] - 1:25, 43:6 shorthand [1] - 43:11 shortly [1] - 19:16 shot [1] - 11:13 shoulder [1] - 35:21 shovel [1] - 34:15 shoveling [1] - 34:18 show [1] - 37:3 showed [1] - 27:6 shown [1] - 13:3 side [8] - 30:19, 33:14, 33:20, 33:21, 34:17, 34:21, 35:2 sight [1] - 21:2</p>	<p>sign [1] - 7:8 signature [1] - 7:12 signatures [1] - 10:25 signed [1] - 12:13 significant [3] - 19:8, 22:2, 24:6 similarly [1] - 16:20 simply [1] - 3:13 sitting [2] - 34:14, 35:20 situation [5] - 13:5, 13:11, 15:16, 30:13, 36:19 situations [1] - 14:11 six [1] - 34:20 six-inch [1] - 34:20 size [1] - 21:18 sized [3] - 21:19, 21:24, 25:7 sizing [1] - 22:1 slide [3] - 12:23, 20:10, 22:15 small [1] - 35:20 soil [2] - 22:20, 23:3 soils [9] - 22:22, 23:2, 23:8, 23:10, 23:12, 23:14, 27:3, 27:5, 27:6 solemnly [1] - 7:15 solution [1] - 38:10 solves [1] - 6:7 sometimes [1] - 23:16 sorry [2] - 10:1, 35:10 south [6] - 20:13, 22:4, 22:16, 32:9, 33:14, 34:16 southern [1] - 20:11 space [1] - 36:14 speaking [1] - 2:6 special [1] - 14:6 specific [1] - 13:8 specifically [1] - 20:3 specifics [1] - 17:11 spend [1] - 16:21 spent [1] - 19:16 split [1] - 30:6 SPLIT [18] - 8:6, 8:14, 8:17, 8:19, 8:21, 8:24, 9:17, 10:14, 10:23, 11:12, 11:17, 17:16, 26:24, 27:12, 40:14, 40:23, 41:16, 41:22 Split [9] - 1:16, 2:6, 9:16, 10:7, 10:13, 10:19, 11:16, 40:22, 41:21 spring [1] - 23:11 ss [1] - 43:3 Stacy [9] - 1:22, 2:11,</p>
<p style="text-align: center;">R</p> <p>rain [1] - 36:17 rainfall [1] - 24:5 raise [10] - 3:24, 4:2, 4:5, 6:1, 7:14, 18:1, 18:6, 18:8, 28:13, 28:15 raise-your-hand [4] - 3:24, 4:2, 18:8, 28:15 raised [2] - 4:7, 39:14 range [1] - 22:13 read [9] - 3:9, 4:13, 28:10, 31:11, 31:16, 35:12, 35:13, 37:24, 39:20 real [1] - 37:3 really [1] - 18:21 rear [2] - 24:22, 25:13 rear-lot-cross-country-type [1] - 25:13 reason [1] - 6:15 receipt [1] - 18:23 receive [1] - 30:8 received [2] - 15:4, 28:11 recognized [1] - 18:2 recommend [3] - 3:7, 5:9, 6:5 recommendations [1] - 3:2 record [6] - 4:16, 4:18, 5:7, 29:2, 31:11, 36:3 RECORDED [1] - 1:25 recorded [1] - 43:9 red [1] - 22:12 regards [2] - 33:1, 36:7 region [1] - 22:5 regulated [1] - 27:4 related [2] - 3:2, 43:12 relief [1] - 37:15 relying [1] - 24:1 remain [2] - 3:12, 6:21</p>	<p>required [2] - 7:19, 19:1 requirement [2] - 26:10, 26:16 research [1] - 27:20 reside [1] - 7:25 residences [1] - 21:25 residents [2] - 7:24, 20:1 resource [1] - 18:20 respect [1] - 3:11 respond [1] - 36:24 response [6] - 8:18, 9:2, 10:10, 31:1, 40:17, 41:18 responsibility [2] - 12:16, 29:25 restrictions [1] - 22:1 results [1] - 22:2 review [2] - 26:8, 39:23 reviewing [1] - 14:25 rises [1] - 23:7 rising [1] - 23:12 river [2] - 13:2, 13:6 River [1] - 34:4 road [31] - 16:15, 19:21, 20:24, 21:16, 21:18, 21:24, 24:9, 24:10, 24:16, 25:5, 27:17, 27:23, 29:15, 29:16, 29:20, 29:21, 29:23, 30:6, 30:8, 30:10, 30:12, 32:9, 32:17, 35:11, 35:12, 35:16, 35:19, 39:1, 39:6 Road [24] - 7:22, 20:11, 20:12, 20:14, 20:17, 23:22, 24:7, 24:8, 24:14, 24:15, 24:19, 24:20, 25:4, 31:20, 32:15, 32:16, 34:4, 35:17, 37:9, 37:16, 38:3, 40:10 Road-Peterson [1] - 20:17</p>	<p>roads [3] - 14:11, 30:9, 34:24 roadway [3] - 21:17, 21:21, 25:7 roadways [1] - 21:1 role [1] - 12:1 roll [10] - 3:8, 3:9, 9:7, 9:11, 9:14, 10:12, 11:15, 40:20, 40:21, 41:20 route [3] - 13:12, 13:15, 19:15 routine [1] - 25:14 rules [1] - 9:23 run [1] - 31:23 runoff [7] - 21:24, 21:25, 23:13, 24:12, 24:15, 25:7, 39:3 runs [1] - 32:9 RYAN [8] - 18:15, 27:1, 27:19, 30:18, 36:23, 37:2, 37:6, 38:20 Ryan [10] - 1:20, 2:14, 18:14, 18:18, 30:3, 30:17, 36:25, 37:20, 38:16, 39:8</p>	<p>see [23] - 3:21, 4:10, 5:18, 14:19, 20:25, 21:3, 22:16, 23:1, 23:23, 24:8, 24:15, 25:15, 31:2, 31:4, 34:4, 34:5, 35:24, 37:20, 37:22, 37:23, 39:9, 39:13, 39:24 seeing [3] - 24:12, 28:4, 37:17 seem [1] - 29:23 select [5] - 4:3, 5:20, 8:13, 18:8, 28:14 selecting [1] - 3:24 send [2] - 7:10, 28:22 sense [1] - 37:14 sent [9] - 7:5, 7:10, 31:9, 31:13, 32:20, 39:10, 39:13, 39:16, 39:18 separate [1] - 7:12 September [2] - 1:10, 43:18 serve [1] - 8:15 serves [2] - 14:4, 14:5 service [1] - 37:13 servicing [1] - 10:19 set [2] - 13:8, 26:7 several [1] - 22:3 sewer [1] - 13:3 shall [1] - 11:22 shallow [1] - 23:1 share [2] - 18:16, 37:3 sharing [1] - 30:12 SHARON [16] - 8:8, 8:16, 9:19, 10:6, 10:16, 11:4, 11:9, 11:19, 17:18, 27:16, 28:3, 40:5, 40:8, 40:25, 41:13, 41:24 Sharon [11] - 1:17, 2:6, 8:7, 9:18, 10:15, 11:18, 27:14, 28:2, 40:7, 40:24, 41:23 shoot [1] - 34:19 Shorthand [2] - 1:25, 43:6 shorthand [1] - 43:11 shortly [1] - 19:16 shot [1] - 11:13 shoulder [1] - 35:21 shovel [1] - 34:15 shoveling [1] - 34:18 show [1] - 37:3 showed [1] - 27:6 shown [1] - 13:3 side [8] - 30:19, 33:14, 33:20, 33:21, 34:17, 34:21, 35:2 sight [1] - 21:2</p>	<p>sign [1] - 7:8 signature [1] - 7:12 signatures [1] - 10:25 signed [1] - 12:13 significant [3] - 19:8, 22:2, 24:6 similarly [1] - 16:20 simply [1] - 3:13 sitting [2] - 34:14, 35:20 situation [5] - 13:5, 13:11, 15:16, 30:13, 36:19 situations [1] - 14:11 six [1] - 34:20 six-inch [1] - 34:20 size [1] - 21:18 sized [3] - 21:19, 21:24, 25:7 sizing [1] - 22:1 slide [3] - 12:23, 20:10, 22:15 small [1] - 35:20 soil [2] - 22:20, 23:3 soils [9] - 22:22, 23:2, 23:8, 23:10, 23:12, 23:14, 27:3, 27:5, 27:6 solemnly [1] - 7:15 solution [1] - 38:10 solves [1] - 6:7 sometimes [1] - 23:16 sorry [2] - 10:1, 35:10 south [6] - 20:13, 22:4, 22:16, 32:9, 33:14, 34:16 southern [1] - 20:11 space [1] - 36:14 speaking [1] - 2:6 special [1] - 14:6 specific [1] - 13:8 specifically [1] - 20:3 specifics [1] - 17:11 spend [1] - 16:21 spent [1] - 19:16 split [1] - 30:6 SPLIT [18] - 8:6, 8:14, 8:17, 8:19, 8:21, 8:24, 9:17, 10:14, 10:23, 11:12, 11:17, 17:16, 26:24, 27:12, 40:14, 40:23, 41:16, 41:22 Split [9] - 1:16, 2:6, 9:16, 10:7, 10:13, 10:19, 11:16, 40:22, 41:21 spring [1] - 23:11 ss [1] - 43:3 Stacy [9] - 1:22, 2:11,</p>
		<p style="text-align: center;">S</p> <p>sands [1] - 22:24 sandy [1] - 22:22 SANGSTER [2] - 33:12, 34:12 Sangster [1] - 33:13 satisfy [1] - 38:14 saw [3] - 20:1, 34:13, 34:18 Schwemer [6] - 29:11, 30:16, 30:19, 37:7, 37:11, 37:18 scientist [1] - 27:9 scope [7] - 15:20, 16:10, 16:18, 16:24, 19:3, 26:5, 26:7 screen [4] - 3:25, 13:4, 18:16, 37:3 se [1] - 27:8 seasonal [2] - 23:10, 25:2 second [13] - 10:8, 11:2, 11:4, 11:10, 11:13, 18:15, 29:13, 30:3, 32:5, 40:13, 40:14, 41:15, 41:16 seconded [1] - 3:9 secretary [7] - 1:16, 8:13, 9:24, 10:1, 10:5, 10:7, 10:20 section [1] - 24:14</p>	<p>see [23] - 3:21, 4:10, 5:18, 14:19, 20:25, 21:3, 22:16, 23:1, 23:23, 24:8, 24:15, 25:15, 31:2, 31:4, 34:4, 34:5, 35:24, 37:20, 37:22, 37:23, 39:9, 39:13, 39:24 seeing [3] - 24:12, 28:4, 37:17 seem [1] - 29:23 select [5] - 4:3, 5:20, 8:13, 18:8, 28:14 selecting [1] - 3:24 send [2] - 7:10, 28:22 sense [1] - 37:14 sent [9] - 7:5, 7:10, 31:9, 31:13, 32:20, 39:10, 39:13, 39:16, 39:18 separate [1] - 7:12 September [2] - 1:10, 43:18 serve [1] - 8:15 serves [2] - 14:4, 14:5 service [1] - 37:13 servicing [1] - 10:19 set [2] - 13:8, 26:7 several [1] - 22:3 sewer [1] - 13:3 shall [1] - 11:22 shallow [1] - 23:1 share [2] - 18:16, 37:3 sharing [1] - 30:12 SHARON [16] - 8:8, 8:16, 9:19, 10:6, 10:16, 11:4, 11:9, 11:19, 17:18, 27:16, 28:3, 40:5, 40:8, 40:25, 41:13, 41:24 Sharon [11] - 1:17, 2:6, 8:7, 9:18, 10:15, 11:18, 27:14, 28:2, 40:7, 40:24, 41:23 shoot [1] - 34:19 Shorthand [2] - 1:25, 43:6 shorthand [1] - 43:11 shortly [1] - 19:16 shot [1] - 11:13 shoulder [1] - 35:21 shovel [1] - 34:15 shoveling [1] - 34:18 show [1] - 37:3 showed [1] - 27:6 shown [1] - 13:3 side [8] - 30:19, 33:14, 33:20, 33:21, 34:17, 34:21, 35:2 sight [1] - 21:2</p>	<p>sign [1] - 7:8 signature [1] - 7:12 signatures [1] - 10:25 signed [1] - 12:13 significant [3] - 19:8, 22:2, 24:6 similarly [1] - 16:20 simply [1] - 3:13 sitting [2] - 34:14, 35:20 situation [5] - 13:5, 13:11, 15:16, 30:13, 36:19 situations [1] - 14:11 six [1] - 34:20 six-inch [1] - 34:20 size [1] - 21:18 sized [3] - 21:19, 21:24, 25:7 sizing [1] - 22:1 slide [3] - 12:23, 20:10, 22:15 small [1] - 35:20 soil [2] - 22:20, 23:3 soils [9] - 22:22, 23:2, 23:8, 23:10, 23:12, 23:14, 27:3, 27:5, 27:6 solemnly [1] - 7:15 solution [1] - 38:10 solves [1] - 6:7 sometimes [1] - 23:16 sorry [2] - 10:1, 35:10 south [6] - 20:13, 22:4, 22:16, 32:9, 33:14, 34:16 southern [1] - 20:11 space [1] - 36:14 speaking [1] - 2:6 special [1] - 14:6 specific [1] - 13:8 specifically [1] - 20:3 specifics [1] - 17:11 spend [1] - 16:21 spent [1] - 19:16 split [1] - 30:6 SPLIT [18] - 8:6, 8:14, 8:17, 8:19, 8:21, 8:24, 9:17, 10:14, 10:23, 11:12, 11:17, 17:16, 26:24, 27:12, 40:14, 40:23, 41:16, 41:22 Split [9] - 1:16, 2:6, 9:16, 10:7, 10:13, 10:19, 11:16, 40:22, 41:21 spring [1] - 23:11 ss [1] - 43:3 Stacy [9] - 1:22, 2:11,</p>

<p>2:19, 12:2, 18:24, 20:9, 26:2, 41:4, 41:11 STACY [10] - 9:5, 9:9, 9:11, 12:4, 17:19, 18:3, 18:10, 30:2, 34:10, 41:6 stamped [1] - 7:11 standing [1] - 24:23 star [7] - 4:4, 5:23, 5:24, 5:25, 6:1, 18:7, 28:18 start [2] - 21:10, 32:11 starts [1] - 23:24 State [3] - 18:19, 27:2, 43:7 state [9] - 3:2, 5:5, 14:11, 14:12, 18:21, 26:14, 28:8, 29:1, 36:2 STATE [2] - 1:1, 43:3 stenographically [1] - 43:9 steps [1] - 25:17 Steve [8] - 1:19, 12:23, 18:3, 31:17, 32:25, 37:25, 39:9, 41:20 STEVE [32] - 2:21, 5:2, 9:7, 9:13, 9:16, 9:18, 9:20, 9:24, 10:13, 10:15, 10:17, 11:16, 11:18, 11:20, 18:5, 28:12, 31:4, 31:7, 31:14, 31:18, 32:23, 36:1, 37:22, 38:1, 39:12, 40:20, 40:22, 40:24, 41:1, 41:21, 41:23, 41:25 Steven [5] - 2:9, 2:19, 7:4, 8:5, 39:19 still [3] - 2:17, 6:8, 6:15 stop [1] - 16:4 stops [1] - 33:16 storm [2] - 13:2, 13:25 stream [2] - 13:2, 13:6 street [2] - 33:20, 34:17 subject [1] - 43:13 submitted [1] - 18:25 subsequently [1] - 43:9 Sullivan [2] - 29:1, 29:5 SULLIVAN [2] - 29:4, 30:22 supervision [2] - 43:10, 43:16 support [1] - 8:16 surface [1] - 23:13</p>	<p>survey [1] - 38:22 swear [1] - 7:15 system [13] - 19:17, 19:20, 20:13, 20:15, 20:22, 21:14, 22:6, 23:20, 24:2, 25:12, 25:13, 31:23, 38:22 systems [1] - 21:19</p> <p style="text-align: center;">T</p> <p>table [3] - 23:1, 23:7, 27:7 taxed [1] - 24:11 telephone [8] - 4:4, 5:22, 5:25, 6:9, 6:15, 18:6, 28:18, 35:25 terms [1] - 15:14 testimony [10] - 3:21, 3:23, 15:5, 15:13, 17:22, 25:18, 26:1, 28:6, 28:7, 39:23 texted [1] - 35:16 THE [2] - 1:2, 1:4 thereof [1] - 43:14 they've [2] - 20:3, 33:18 third [2] - 12:23, 32:8 three [5] - 5:9, 10:22, 11:1, 12:18, 36:16 three-minute [1] - 5:9 throughout [1] - 6:20 thrown [1] - 22:23 today [10] - 2:6, 2:9, 4:20, 12:17, 13:18, 17:15, 20:7, 21:15, 26:19, 41:8 today's [2] - 15:2, 15:4 together [1] - 20:4 toggle [1] - 5:24 tools [1] - 20:20 topographic [1] - 20:22 total [1] - 29:18 totally [3] - 34:5, 34:23 towards [2] - 20:24, 22:17 township [1] - 14:13 Township [3] - 7:23, 8:1, 21:9 track [1] - 38:21 transcribed [1] - 43:10 transcript [3] - 4:23, 43:11, 43:15 transmitted [1] - 21:1 transparency [1] - 3:5 trees [1] - 35:2 tried [2] - 36:15, 36:17 trouble [1] - 28:20 true [1] - 43:10</p>	<p>try [7] - 6:8, 6:13, 6:14, 6:21, 19:3, 19:5, 19:9 tune [1] - 21:4 turn [2] - 6:25, 8:12 twice [1] - 35:1 two [5] - 10:24, 11:22, 28:7, 30:1, 37:14 type [2] - 25:9, 25:13 types [2] - 22:9, 23:12 typically [2] - 21:19, 23:2</p> <p style="text-align: center;">U</p> <p>unanimous [1] - 41:3 unbiased [1] - 20:5 under [13] - 4:1, 12:5, 12:7, 12:16, 13:1, 13:8, 13:9, 13:14, 18:9, 32:9, 32:16, 43:10, 43:16 unless [2] - 6:22, 43:16 unmute [5] - 5:19, 5:21, 5:23, 5:24, 6:1 unmuted [1] - 5:19 up [23] - 3:17, 6:20, 12:23, 15:22, 16:17, 16:22, 23:16, 23:24, 24:17, 25:18, 26:7, 28:16, 30:19, 30:25, 31:3, 31:5, 31:23, 32:2, 32:21, 35:21, 35:25, 39:9, 39:24 upgrades [1] - 30:10 utilized [1] - 38:5</p> <p style="text-align: center;">V</p> <p>verbatim [1] - 4:23 versus [1] - 29:20 via [2] - 1:13, 43:8 Viewer [1] - 27:2 village [1] - 14:13 Village [1] - 29:6 visits [1] - 21:2 visually [1] - 21:3 voice [1] - 8:22 volunteers [1] - 2:3 vote [12] - 3:6, 3:8, 6:20, 9:8, 9:12, 9:14, 10:12, 11:15, 15:9, 40:19, 41:3, 41:20</p> <p style="text-align: center;">W</p> <p>wait [1] - 6:12 waive [1] - 28:21 warranted [1] - 5:14 watching [1] - 36:5</p>	<p>water [28] - 13:21, 13:23, 13:25, 18:20, 20:19, 21:1, 21:24, 23:1, 23:6, 23:13, 24:23, 27:7, 32:2, 32:12, 32:14, 32:16, 33:15, 33:23, 34:6, 34:22, 35:12, 35:18, 35:20, 36:11, 36:14, 36:17, 36:18 watercourse [4] - 13:1, 22:3, 22:6, 24:1 watershed [10] - 14:1, 14:2, 14:5, 19:14, 19:24, 20:18, 20:19, 21:5, 21:18, 21:20 Weber [3] - 32:15, 33:22, 33:25 website [1] - 5:1 week [1] - 4:25 welcome [2] - 2:1, 2:22 welfare [4] - 12:21, 15:9, 40:3, 40:12 well-drained [1] - 23:2 west [4] - 24:19, 24:21, 33:21, 34:17 Westlake [1] - 29:5 Wetland [1] - 27:2 wetland [1] - 27:9 wetlands [3] - 26:25, 27:4, 27:8 whichever [1] - 37:14 whole [1] - 36:10 wide [1] - 24:6 widening [1] - 39:6 widespread [1] - 25:3 witnessed [1] - 21:12 woman [1] - 34:1 wooded [1] - 26:25 woods [1] - 34:17 words [1] - 29:17 works [1] - 18:19 worried [1] - 21:21 wrap [1] - 25:17</p> <p style="text-align: center;">Y</p> <p>yard [2] - 24:22, 36:10 year [4] - 16:1, 16:5, 20:3, 35:1 years [3] - 33:17, 34:14 yourself [3] - 5:21, 6:2, 33:11</p> <p style="text-align: center;">Z</p> <p>Zoom [8] - 1:13, 1:18, 2:2, 2:17, 2:20, 7:8,</p>	<p>33:8, 43:8</p>
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