

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 3

HON. JACK KOMAR, JUDGE

IN RE

ANTELOPE VALLEY GROUNDWATER CASES.

CASE NO. JCCP4408

CERTIFIED

REPORTER'S TRANSCRIPT OF PROCEEDINGS

TRIAL

FEBRUARY 18, 2014

APPEARANCES:

FOR PLAINTIFF UNITES
STATES OF AMERICA:

U.S. DEPARTMENT OF JUSTICE
ENVIRONMENT & NATURAL
RESOURCES DIVISION
BY: R. LEE LEININGER, ESQ.
JAMES J. DUBOIS, ESQ.

FOR PLAINTIFF RICHARD
WOOD:

LAW OFFICE OF
MICHAEL D. MC LACHLAN
BY: , ESQ.

PHELAN PINON HILLS
COMMUNITY SERVICE

ALESHIRE & WYNDER LLP
BY: WESLEY A. MILIBAND, ESQ.

FOR DEFENDANT BOLTHOUSE
PROPERTIES, LLC:

CLIFFORD & BROWN
BY: RICHARD ZIMMER, ESQ.

FOR DEFENDANT ANTELOPE
VALLEY GROUNDWATER
AGREEMENT ASSOC.:

BROWNSTEIN HYATT
FARBER SCHRECK
BY: MICHAEL T. FIFE, ESQ.
BRADLEY J. HERREMA, ESQ.

FOR CROSS-DEFENDANT
AVEK:

BRUNICK, MC ELHANEY & KENNEDY
BY: WILLIAM J. BRUNICK, ESQ.

FOR DEFENDANT L.A.
COUNTY WATERWORKS
DISTRICT NO. 40:

BEST BEST & KRIEGER
BY: JEFFREY V. DUNN, ESQ.
WENDY Y. WANG, ESQ.

(CONTINUED)

1 **APPEARANCES:**

2 (CONTINUED)

3 FOR DEFENDANT TEJON
4 RANCH:

KUHS & PARKER
BY: ROBERT G. KUHS, ESQ.
(VIA COURTCALL)

5 FOR DEFENDANTS CRYSTAL
6 ORGANICS, DIAMOND
7 FARMING, REMRY FARMS
8 AND LAPIS LAND COMPANY:

LE BEAU THELEN
BY: ANDREW K. SHEFFIELD, ESQ.

9 FOR CROSS-DEFENDANTS
10 A.V. UNITED MUTUALS
11 GROUP, ADAMS BENNETT
12 INV., GOLDEN SANDS,
13 SHEEP CREEK WATER CO.,
14 SERVICE ROCK PRODUCTS,
15 ST. ANDREWS ABBEY:

GRESHAM SAVAGE
BY: MICHAEL D. DAVIS, ESQ.
DEREK R. HOFFMAN, ESQ.

16 FOR STATE OF
17 CALIFORNIA:

STATE OF CALIFORNIA
DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
BY: MARILYN H. LEVIN
DEPUTY ATTORNEY GENERAL

18 FOR DEFENDANT US BORAX:

MORRISON FOERSTER
BY: WILLIAM M. SLOAN, ESQ.

19 ALSO PRESENT:

20 U.S. AIR FORCE
21 WESTERN REGION
22 BY: MR. EDWIN OYARZO, ESQ.

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28 REPORTED BY: RHONA S. REDDIX, CSR RPR CRR RMR NO. 10807
OFFICIAL REPORTER

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I N D E X

PLAINTIFF'S WITNESSES DIRECT CROSS REDIRECT RECROSS

JAMES EARL JUDKINS		5 (CONT) 30 (FURTH)	36	61
GENE FRANKLIN CUMMINS	71	87 93 (FURTH) 95 (CONT)	97	
JARED ELAM SCOTT	103	124 141 (FURTH)		

E X H I B I T S

NUMBER FOR IDENTIFICATION IN EVIDENCE

5	103	157
6	72	87
TEJON 3 TO 6		70
TEJON 8		70
5-TEJON-3	23	
5-TEJON-5	2	
5-TEJON-6	14	
63	64	
87	67	67
144	107	
146	110	
148	78	
148 (BATES 50623, 50627)		87
151	115	157

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E X H I B I T S

NUMBER	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>	<u>NOT RECEIVED</u>
(CONTINUED)			
164		157	
196			69
197	69		
USAF 262	65	66	

1 CASE NUMBER: JCCP4408
2 CASE NAME: ANTELOPE VALLEY GROUNDWATER
3 LOS ANGELES, CALIFORNIA FEBRUARY 18, 2014
4 DEPARTMENT 3 HON. JACK KOMAR
5 REPORTER: RHONA S. REDDIX, CSR 10807
6 TIME: A.M. SESSIONS
7 APPEARANCES: (SEE TITLE PAGE.)
8
9

10 **THE COURT:** ALL RIGHT. GOOD MORNING.

11 ALL RIGHT. FIRST OF ALL, MY APOLOGIES FOR
12 UNITED AIRLINES. NOT MY FAULT. 6:00 O'CLOCK FLIGHT AND
13 IT'S NOW 9:20. LET'S RESUME. LET'S SEE.

14 ARE YOU READY TO CALL YOUR NEXT WITNESS?

15 **MR. LEININGER:** WELL, YOUR HONOR, WE WERE STILL IN
16 CROSS-EXAMINATION OF MR. JUDKINS.

17 **THE COURT:** AH, YOU'RE RIGHT.

18 OKAY. THE WITNESS WILL RETURN TO THE
19 STAND, STILL UNDER OATH.

20 **MR. KUHS:** DO WE HAVE THE EXHIBITS AVAILABLE, YOUR
21 HONOR, FOR THE WITNESS? DO WE HAVE THE EXHIBITS
22 AVAILABLE FOR THE WITNESS?

23 **THE COURT:** I WOULD HOPE SO.

24 GOOD MORNING, MR. JUDKINS.

25 **THE WITNESS:** GOOD MORNING, YOUR HONOR.

26 **MR. KUHS:** YOUR HONOR, BEFORE WE GET STARTED THIS
27 MORNING, I WANTED TO OFFER A DOCUMENT INTO EVIDENCE THAT
28 WE HAD MARKED AS 5, DASH, TEJON 5 FOR IDENTIFICATION.

1 MAY I APPROACH, YOUR HONOR?

2 **THE COURT:** YES.

3 **MR. KUHS:** (INDICATING.) AND 5, DASH, TEJON,
4 DASH, 5, YOUR HONOR, IS A DOCUMENT THAT WAS PRODUCED BY
5 THE UNITED STATES IN RESPONSE TO COURT-ORDERED
6 DISCOVERY. THEIR IDENTIFIER IS U.S. AIR FORCE 001669,
7 AND I'M OFFERING THAT. IT GOES TO THE ISSUE OF THE
8 ACQUISITION OF PLANT 42.

9 IF I MIGHT READ THE FIRST PART INTO THE
10 RECORD. IT'S DIFFICULT TO READ. AND THIS APPEARS TO BE
11 A LETTER DATED JULY 13TH, 1953, ADDRESSED TO THE
12 HONORABLE J. EDWARD WILLIAMS, ACTING ASSISTANT ATTORNEY
13 GENERAL, DEPARTMENT OF JUSTICE.

14 **THE COURT:** ALL RIGHT.

15
16 (EXHIBIT NUMBER 5-TEJON-5,
17 IDENTIFIED: 7/13/1953 LETTER TO
18 THE HONORABLE J. EDWARD WILLIAMS.)

19

20 **MR. KUHS:** AND --

21 **MR. LEININGER:** YOUR HONOR, I'M NOT QUITE SURE THE
22 PURPOSE OF THIS. THIS WITNESS IS NOT A HISTORIAN. HE'S
23 NOT GOING TO TESTIFY IN ANY HISTORICAL -- PARTICULARLY
24 WITH PLANT 42. HE'S THE WITNESS OF THE CURRENT USE OF
25 WATER AT EDWARDS AIR FORCE BASE.

26 **MR. KUHS:** WE'RE NOT OFFERING IT AS TO THIS
27 WITNESS, YOUR HONOR. I'M OFFERING -- ASKING THE COURT
28 TO TAKE JUDICIAL NOTICE OF THIS DOCUMENT AS IT RELATES

1 TO THE ACQUISITION OF PLANT 42.

2 AND I DRAW THE COURT'S ATTENTION IN
3 PARTICULAR TO THE LANGUAGE INSTRUCTING THAT THE LAND --
4 THE 4,870 ACRES OF LAND IN LOS ANGELES COUNTY BE
5 ACQUIRED, QUOTE, "SUBJECT TO INVESTED AND APPROVED WATER
6 RIGHTS FOR MINING, AGRICULTURAL, MANUFACTURING, OR OTHER
7 PURPOSES, AND RIGHTS TO DITCHES AND RESERVOIRS USED IN
8 CONNECTION WITH SUCH WATER RIGHTS AS MAY BE RECOGNIZED
9 AND ACKNOWLEDGED BY THE LOCAL CUSTOMS, LAWS, AND
10 DECISIONS OF THE COURT."

11 **MR. LEININGER:** YOUR HONOR, IF WE MAY, WE NEED TO
12 ESTABLISH MORE OF THE FOUNDATION OF THIS DOCUMENT. IT'S
13 QUOTING FROM A PREVIOUS DOCUMENT, WHICH I BELIEVE IS NOT
14 IN THE COURT RECORD.

15 **THE COURT:** WELL, LET ME ASK THIS QUESTION: IS
16 THERE ANY QUESTION ABOUT THE AUTHENTICITY OF THIS
17 DOCUMENT AS A LETTER WRITTEN IN 1953?

18 **MR. LEININGER:** NO, BUT -- NO, YOUR HONOR. AND
19 OUR OBJECTION AT THIS POINT IS WHAT IT'S BEING OFFERED
20 AS PROOF OF. AND I HAVEN'T HEARD IT OFFERED --

21 **THE COURT:** I HAVE NO IDEA OF WHAT IT'S BEING
22 OFFERED AS PROOF OF. IT'S MARKED FOR IDENTIFICATION.
23 IF IT BECOMES RELEVANT -- WELL, YOU'RE ACTUALLY --
24 YOU'RE OFFERING IT.

25 **MR. KUHS:** I'M ASKING THE COURT TO TAKE JUDICIAL
26 NOTICE OF IT AS EVIDENCE OF --

27 **THE COURT:** I DON'T THINK IT'S APPROPRIATE TO TAKE
28 JUDICIAL NOTICE OF A LETTER. IF YOU WANT TO OFFER IT

1 INTO EVIDENCE, THAT'S A DIFFERENT QUESTION.

2 **MR. KUHS:** WE WOULD OFFER IT INTO EVIDENCE.

3 **THE COURT:** OKAY. NOW, YOU'RE OBJECTING, ARE YOU,
4 MR. LEININGER?

5 **MR. LEININGER:** YOUR HONOR, FIRST OF ALL, I WASN'T
6 SURE WHY THIS WAS BEING ADMITTED AT THIS TIME. AND
7 PERHAPS WITH MORE EXPLANATION I'LL RESERVE MY OBJECTION.

8 **THE COURT:** ALL RIGHT.

9 **MR. KUHS:** YOUR HONOR, I'M OFFERING IT NOW FOR ONE
10 SIMPLE REASON, AND THAT WAS THE DOCUMENT WHICH WE WERE
11 ABLE TO PRINT FROM THE GOVERNMENT'S WEB SITE LINK OF
12 DOCUMENTS THEY PRODUCED WAS ILLEGIBLE. I HAD A COPY
13 WHEN WE HAD THE HISTORIAN UNDER EXAMINATION, BUT IT WAS
14 NOT LEGIBLE, AND SO THERE WAS NO POINT IN INTRODUCING IT
15 INTO EVIDENCE AT THAT TIME.

16 AND SO OVER THE WEEKEND, THROUGH A SERIES
17 OF PHOTOCOPY EFFORTS, WE WERE ABLE TO CLARIFY THE
18 RESOLUTION.

19 **THE COURT:** ALL RIGHT. WELL, I'M GOING TO TAKE IT
20 SUBJECT TO A MOTION TO STRIKE. ACTUALLY, YOU WANT TO
21 SUBSTITUTE IT FOR AN EXHIBIT THAT'S BEEN PREVIOUSLY
22 MARKED FOR IDENTIFICATION; IS THAT CORRECT?

23 **MR. KUHS:** WE DID NOT PREVIOUSLY MARK IT, YOUR
24 HONOR.

25 **THE COURT:** DID NOT AT ALL, OKAY.

26 **MR. KUHS:** NO.

27 **THE COURT:** ALL RIGHT. SO THIS IS 5 DASH --

28 **MR. KUHS:** TEJON-5.

1 **THE COURT:** TEJON-5, OKAY.

2 **MR. LEININGER:** YOUR HONOR, IF I MAY, BEFORE WE
3 CONTINUE WITH THIS WITNESS. WE WERE AWARE OF THE
4 REQUEST FOR A LEGIBLE COPY OF THIS DOCUMENT. THE
5 DOCUMENT APPEARS TO BE OFFERED FOR PROOF OF WHAT WAS
6 DEEDED IN THE COURSE OF THE TRANSFER FROM PALMDALE TO
7 THE UNITED STATES AIR FORCE PLANT 42. SO AT THIS TIME
8 WE WOULD LIKE TO INTRODUCE THE ACTUAL DEED, WHICH
9 INCLUDES NONE OF THIS SUBJECT TO INFORMATION.

10 **THE COURT:** WELL, WHY DON'T WE WAIT ON THAT.
11 LET'S GET THE WITNESS TO TESTIFY AS TO WHATEVER HE'S
12 GOING TO TESTIFY TO.

13 YOU HAVE ANOTHER EXHIBIT YOU WANT TO OFFER
14 TO TIE IN WITH THIS LETTER, WHICH IS TEJON-5, WE'LL JUST
15 WAIT TO DO THAT UNTIL WE GET THROUGH WITH THIS WITNESS,
16 UNLESS IT'S GOING TO BE PRESENTED TO THIS WITNESS FOR
17 TESTIMONY.

18 **MR. KUHS:** NO.

19 **THE COURT:** ALL RIGHT. SO LET'S ...

20

21 **CROSS-EXAMINATION** (CONTINUED)

22 **BY MR. KUHS:**

23 **Q** GOOD MORNING, MR. JUDKINS.

24 **A** GOOD MORNING, SIR.

25 **Q** HOW MANY GOVERNMENT EMPLOYEES AND
26 TECHNICIANS DO YOU CURRENTLY OVERSEE?

27 **A** 420.

28 **Q** NOW, YOUR RESUME, THAT WAS MARKED AS

1 EXHIBIT 8, REFERENCES 532. YOU AWARE OF THAT?

2 A YES, SIR.

3 Q AND IS IT TRUE THAT THE NUMBER OF EMPLOYEES
4 AND TECHNICIANS THAT YOU OVERSEE HAS BEEN REDUCED
5 BECAUSE OF MILITARY DOWNSIZING?

6 A YES, SIR, IT IS.

7 Q IS EDWARDS AIR FORCE BASE WATER SYSTEM
8 CONNECTED IN ANY WAY TO PLANT 42?

9 A NO, SIR, IT IS NOT.

10 Q EDWARDS AIR FORCE BASE HAS ITS OWN
11 INDEPENDENT WELLS AND WATER SUPPLIES?

12 A PLANT 42, SIR?

13 Q AS DISTINGUISHED FROM PLANT 42, YES.

14 A CORRECT, YES.

15 Q DID EDWARDS AIR FORCE BASE SHUT DOWN THREE
16 WELLS IN ABOUT YEAR 2000 DUE TO HIGH ARSENIC LEVELS?

17 A WE SHUT DOWN WELLS -- I'M SORRY. COULD YOU
18 REPEAT THE QUESTION, SIR?

19 Q IN ABOUT YEAR 2000, DID EDWARDS SHUT DOWN
20 THREE OF ITS WELLS DUE TO HIGH ARSENIC LEVELS?

21 A SIR, I BELIEVE YOU'RE REFERRING TO THE
22 WELLS WE SHUT DOWN IN NORTH BASE IN ABOUT 1998.

23 Q DUE TO HIGH ARSENIC LEVELS?

24 A YES.

25 Q OKAY. DO YOU HAVE AN UNDERSTANDING THAT
26 THE AQUIFER UNDERNEATH EDWARDS AIR FORCE BASE DOES NOT
27 RECEIVE NATURAL RECHARGE?

28 MR. LEININGER: OBJECTION, YOUR HONOR. THAT'S

1 OUTSIDE THE SCOPE OF HIS DESIGNATION AS AN EXPERT. HE'S
2 NOT A HYDROGEOLOGIST.

3 **THE COURT:** WHY IS THAT IMPORTANT THAT HE KNOW
4 THAT?

5 **MR. KUHS:** WELL, NUMBER 1, HE TESTIFIED TO IT IN
6 HIS DEPOSITION THAT HE KNEW IT. I DON'T THINK IT --

7 **THE COURT:** WELL, DEPOSITIONS ARE NOT --

8 **MR. KUHS:** I UNDERSTAND. BUT WHAT I'M TRYING TO
9 ESTABLISH IS THAT THE BASE, ACCORDING TO THE
10 GOVERNMENT'S WITNESSES, DOES NOT RECEIVE NATURAL
11 RECHARGE.

12 **THE COURT:** WELL, I DON'T THINK THIS IS THE RIGHT
13 WITNESS TO ASK THAT QUESTION OF. HE'S NOT BEEN
14 PRESENTED AS AN EXPERT IN THE AQUIFER.

15 **MR. KUHS:** I'M NOT OFFERING IT -- I'M OFFERING IT
16 ON AN OPERATIONAL LEVEL TO SHOW -- DISTINGUISH BETWEEN
17 WHEN THEY'RE PUMPING FROM THE WELLS AND WHEN THEY'RE
18 TAKING SURFACE DELIVERIES.

19 **THE COURT:** WELL, I DON'T WANT TO GET FAR AFIELD
20 HERE.

21 DO YOU KNOW THE ANSWER TO THAT QUESTION,
22 MR. JUDKINS?

23 **THE WITNESS:** NO, YOUR HONOR, I DON'T BELIEVE I
24 DO.

25 **THE COURT:** OKAY.

26 **BY MR. KUHS:**

27 **Q** VERY GOOD. MR. JUDKINS, EDWARDS AIR FORCE
28 BASE IS CURRENTLY HOME TO THE 412TH TEST WING; IS THAT

1 CORRECT?

2 A YES, SIR, IT IS.

3 Q THE TEST WING EVALUATES AIRCRAFT AND WEAPON
4 SYSTEMS?

5 A THAT IS CORRECT.

6 Q EDWARDS IS ALSO HOME TO A FLIGHT TEST
7 SCHOOL?

8 A NO, SIR. IT'S HOME TO THE TEST PILOT
9 SCHOOL.

10 Q SAY THAT AGAIN, SIR.

11 A THE TEST -- THE AIR FORCE TEST PILOT
12 SCHOOL.

13 Q TEST PILOT SCHOOL. THANK YOU.

14 EDWARDS IS ALSO HOME TO THE AIR FORCE
15 RESEARCH LABORATORY?

16 A YES, SIR.

17 Q AND IT'S HOME TO NASA DRYDEN RESEARCH
18 CENTER?

19 A YES, SIR.

20 Q IS IT YOUR UNDERSTANDING THAT NASA DRYDEN
21 RESEARCH CENTER TESTS ATMOSPHERIC FLIGHT, AS THEY DO
22 ATMOSPHERIC FLIGHT RESEARCH?

23 A YES, SIR, THAT IS MY UNDERSTANDING.

24 Q EARLIER WE HEARD TESTIMONY FROM DR. HALLION
25 TALKING ABOUT HISTORIC TESTING OF PLANES AT EDWARDS.
26 WERE YOU HERE FOR ANY OF THAT TESTIMONY?

27 A YES, SIR, I WAS.

28 Q YOU HEARD HIM TESTIFY ABOUT IN 1941 TESTING

1 THE FLYING WING; 1947, TESTING THE XS-1 BELL, ET CETERA?

2 A YES, SIR.

3 Q IT'S FAIR TO CHARACTERIZE EDWARDS AS
4 PRIMARILY AN AIRCRAFT AND WEAPONS RESEARCH AND TESTING
5 FACILITY?

6 A I THINK YOU NEED TO ADD AS WELL PROPULSION
7 FROM A.F.R.L. YES, SIR.

8 Q THANK YOU. DO YOU HAVE BEFORE YOU WHAT WAS
9 PREVIOUSLY MARKED AS U.S. AIR FORCE EXHIBIT 178? THAT'S
10 THE TABLE OF WATER USE.

11 A YES, SIR, I DO.

12 Q ALL RIGHT. TAKING A LOOK AT EXHIBIT 178,
13 IS IT ACCURATE THAT IN 2011 EDWARDS PUMPED A TOTAL OF
14 840 ACRE-FEET OF GROUND WATER?

15 THE WITNESS: YOUR HONOR, AM I ALLOWED TO WRITE ON
16 THIS?

17 THE COURT: I'M SORRY?

18 THE WITNESS: AM I ALLOWED TO WRITE ON THIS
19 DOCUMENT?

20 THE COURT: NO, I DON'T THINK SO. I THINK THAT'S
21 A COURT EXHIBIT.

22 MR. KUHS: LET ME GET YOU A PIECE OF PAPER,
23 MR. JUDKINS.

24 THE WITNESS: OR I CAN USE MY CALCULATOR.

25 MR. KUHS: EITHER WAY YOU'RE COMFORTABLE WITH,
26 SIR.

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28 (PAUSE IN THE PROCEEDINGS.)

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THE COURT: WHAT YEAR DID YOU ASK HIM ABOUT?

MR. KUHS: 2011 GROUND WATER PRODUCTION.

THE WITNESS: SIR, ACCORDING TO THIS CHART, IN 2011, 679 ACRE-FEET WERE PUMPED FROM THE MAIN BASE WELLS, AND 161 ACRE-FEET WERE PUMPED FROM THE A.F.R. WELLS, WHICH SHOULD COME TO 840 ACRE-FEET.

BY MR. KUHS:

Q DO YOU BELIEVE THAT TO BE AN ACCURATE NUMBER?

A YES, SIR, I DO.

Q ALL RIGHT. HOW ABOUT 2012? HOW MUCH TOTAL GROUND WATER PRODUCTION AT EDWARDS IN THE YEAR 2012?

A ACCORDING TO THE CHART, 896 ACRE-FEET WERE PUMPED FROM THE MAIN BASE WELLS AND 163 ACRE-FEET FROM A.F.R. WELLS -- I'M SORRY -- A.F.R.L. WELLS, FOR A TOTAL OF 1,059 ACRE-FEET.

Q DO YOU BELIEVE THAT TO BE AN ACCURATE MEASURE OF PRODUCTION AT EDWARDS IN 2012?

A YES, SIR, I DO.

Q NOW, IF YOU WANTED TO CALCULATE AT THE AVERAGE GROUND WATER PRODUCTION AT EDWARDS FOR THE FIVE YEARS OF 2008 TO 2012, YOU COULD DO THAT BY ADDING TOGETHER THE MAIN BASE GROUND WATER PRODUCTION AND THE A.F.R.L. GROUND WATER PRODUCTION AND THEN DIVIDING BY FIVE; CORRECT?

A CORRECT. YES, SIR.

Q AND THAT WOULD GIVE YOU A TOTAL OF ABOUT

1 1,289 ACRE-FEET AVERAGE?

2 A SIR, I DON'T KNOW.

3 Q THERE'S A RECREATIONAL LAKE AT THE BASE;
4 CORRECT?

5 A YES, SIR.

6 Q WHAT'S THE ANNUAL WATER DEMAND FOR THE
7 RECREATIONAL LAKE?

8 A BETWEEN 350 AND 375 ACRE-FEET PER YEAR.

9 Q WHERE DOES THAT WATER COME FROM?

10 A IT IS GROUND WATER.

11 Q THERE'S A GOLF COURSE AT THE BASE; CORRECT?

12 A YES, SIR.

13 Q IS THAT AN 18-HOLE GOLF COURSE?

14 A IT IS.

15 Q LINKS STYLE?

16 A SIR?

17 Q IS IT A LINKS STYLE COURSE?

18 A I'M NOT FAMILIAR WITH THAT TERM, SIR. I
19 HACK AT GOLF.

20 Q IS IT OFFICERS ONLY?

21 A NO, SIR.

22 Q DO YOU KNOW WHAT THE WATER DEMAND IS FOR
23 THE GOLF COURSE?

24 A NO, SIR, I DO NOT.

25 Q DO YOU HAVE THE ABILITY TO CALCULATE THAT?

26 A NOT HERE ON THE STAND.

27 Q OKAY. AT YOUR OFFICE?

28 A YES, SIR.

1 **Q** NASA, AS WE DISCUSSED, HAS A PRESENCE AT
2 THE BASE; CORRECT?

3 **A** YES, SIR.

4 **Q** YOU HAVE THE ABILITY TO CALCULATE WATER
5 DELIVERIES TO NASA; CORRECT?

6 **A** YES, SIR, BUT NOT HERE ON THE STAND.

7 **Q** DO YOU KNOW WHAT THE WATER DEMAND AT NASA
8 WAS IN 2011 OR 2012?

9 **A** NO, SIR.

10 **Q** DO YOU HAVE ANY ESTIMATE AT ALL?

11 **A** NO, SIR, I DO NOT.

12 **Q** DO YOU KNOW WHETHER IT WAS AS HIGH AS 300
13 ACRE-FEET?

14 **A** SIR, I DO NOT KNOW.

15 **Q** THE FAA HAS A PRESENCE AT THE BASE;
16 CORRECT?

17 **A** YES, SIR, IT DOES.

18 **Q** THEY'RE A CIVILIAN ORGANIZATION?

19 **A** SIR, THEY'RE CIVILIAN AVIATION. YES, SIR,
20 THEY ARE.

21 **Q** YOU HAVE THE ABILITY TO CALCULATE WATER
22 DELIVERIES TO THE F.A.A.; CORRECT?

23 **A** YES, SIR.

24 **Q** DO YOU HAVE THAT INFORMATION WITH YOU?

25 **A** NO, SIR, I DON'T.

26 **Q** DO YOU KNOW WHAT THEIR WATER DEMANDS ARE?

27 **A** NO, SIR, I DON'T.

28 **Q** MUROC SCHOOL DISTRICT HAS A PRESENCE AT THE

1 BASE; CORRECT?

2 A YES, SIR, THEY DO.

3 Q YOU HAVE THE ABILITY TO CALCULATE WATER
4 DELIVERIES TO THE SCHOOL?

5 A YES, SIR, I BELIEVE WE DO.

6 Q DO YOU KNOW WHAT THE WATER DELIVERIES TO
7 THE SCHOOL WERE IN 2011 OR 2012?

8 A NO, SIR, I DON'T.

9 Q YOU ALSO MENTIONED THERE'S A COMMISSARY;
10 CORRECT?

11 A YES, SIR.

12 Q AND WHAT I'M DRIVING AT, MR. JUDKINS, IS
13 YOU HAVE A BREAKDOWN OF HOW MUCH GROUND WATER -- EXCUSE
14 ME -- HOW MUCH TOTAL WATER IS DELIVERED TO CIVILIANS AT
15 THE BASE OR CIVILIAN ORGANIZATIONS VERSUS HOW MUCH IS
16 DELIVERED FOR MILITARY PURPOSES?

17 A NO, SIR. I DON'T TRACK THAT.

18 Q WHEN WE LEFT OFF LAST WEEK, WE WERE
19 DISCUSSING YOUR OPINION OF FUTURE WATER DEMANDS AT
20 EDWARDS AIR FORCE BASE. DO YOU RECALL THAT DISCUSSION?

21 A YES, SIR, I BELIEVE I DO.

22 Q YOU'LL RECALL THAT WE PRESENTED YOU WITH A
23 CHART MARKED AS TEJON-4, WHICH SHOWS THE WATER USE AT
24 EDWARDS AIR FORCE BASE OVER TIME. DO YOU HAVE THAT
25 DOCUMENT BEFORE YOU?

26

27 (PAUSE IN THE PROCEEDINGS.)

28

1 **MR. KUHS:** LET'S GO AT IT THIS WAY TO SAVE TIME,
2 MR. JUDKINS -- YOUR HONOR, WE'VE MARKED FOR
3 IDENTIFICATION AS 5-TEJON-6 A CHART OF EDWARDS AIR FORCE
4 BASE WATER USE FOR 1997 THROUGH 2012.

5
6 (EXHIBIT 5-TEJON-6, IDENTIFIED:
7 CHART OF WATER USE FOR 1997 TO
8 2012.)

9
10 **MR. LEININGER:** YOUR HONOR, WE HAD A SUPPLEMENTAL
11 POSTING EXHIBIT LIST FROM MR. KUHS, AND I DON'T BELIEVE
12 THIS WAS INCLUDED AS AN EXHIBIT THAT WE WERE EXPECTING
13 TO SEE DURING HIS CROSS-EXAMINATION.

14 IS THAT ...?

15 **MR. KUHS:** IT HASN'T BEEN POSTED, YOUR HONOR.

16 **MR. LEININGER:** SO IT'S THE FIRST TIME WE'VE SEEN
17 THIS EXHIBIT. PERHAPS THERE'S A REASON FOR THIS
18 EXHIBIT, BUT WE HAVE ALREADY BEEN SHOWN ONE EXHIBIT WITH
19 REGARD TO HISTORICAL WATER PRODUCTION. WE'RE NOW SEEING
20 A SECOND EXHIBIT.

21 AND I JUST BRING TO THE COURT'S ATTENTION
22 THAT THERE WAS AN OPPORTUNITY TO FILE THIS AND ALLOW US
23 AN OPPORTUNITY TO REVIEW IT. THAT WAS NOT DONE.

24 **THE COURT:** WELL, WHAT IS YOUR OBJECTION?

25 **MR. LEININGER:** YOUR HONOR, I GUESS I'LL RESERVE
26 THE OBJECTION SUBJECT TO FOUNDATION HERE. BUT, AGAIN,
27 THERE WAS, UNDER THE COURT RULES, THE OPPORTUNITY TO
28 SUBMIT YOUR EXHIBIT LIST. THIS IS NOT SUBMITTED.

1 **THE COURT:** THIS WAS NOT SUBMITTED. WHEN WAS THIS
2 PREPARED, MR. KUHS?

3 **MR. KUHS:** YOUR HONOR, I'M NOT AWARE OF ANY RULE
4 THAT REQUIRES A PARTY TO SUBMIT THEIR CROSS-EXAMINATION
5 EXHIBITS. THIS IS SIMPLY -- IF YOU RECALL, WHEN WE WERE
6 HERE LAST TIME, THE WITNESS -- WE LAID FOUNDATION
7 THROUGH THIS WITNESS AS TO WATER USE BASED ON THE CHART,
8 BUT HE WAS ONLY ABLE TO TESTIFY GOING BACK TO '97. AND
9 SO OVER THE WEEKEND WE PREPARED A TRUNCATED CHART, WHICH
10 IS SIMPLY FROM '97 TO 2012. THE DATA POINTS ARE EXACTLY
11 THE SAME.

12 **THE COURT:** WELL, ALL RIGHT. MARK IT NEXT IN
13 ORDER.

14 **MR. KUHS:** MAY I APPROACH, YOUR HONOR?

15 **THE COURT:** YOU MAY.

16 **MR. KUHS:** (INDICATING.)

17 **BY MR. KUHS:**

18 **Q** MR. JUDKINS, WE'VE MARKED FOR
19 IDENTIFICATION AS 5-TEJON-6 A CHART WHICH SHOWS THE
20 EDWARDS AIR FORCE BASE WATER USE FOR YEARS 1997 THROUGH
21 2012, BOTH AS A TOTAL FIGURE AND ALSO BROKEN DOWN
22 BETWEEN AVEK DELIVERIES AND GROUND WATER USE.

23 WOULD YOU TAKE A MINUTE AND COMPARE THAT
24 AGAINST EXHIBIT 178, WHICH IS YOUR CHART, AND SEE IF THE
25 DATA POINTS LOOK ACCURATE TO YOU?

26

27 (PAUSE IN THE PROCEEDINGS.)

28

1 **THE WITNESS:** YOUR HONOR, I'M NOT ALLOWED TO MARK
2 ON THIS, AM I, SIR?

3 **THE COURT:** NO, YOU SHOULD NOT.

4
5 (PAUSE IN THE PROCEEDINGS.)

6
7 **THE WITNESS:** THE TOTAL FOR 2003 APPEARS TO BE --
8 ON YOUR GRAPH, APPEARS TO BE A BIT HIGH. COMPARED TO
9 THE TOTAL FOR 2003, 4,997, THE GRAPH COMES -- APPEARS TO
10 COME IN HIGHER, OVER -- WELL OVER 5,000.

11
12 (PAUSE IN THE PROCEEDINGS.)

13
14 **THE WITNESS:** THE TREND DOES SEEM TO -- IT DOES
15 SEEM TO FOLLOW THE TREND.

16 **BY MR. KUHS:**

17 **Q** AND REALLY WHAT I'M LOOKING FOR,
18 MR. JUDKINS, IS I WANT TO KNOW WHETHER THE CHART IS A
19 REASONABLY ACCURATE REPRESENTATION OF THE WATER USE AT
20 EDWARDS FOR YEARS 1997 THROUGH 2012.

21 **A** AS FAR AS THE SHAPE OF THE CURVES OR THE
22 TOTAL CURVE, IT APPEARS TO BE REPRESENTATIVE. AS FAR AS
23 THE ACTUAL NUMBERS, IT DOES NOT APPEAR TO BE
24 REPRESENTATIVE.

25 **Q** AGAIN, NUMBERS THAT YOU THINK ARE NOT
26 REPRESENTATIVE WOULD BE THE 2003 DATA POINT?

27 **A** WELL, I NEED TO LOOK AT MORE, SIR.

28 **Q** OKAY.

1 **A** 2003 SEEMS TO BE OFF A LITTLE BIT ON YOUR
2 GRAPH.

3
4 (PAUSE IN THE PROCEEDINGS.)

5
6 **THE WITNESS:** 2004 LOOKS REASONABLY CLOSE.

7
8 (PAUSE IN THE PROCEEDINGS.)

9
10 **THE WITNESS:** 2005 IS REASONABLY CLOSE.

11
12 (PAUSE IN THE PROCEEDINGS.)

13
14 **THE WITNESS:** 2006, SAME, REASONABLY CLOSE.

15
16 (PAUSE IN THE PROCEEDINGS.)

17
18 **THE WITNESS:** 2008, SAME, REASONABLY CLOSE.

19
20 (PAUSE IN THE PROCEEDINGS.)

21
22 **THE WITNESS:** 2010, REASONABLY CLOSE.

23
24 (PAUSE IN THE PROCEEDINGS.)

25
26 **THE WITNESS:** 2011, TOTAL PRODUCTION REASONABLY
27 CLOSE.
28

(PAUSE IN THE PROCEEDINGS.)

THE WITNESS: 2012 IS REASONABLY CLOSE.

I'VE ONLY LOOKED AT THE TOTAL PRODUCTION LINE SO FAR. WOULD YOU LIKE FOR ME TO LOOK AT ALL THE OTHERS? THE OTHER TWO?

BY MR. KUHS:

Q I DON'T KNOW THAT I WANT TO TAKE THAT MUCH TIME OF THE COURT. BUT WHAT I WOULD LIKE TO KNOW, SIR, IS WITH RESPECT TO THE 2003 DATA POINT, WOULD IT APPEAR TO YOU THAT -- ON THE CHART, THAT THE DATA POINT TOUCHES THE 5,000 ACRE-FOOT LINE?

A NO, SIR. IT APPEARS TO ME FROM THE GRAPH THAT IT'S ABOVE THE 5,000 ACRE-FOOT.

Q AND WATER USE IN 2003 WAS 4,997 ACRE-FEET TOTAL?

A YES, SIR.

Q OKAY. AND IF I UNDERSTOOD YOUR PRIOR STATEMENT, THE TREND LINE APPEARS TO BE A REASONABLY ACCURATE REPRESENTATION OF THE TREND AND TOTAL WATER USE AT EDWARDS AIR FORCE BASE?

MR. LEININGER: GOING TO OBJECT, YOUR HONOR. WITH REGARD TO THE ACCURACY OF THIS, WHAT IS CALLED A TREND LINE HERE, THERE'S NO FOUNDATION FOR HOW THAT LINE WAS ESTABLISHED.

THE COURT: PRESUMABLY, IT'S A DEMONSTRATIVE EXHIBIT. SOMEBODY'S GOING TO -- IT'S NOT BEING OFFERED INTO EVIDENCE AT THIS POINT. THE WITNESS HAS TESTIFIED

1 AS TO HIS VIEW OF IT. SO FAR I DON'T REALLY SEE THAT
2 THERE'S A WHOLE LOT OF RELEVANCE TO IT, I DON'T THINK,
3 THE TRENDS.

4 SO IF YOU'RE OBJECTING, IT'S OVERRULED AT
5 THIS POINT.

6 **BY MR. KUHS:**

7 **Q** MR. JUDKINS, DOES THE TREND LINE APPEAR TO
8 ACCURATELY REPRESENT THE TREND AND WATER USE AT EDWARDS
9 AIR FORCE BASE DURING THE PERIOD OF 1997 AND 2012?

10 **A** YES, SIR, IT APPEARS TO DO SO.

11 **Q** NOW, YOU PREPARED YOUR OPINION OF FUTURE
12 WATER DEMAND IN APRIL OF 2009; IS THAT ACCURATE?

13 **A** YES, SIR.

14 **Q** AND YOUR OPINION WAS BASED ON THREE
15 COMPONENTS. ONE WAS A FIVE-YEAR AVERAGE, THE SECOND WAS
16 A 30 PERCENT MULTIPLIER, AND THEN THE THIRD WAS THE
17 ASSUMPTION OF A NEW FIGHTING WING AT EDWARDS; CORRECT?

18 **A** SIR, I BELIEVE THERE WAS A LOT MORE IN
19 MY -- IN THE OPERUM (PHONETIC) THAT I'M USING THAN THOSE
20 THREE ASSUMPTIONS -- OR THOSE THREE FACTORS. I'M SORRY.

21 **Q** I CALL THEM -- THOSE ARE THE THREE MAJOR
22 COMPONENTS OF YOUR ANALYSIS; CORRECT?

23

24 (PAUSE IN THE PROCEEDINGS.)

25

26 **THE WITNESS:** YES, SIR.

27 **BY MR. KUHS:**

28 **Q** AND YOU CALCULATED A FIVE-YEAR AVERAGE

1 USING YEARS 2004 THROUGH 2008 -- EXCUSE ME. YEAH --
2 2008 DATA; CORRECT?

3 A FIVE YEARS, STARTING WITH 2008 AND GOING
4 BACKWARDS THROUGH 2002. YES, SIR.

5 Q OKAY. AND AT THE TIME, THAT WAS THE MOST
6 RECENT DATA SET THAT YOU HAD; CORRECT?

7 A NO, SIR. IT WAS THE MOST CURRENT, BUT
8 THERE WAS NOTHING -- I DON'T UNDERSTAND YOUR QUESTION.
9 I'M SORRY.

10 Q YOU USED THE MOST CURRENT WATER PRODUCTION
11 YEARS AVAILABLE TO YOU WHEN YOU DID YOUR ANALYSIS?

12 A YES, SIR.

13 Q OKAY. WE NOW HAVE A NEW SET OF DATA;
14 CORRECT? WE HAVE FIVE YEARS, FROM 2008 TO 2012;
15 CORRECT?

16 A YES, SIR.

17 Q DID YOU RUN YOUR ANALYSIS USING CURRENT
18 DATA?

19 A NO, SIR, I HAVE NOT.

20 Q WOULD YOU TAKE A BRIEF MOMENT AND TELL ME
21 WHAT THE AVERAGE WATER USE IS OVER THE FIVE YEARS FROM
22 2008 TO 2012, USING YOUR CHART, EXHIBIT 178.

23 A SIR, MAY I HAVE A COUPLE SHEETS OF PAPER?

24 Q YES, SIR.

25 A SO I WANT TO MAKE SURE I UNDERSTOOD. TOTAL
26 PRODUCTION 2008, '9, '10, '11, AND '12?

27 Q AVERAGE, YES.

28 THE COURT: MR. KUHS, IT WOULD BE HELPFUL IF YOU

1 TOLD ME WHERE YOU'RE GOING WITH THIS LINE OF
2 QUESTIONING.

3 **MR. KUHS:** YOUR HONOR, I'M TRYING TO ESTABLISH
4 THAT THE OPINION IS STALE TO THE EXTENT HE HASN'T USED
5 CURRENT INFORMATION.

6 **THE COURT:** WELL, HE'S ALREADY TESTIFIED HE HASN'T
7 USED CURRENT INFORMATION, SO ...

8 **MR. KUHS:** WOULD IT BE HELPFUL TO THE COURT TO
9 KNOW WHAT THE CURRENT AVERAGE WATER USE IS OVER THE LAST
10 FIVE YEARS?

11 **THE COURT:** DON'T WE HAVE THAT IN 178?

12 **MR. KUHS:** MATHEMATICALLY, YES, SIR.

13 **THE COURT:** ISN'T THAT SUFFICIENT?

14 **MR. KUHS:** IT IS FOR ME IF IT IS FOR YOU, YOUR
15 HONOR.

16 **THE COURT:** WELL, I THINK THAT WHAT WE'RE DOING IS
17 SPENDING A LOT OF TIME DOING LITTLE MATHEMATICAL
18 COMPUTATION THAT I'M NOT SURE HAS A REAL SIGNIFICANCE AT
19 THIS POINT. IF YOU WANT TO PRESENT THAT AS PART OF YOUR
20 OWN CASE, I THINK THAT'S APPROPRIATE FOR YOU TO DO, BUT
21 I DON'T THINK IT'S APPROPRIATE CROSS-EXAMINATION FOR
22 THIS WITNESS.

23 **MR. KUHS:** COULD I ASK HIM TO CALCULATE AN
24 AVERAGE, YOUR HONOR?

25 **THE COURT:** SOMETHING YOU'RE GOING TO OFFER AS
26 PART OF YOUR CASE, IS IT NOT?

27 **MR. KUHS:** AS PART OF THE EVIDENCE BEFORE THE
28 COURT. I THINK MR. JUDKINS HAS AN ANSWER TO IT.

1 **THE COURT:** I'M SORRY.

2 **THE WITNESS:** NO, SIR, I DON'T. I STOPPED.

3 **MR. KUHS:** YOU DID STOP.

4 **THE WITNESS:** SHOULD I CONTINUE, YOUR HONOR?

5 **THE COURT:** WHY DON'T WE MOVE ON TO SOMETHING
6 ELSE.

7 **MR. KUHS:** SURE. ALL RIGHT.

8 **BY MR. KUHS:**

9 **Q** MR. JUDKINS, YOU REPORTED YOUR OPINION AND
10 ASSUMPTIONS TO COLONEL GANDY IN ABOUT APRIL 2009 --

11 **A** YES, SIR, I DID.

12 **Q** -- IN AN E-MAIL THAT WE'VE MARKED AS
13 EXHIBIT 5-TEJON-3. DO YOU HAVE THAT DOCUMENT BEFORE
14 YOU?

15 **A** NO, SIR, I DO NOT. I'M SORRY. I MEAN I
16 DON'T HAVE YOUR EXHIBIT.

17
18 (PAUSE IN THE PROCEEDINGS.)

19
20 **MR. KUHS:** DO WE KNOW WHERE -- THE WITNESS MAY NOT
21 HAVE -- OH, OKAY.

22 **THE WITNESS:** NO, SIR, I DO NOT HAVE IT.

23 **MR. KUHS:** (INDICATING.)

24 **BY MR. KUHS:**

25 **Q** MR. JUDKINS, LET ME SHOW YOU WHAT WAS
26 PREVIOUSLY MARKED AS 5-TEJON-3, YOUR E-MAIL TO COLONEL
27 GANDY. ASK YOU TO TAKE A LOOK AT THAT.

28

1 (EXHIBIT 5-TEJON-3, IDENTIFIED:
2 E-MAIL TO COLONEL GANDY, APRIL
3 2009.)
4

5 **MR. LEININGER:** YOUR HONOR, JUST FOR CLARIFICATION
6 PURPOSES, CAN WE ALSO HAVE THE BATES LABEL NUMBERS SO WE
7 KNOW WHAT PAGE WE'RE REFERRING TO?

8 **THE COURT:** YES.

9 **MR. KUHS:** THIS WAS PRODUCED BY THE WITNESS IN
10 DEPOSITION. IT BEARS NO U.S. NUMBER THAT I'M AWARE OF.

11 **BY MR. KUHS:**

12 **Q** MR. JUDKINS, WERE THE STATEMENTS MADE IN
13 THIS E-MAIL TO COLONEL GANDY TRUE AT THE TIME YOU MADE
14 THEM?

15 **A** YES, SIR. I BELIEVE THEM TO BE AN HONEST
16 REPRESENTATION OF THE TRUTH.

17 **Q** YOU BASED YOUR OPINION OF FUTURE WATER
18 DEMAND ON SEVERAL FACTUAL ASSUMPTIONS THAT YOU CALL,
19 QUOTE, "GIVEN," END QUOTE; CORRECT?

20 **A** YES, SIR, AMONG OTHER THINGS.

21 **Q** ONE OF THOSE ASSUMPTIONS WAS THAT MILITARY
22 AND CIVILIAN POPULATIONS AT THE BASE ARE DECLINING;
23 CORRECT?

24 **A** ACTUALLY, MILITARY AND CIVILIAN POPULATION
25 IN THE WHOLE DEPARTMENT IS DECLINING.

26 **Q** BUT THAT WAS ONE OF YOUR ASSUMPTIONS IN
27 YOUR OPINION?

28 **A** YES, SIR, THE SIZE OF THE MILITARY WOULD

1 DECREASE. THERE'S ALWAYS THE OPPORTUNITY, THOUGH, THAT
2 THROUGH CONSOLIDATION, THAT THE POPULATION IN THE
3 INSTALLATION COULD ACTUALLY GO UP.

4 Q I'M NOT FOCUSED ON POSSIBILITIES,
5 MR. JUDKINS.

6 A YES.

7 Q WHAT I'M FOCUSED ON IS, WHAT WERE YOUR
8 ASSUMPTIONS WHEN YOU DID YOUR CALCULATIONS?

9 A YES, SIR.

10 Q YOU DIDN'T ASSUME MERE POSSIBILITIES, DID
11 YOU?

12 A I'M SORRY. DIDN'T ASSUME.

13 Q STRIKE THAT.

14 NOW, YOU KNEW AT THE TIME OF YOUR OPINION
15 THAT MILITARY HOUSING AT THE BASE HAD ALSO GONE FROM
16 1,581 HOUSES IN 1998 TO ONLY 797 HOUSES IN 2009;
17 CORRECT?

18 A SIR, I BELIEVE YOU GOT ONE OF THE NUMBERS
19 WRONG. LET ME CHECK THE E-MAIL.

20

21 (PAUSE IN THE PROCEEDINGS.)

22

23 **THE WITNESS:** SAY AGAIN THE NUMBER.

24 **BY MR. KUHS:**

25 Q 1,851 HOUSES IN FISCAL YEAR 1998, DOWN TO
26 797 HOUSES BY YEAR 2009.

27 A THAT IS CORRECT. I THOUGHT YOU HAD
28 TRANSPOSED THE 8 AND THE 5.

1 **Q** OVER 1,100 HOUSES HAD BEEN DEMOLISHED AT
2 THE BASE SINCE 1998; CORRECT?

3 **A** THEREABOUTS, YES, SIR.

4 **Q** EDWARDS' RELIANCE ON GROUND WATER IS
5 STEADILY GOING DOWN; CORRECT?

6 **A** NO, SIR. I WOULDN'T SAY -- I WOULDN'T SAY
7 OUR RELIANCE ON GROUND WATER IS NOT GOING DOWN.

8 **Q** YOUR USE OF GROUND WATER?

9 **A** OUR USE OF GROUND WATER IS GOING DOWN.

10 **Q** OKAY. NOW, YOU USED THE 30 PERCENT
11 MULTIPLIER TO GET TO YOUR FUTURE DEMAND; CORRECT?

12 **A** YES, SIR, I DID.

13 **Q** AND THAT 30 PERCENT MULTIPLIER WAS A GUESS;
14 CORRECT?

15 **A** NO, SIR, IT WAS NOT.

16 **Q** ISN'T THAT WHAT YOU TOLD COLONEL GANDY IN
17 YOUR E-MAIL?

18 **A** YES, SIR. I USED THE WORD "GUESS" TO
19 COLONEL GANDY BECAUSE COLONEL GANDY IS A FIGHTER PILOT.
20 HE WAS A BUSINESS MAJOR, AND IN COMMUNIQUE WITH COLONEL
21 GANDY YOU DIDN'T GO INTO THE ENGINEERING TERMS THAT WE
22 TEND TO -- ENGINEERS TEND TO GO INTO BECAUSE IT JUST
23 TURNED HIM OFF.

24 SO RATHER THAN EXPLAINING WHAT, YOU KNOW,
25 AN ENGINEERING ESTIMATE WAS OR ENGINEERING JUDGMENT, YOU
26 WOULD USE A WORD LIKE "GUESS." YOU WOULD ALSO USE
27 EXPRESSIONS LIKE "BLUF" TO THE COLONEL, "BOTTOM LINE UP
28 FRONT." SO I WAS COMMUNICATING TO MY COMMANDER, TAKING

1 HIS BACKGROUND AND HIS PERSONALITY INTO ACCOUNT. IT WAS
2 NOT A GUESS.

3 Q YOU USED THE WORD "GUESS"?

4 A I DID.

5 Q OKAY. TELL ME ALL THE WORK THAT YOU DID
6 PRIOR TO APRIL OF 2009 IN DETERMINING THE 30 PERCENT
7 MULTIPLIER WAS REASONABLE.

8 A WELL, SIR, BASICALLY, BASED ON MY
9 EXPERIENCE AT THE INSTALLATION AND SEVERAL OTHER
10 INSTALLATIONS I'VE BEEN ASSIGNED TO OVER MY CAREER, AND
11 TAKING AND EVALUATING THE CURVE, THE PRODUCTION CURVE IF
12 YOU WILL, IT WAS MY ESTIMATION, MY JUDGMENT THAT
13 30 PERCENT WAS A FAIR, NOT OVERSTATED, A FAIR RISK AND
14 UNCERTAINTY FACTOR OR BURDEN TO APPLY TO THE
15 CALCULATION.

16 Q DOES THAT 30 PERCENT GO UP AND DOWN, OR
17 DOES IT JUST GO UP?

18 A IT'S -- IN THIS CASE, IT -- IT GOES UP.
19 AND THERE'S A 30 PERCENT RISK AND UNCERTAINTY THAT WE
20 UNDERESTIMATED.

21 Q WELL, YOU HAD A FIVE-YEAR AVERAGE, CORRECT,
22 THAT YOU WERE WORKING AS A BASE NUMBER?

23 A YES, SIR.

24 Q AND IN THAT FIVE-YEAR AVERAGE YOU HAD A
25 HIGH NUMBER AND A LOW NUMBER; CORRECT?

26 A THAT IS CORRECT.

27 Q AND YOU HANDLED THE 30 PERCENT VARIANCE
28 BETWEEN YOUR HIGH AND LOW NUMBER IN YOUR AVERAGE;

1 CORRECT?

2 A I WOULD NEED TO DOUBLE-CHECK THAT.

3 Q SO, IN ESSENCE, YOU'VE ACCOUNTED FOR THE
4 VARIANCES, THE EBBS AND FLOWS IN THE MISSION, THE
5 ENGINEERING JUDGMENT -- WHATEVER YOU CALL IT -- YOU'VE
6 CALCULATED THAT TWICE IN YOUR EQUATION?

7 A SIR, I DON'T BELIEVE SO.

8 Q ONCE FOR THE AVERAGE AND THEN ONCE BY USING
9 THE 30 PERCENT MULTIPLIER?

10 A NO, SIR, I DON'T BELIEVE SO, BUT I HAVE TO
11 DOUBLE-CHECK IT.

12 Q SO IF I UNDERSTAND YOUR TESTIMONY, YOU
13 DIDN'T CONSULT ANY LEARNED TREATISES TO ARRIVE AT YOUR
14 30 PERCENT?

15 A WELL, I DID CONSULT WITH MY STAFF.

16 Q WHERE ARE THE DOCUMENTS THAT SUPPORT THAT
17 CONSULTATION, SIR?

18 A THERE WERE NO DOCUMENTS.

19 Q NOW, IN ARRIVING AT YOUR OPINION, YOU KNEW
20 THAT TO JUSTIFY A SUBSTANTIAL INCREASE IN EDWARDS'
21 FUTURE WATER DEMANDS, YOU NEEDED TO LINK THAT DEMAND TO
22 MISSION GROWTH; CORRECT?

23 A WELL, I SAID THAT IN THE E-MAIL, YES, SIR.

24 Q BUT YOU ALSO KNEW THAT FUTURE GROWTH WAS
25 USUALLY OFFSET BY CONCURRENT REDUCTIONS IN OTHER
26 PROGRAMS; CORRECT?

27 A TYPICALLY, WHAT WE'VE SEEN OVER THE LAST
28 FEW YEARS IN MY EXPERIENCE AT THE INSTALLATION IS THAT

1 ONE PROGRAM RAMPED DOWN, IF YOU WILL, OR MATURED, AND
2 ANOTHER PROGRAM CAN GROW.

3 FOR INSTANCE, THE F-22 PROGRAM IS MATURING,
4 AND THE JOINT STRIKE FIGHTER PROGRAM IS IN FULL SWING
5 RIGHT NOW. YOU WOULD SEE OFFSETS IN THE TESTING
6 PROGRAM.

7 Q OKAY.

8 A I WAS ADDRESSING THE CAPACITY OF THE
9 INSTALLATION TO ASSUME ADDITIONAL MISSIONS.

10 Q OKAY. AND YOU CAME UP WITH THE IDEA THEN
11 OF LINKING EDWARDS' FUTURE DEMAND FOR WATER TO A
12 DIFFERENT KIND OF MISSION GROWTH, THIS FUTURE, FULL,
13 72-AIRPLANE FIGHTER WING; CORRECT?

14 A I LINKED IT TO A EQUIVALENT, I BELIEVE THE
15 WORD I USED, TO A 72 P.A.A. FIGHTER PLANE, THAT THE
16 INSTALLATION COULD ASSUME OR ACCOMMODATE THE EQUIVALENT
17 OF A FIGHTER WING ON THE GROUND.

18 I ALSO VETTED THAT WITH MY LEADERSHIP,
19 COLONEL GANDY AND GENERAL EICHHORN AT THE TIME, TO MAKE
20 SURE, BECAUSE THERE'S ALSO -- THERE ARE ALSO AIR SPACE
21 ISSUES, THAT I BELIEVE OTHER WITNESS HAVE TESTIFIED TO,
22 THAT YOU ALSO NEED TO CONSIDER AND WHICH, OF COURSE, I'M
23 NOT AN EXPERT IN, TO VERIFY THAT, YES INDEED, IT WAS A
24 REASONABLE ASSUMPTION IN THEIR EXPERT OPINION AS WELL.

25 MR. ZIMMER: CALLS FOR HEARSAY. MOTION TO STRIKE
26 FOR HEARSAY.

27 MR. KUHS: MOVE TO STRIKE AS WELL.

28 THE COURT: NO. HE'S ANSWERED YOUR QUESTION AS TO

1 HOW HE FORMULATED HIS OPINION.

2 **MR. ZIMMER:** MY OBJECTION WAS --

3 **THE COURT:** THE OBJECTION IS OVERRULED. IT'S NOT
4 COMING IN FOR THE TRUTH OF WHAT WAS SAID TO HIM. IT'S
5 COMING IN FOR HIS OPINION.

6 **MR. ZIMMER:** MY COMMENT WAS MORE THAT THE
7 CONTACT --

8 **THE COURT:** I'M SORRY. I CAN'T HEAR YOU WHEN
9 YOU'RE SITTING DOWN.

10 **MR. ZIMMER:** I'M SORRY, YOUR HONOR.

11 **THE COURT:** EVERYBODY'S GOING TO HAVE TO SPEAK UP.
12 MY EARS ARE AIRPLANE PLUGGED.

13 **MR. ZIMMER:** MY COMMENT WAS THIS: HE SAID THAT HE
14 TALKED TO SOMEBODY ELSE. FINE. THAT COMES IN. BUT
15 UNDER CONTINENTAL AND THE OTHER CASE CITED BY MR. BUNN,
16 THE CONTENT, IN OTHER WORDS, WHETHER THEY AGREED TO IT
17 OR NOT, WHETHER THAT'S WHAT THEY SAID OR NOT IS STILL
18 HEARSAY, AND THAT PART SHOULD NOT COME IN, AND THAT
19 LIMITED PART SHOULD BE STRICKEN.

20 **THE COURT:** IF THAT HAD BEEN ASKED ON DIRECT, I
21 WOULD AGREE WITH YOU. IT WAS ASKED ON
22 CROSS-EXAMINATION.

23 **MR. ZIMMER:** THE ANSWER WAS SOMEWHAT
24 NONRESPONSIVE.

25 **THE COURT:** THAT'S A DIFFERENT OBJECTION.
26 BELATED.

27 **BY MR. KUHS:**

28 **Q** THE ADDITIONAL FIGHTER WING ASSUMPTION WAS

1 YOUR IDEA, MR. JUDKINS; CORRECT?

2 A YES, SIR, IT WAS.

3 Q AND AT THE TIME YOU MADE THAT ASSUMPTION,
4 YOU HAD NO INFORMATION THAT A NEW FIGHTER WING WAS
5 COMING TO EDWARDS; CORRECT?

6 A CORRECT.

7 Q THANK YOU.

8 THE COURT: DOES THAT MEAN YOU HAVE NO FURTHER
9 QUESTIONS?

10 MR. KUHS: YES, SIR.

11 THE COURT: IS THERE ANY OTHER CROSS-EXAMINATION
12 OF THE WITNESS? MR. ZIMMER?

13 MR. ZIMMER: I HAVE A FEW QUESTIONS. I BELIEVE
14 MR. KUHS HAS COVERED MANY OF THEM. LET'S SEE IF I CAN
15 MOVE THROUGH THIS QUICKLY.

16

17 FURTHER CROSS-EXAMINATION

18 BY MR. ZIMMER:

19 Q MR. JUDKINS, WAS THERE A DISCUSSION AT THE
20 AIR FORCE BASE REGARDING CONTAMINATION OF GROUND WATER?
21 WERE YOU INVOLVED IN ANY --

22 MR. LEININGER: OBJECTION, IT'S VAGUE. I'M SORRY.

23 MR. ZIMMER: IT'S PROBABLY VAGUE AS TO TIME AS
24 PHRASED.

25 BY MR. ZIMMER:

26 Q AT ANY TIME, SIR, DID YOU EVER HAVE ANY
27 CONVERSATIONS WITH ANYONE AT THE AIR FORCE BASE ABOUT
28 THE DIFFICULTIES IN PUMPING GROUND WATER BASED UPON

1 CONTAMINATION PROBLEMS?

2 **A** NO, SIR, NOT FROM -- WE HAVE -- ARE YOU
3 REFERRING TO THE ENVIRONMENTAL RESTORATION PROGRAM?

4 **Q** I'M REFERRING TO ANY ISSUES RELATED TO
5 CONTAMINATION OF THE GROUND WATER IN AND AROUND EDWARDS.

6 **A** CONTAMINATION -- MAN-MADE CONTAMINATION?

7 **Q** ANY KIND OF CONTAMINATION.

8 **A** AS OPPOSED TO ARSENIC?

9 **Q** ANY KIND OF CONTAMINATION, ARSENIC, ANY
10 PROBLEM WITH THE GROUND WATER IN TERMS OF PUMPING.

11 **A** NO, SIR, I DON'T -- I DON'T BELIEVE SO.

12 **Q** DID YOU EVER HAVE ANY CONVERSATIONS
13 REGARDING ARSENIC?

14 **A** ABSOLUTELY.

15 **Q** DID YOU HAVE CONVERSATIONS THAT BECAUSE OF
16 THE HIGH ARSENIC LEVELS, THERE WAS A PROBLEM CONTINUING
17 TO PUMP GROUND WATER?

18 **A** WELL, NO, SIR. THERE'S NO PROBLEM WITH
19 PUMPING THE WATER ITSELF. IT WAS JUST THAT THERE WOULD
20 BE AN ISSUE WITH MEETING THE MAXIMUM CONTAMINATION
21 LEVEL, WHICH HAD BEEN REDUCED FROM 50 PARTS PER BILLION
22 TO 10 PARTS PER BILLION, AND PROVIDING THAT TO THE
23 POPULATION OF THE INSTALLATION.

24 WE HAD, AS I RECALL, THREE OPTIONS. ONE
25 WAS TO INSTALL FILTRATION, WHICH WAS VERY EXPENSIVE.
26 ANOTHER ONE WAS TO DO NOTHING AT ALL, JUST NOTIFY THE
27 POPULATION, AS MANY CITIES HAVE DONE, THAT WATER SUPPLY
28 DOESN'T MEET THE M.C.L. AND THE THIRD ONE WAS TO PURSUE

1 BLENDING WITH AVEK WATER, WITH STATE WATER, AND THAT'S
2 THE OPTION WE CHOSE.

3 Q WHEN DID THAT -- WHEN WAS THERE FIRST ANY
4 DISCUSSION ABOUT ARSENIC LEVELS?

5 A SIR, I HAVE TO CHECK MY CALENDAR.

6 Q GIVE US YOUR BEST ESTIMATE.

7 A SIX YEARS AGO? I'M JUST --

8 Q WHEN DID THE BLENDING FIRST START?

9 A AGAIN, I'D HAVE TO CHECK MY CALENDAR TO
10 GIVE YOU AN ACCURATE ANSWER.

11 Q BACK IN THE 1960S, YOU INDICATED THAT
12 WAS -- I THINK ABOUT THE MID '60S WAS THE MAXIMUM WATER
13 USE YEAR. HAVE YOU SEEN ANYTHING IN THE RECORDS THAT
14 YOU'VE REVIEWED THAT INDICATES WHETHER THERE WAS ANY
15 EVALUATION OF EXISTING WATER RIGHTS AT THAT TIME?

16 A NO, SIR. I KNOW OF NONE.

17 Q WE TALKED ABOUT THE SPREADSHEET THAT WAS
18 PREPARED. YOU REQUESTED MR. DIORIO TO DO AN ESTIMATE OF
19 ANNUAL WATER DEMAND. DO YOU RECALL THAT?

20 A YES, SIR, I DO.

21 Q AND YOU, IN FACT, REFERENCED THAT ESTIMATE
22 THAT WE HAD A LOT OF DISCUSSION ABOUT LAST WEEK -- YOU
23 REFERENCED THAT IN THE E-MAIL THAT'S MARKED AS
24 TEJON 5-3?

25 A YES, SIR.

26 Q AND YOU TOLD US THAT YOU, IN FACT, WORKED
27 ON THAT ESTIMATE AND DETERMINED THE AMOUNT, ALONG WITH
28 MR. DIORIO. YOU TOLD US THAT IN TESTIMONY; CORRECT?

1 **A** NO, SIR.

2 **Q** IN FACT --

3 **A** I BELIEVE --

4 **Q** -- IN YOUR E-MAIL DON'T YOU SAY, "I ASKED
5 JOE DIORIO TO ESTIMATE THE ANNUAL WATER DEMAND FOR THE
6 MARINE BASE USING PLANNER FACTORS"? "JOE ESTIMATED
7 4,900 FEET A YEAR."

8 YOU'RE TELLING THE GENERAL THAT; CORRECT?

9 **A** I'M TELLING MY COLONEL THAT. YES, SIR.

10 **Q** AND YOU DIDN'T SAY "WE DETERMINED THAT,"
11 DID YOU?

12 **A** NO, SIR.

13 **Q** DOES THE BASE CURRENTLY HAVE A FIGHTER
14 WING?

15 **A** NO, SIR, IT DOES NOT.

16 **Q** PRIOR TO THE EFFORT TO EVALUATE THE
17 POTENTIAL, POSSIBLE WATER USE OF A FUTURE FIGHTER WING
18 FOR THIS LAWSUIT, IS IT MY UNDERSTANDING THAT THERE WAS
19 NEVER ANY PLAN TO HAVE A FUTURE FIGHTER WING?

20 **A** SIR, I DON'T UNDERSTAND THE QUESTION.

21 **Q** WELL, YOU HAVE -- IN EXHIBIT 5-3 TEJON, YOU
22 HAVE SUGGESTED THAT IN ORDER TO BOOST THE AMOUNT OF
23 WATER THAT THE UNITED STATES GOVERNMENT COULD CLAIM
24 POTENTIALLY, THAT THAT WOULD HAVE TO BE LINKED TO A
25 FUTURE FIGHTER WING; TRUE?

26 **A** IT WOULD HAVE TO BE LINKED TO THE
27 EQUIVALENT OF A FIGHTER WING, YES, SIR.

28 **Q** AND BEFORE THAT, TO YOUR KNOWLEDGE, THERE

1 HAD NEVER BEEN ANY -- ANYTHING IN WRITING THAT INDICATED
2 THAT THERE ACTUALLY WOULD BE ANY FUTURE FIGHTER WING;
3 TRUE?

4 A THAT IS CORRECT. I HAD NO KNOWLEDGE OF A
5 FUTURE FIGHTER WING.

6 Q WHERE IT SAYS "SOME ADDITIONAL THOUGHTS" ON
7 THE BOTTOM OF 3-7, ARE THOSE YOUR THOUGHTS?

8 A THOSE WERE ADDITIONAL THOUGHTS THAT I
9 PROVIDED TO COLONEL GANDY. YES, THEY ARE.

10 Q IF YOU TURN TO THE FOURTH ONE DOWN THERE,
11 IT SAYS, "WE SHOULD REPORT OUR FULL REQUIREMENT AS IF WE
12 INTENDED TO PUMP IT ALL FROM THE GROUND." THAT'S WHAT
13 YOU WROTE THERE.

14 A YES, SIR, THAT'S TRUE.

15 Q AND YOU ALSO POINTED OUT THAT GROUND WATER
16 IS VIRTUALLY FREE; CORRECT?

17 A WELL, FROM -- FROM THE AIR FORCE'S POINT --
18 I DID, AND IT'S MUCH LESS EXPENSIVE.

19 Q I'M NOT ASKING YOU TO EXPLAIN IT. I'M JUST
20 ASKING IF YOU SAID THAT.

21 A I DID.

22 Q AND YOU SAID THAT ALTHOUGH THERE WAS SOME
23 SUBSIDENCE IN THE LAKE BEDS, THAT THOSE AREAS OF
24 SUBSIDENCE WOULD HEAL THEMSELVES OVER TIME?

25 A THE LAKE BED DOES TEND TO HEAL ITSELF.

26 Q WAS THERE ANY CONCERN OVER SUBSIDENCE AS A
27 REASON TO NOT PUMP AS MUCH GROUND WATER?

28 A YES, SIR, THERE IS.

1 **Q** HAD YOU EVER DONE AN UNCERTAINTY ANALYSIS
2 PRIOR TO THE UNCERTAINTY ANALYSIS YOU DID HERE FOR THIS
3 CASE?

4 **A** SIR, I WORK WITH UNCERTAINTY ALL THE TIME,
5 SO YES.

6 **Q** HAVE YOU EVER DONE AN UNCERTAINTY ANALYSIS
7 WITH REGARD TO GROUND WATER USE AT EDWARDS BEFORE THIS
8 BECAME AN ISSUE FOR PURPOSES OF THIS PHASE OF THE
9 LAWSUIT?

10 **A** NOT THAT I RECALL, NO, SIR.

11 **Q** YOU SAID -- A MOMENT AGO ON
12 CROSS-EXAMINATION, YOU WENT INTO A SOMEWHAT LONG-WINDED
13 EXPLANATION AS TO WHY YOU HAD USED THE TERM "GUESS."
14 DID YOU FORMULATE THAT AFTER MR. KUHS SHOWED YOU YOUR
15 E-MAIL LAST WEEK?

16 **A** ABSOLUTELY NOT.

17 **THE COURT:** MR. ZIMMER, I'M GOING TO STRIKE THE
18 WORD "LONG-WINDED." I THINK THAT IS PEJORATIVE.

19 **MR. ZIMMER:** I'M SORRY, YOUR HONOR.

20 **THE COURT:** I'D APPRECIATE IT IF YOU WOULD --
21 YOU'VE GOT TO BE CAREFUL.

22 **MR. ZIMMER:** THANK YOU, YOUR HONOR. IS THE
23 QUESTION SUSTAINED? WOULD YOU LIKE ME TO REPHRASE IT?

24 **THE COURT:** WELL, IT'S DIFFERENT IN THE ALLEY THAN
25 IT IS HERE IN THE COURTROOM.

26 **BY MR. ZIMMER:**

27 **Q** YOU GAVE US AN EXPLANATION AS TO WHY YOU
28 HAD USED THE WORD "GUESS" EARLIER. DID YOU COME UP WITH

1 THAT EXPLANATION AFTER MR. KUHS SHOWED YOU THAT E-MAIL
2 IN CROSS-EXAMINATION LAST WEEK?

3 A NO, SIR.

4 Q BUT I NOTICED WHEN YOU SAID THAT -- SAID
5 THAT ABOUT GUESS, YOU ALSO THREW THE WORD BLUF IN THERE;
6 RIGHT?

7 A WELL, IT'S AN ACRONYM. YES, SIR, I DID.

8 Q THE WORD BLUF. BECAUSE YOU, IN FACT, USED
9 THAT WORD IN YOUR E-MAIL AS WELL, DIDN'T YOU?

10 A I USE THAT ACRONYM.

11 Q AND YOU USE THAT WORD BLUF ON THE FIRST
12 PAGE OF EXHIBIT 3-5, ABOUT TWO THIRDS OF THE WAY DOWN
13 THE PAGE; CORRECT?

14 A CORRECT, YES, SIR.

15 MR. ZIMMER: NO FURTHER QUESTIONS, YOUR HONOR.

16 THANK YOU, SIR.

17 THE COURT: THANK YOU, MR. ZIMMER.

18 ANY FURTHER EXAMINATION? ALL RIGHT.

19 IS THERE ANY REDIRECT?

20 MR. LEININGER: YES, YOUR HONOR.

21 THE WITNESS: YOUR HONOR, SHOULD I
22 (INDICATING) ...

23

24 REDIRECT EXAMINATION

25 BY MR. LEININGER:

26 Q MR. JUDKINS, AGAIN FOR THE RECORD, WHAT
27 DOES BLUF STAND FOR AGAIN?

28 A SIR, IT STANDS FOR BOTTOM LINE UP FRONT.

1 **Q** AND CAN YOU EXPLAIN IN MILITARY PARLANCE
2 WHAT THAT MEANS?

3 **A** YES, SIR. WHEN YOU'RE COMMUNICATING WITH
4 SENIOR OFFICERS, SENIOR CIVILIANS, THEY'RE VERY BUSY.
5 YOU GIVE THEM -- YOU PRESENT THEM WITH THE BASIC ANSWER
6 AHEAD OF TIME, THE BOTTOM LINE.

7 **Q** SO IT DOESN'T MEAN YOU'RE BLUFFING?

8 **A** NO, SIR.

9 **Q** OKAY. YOU TESTIFIED WITH REGARD TO FUTURE
10 PROJECTIONS BASED UPON A 72 FIGHTER WING, P.A.A. FIGHTER
11 WING OR ITS EQUIVALENT; IS THAT CORRECT?

12 **A** YES, SIR.

13 **Q** AND WHY DID YOU USE THE 72 FIGHTER WING AS
14 YOUR ESTIMATE, OR THE EQUIVALENT OF THAT, FOR YOUR
15 FUTURE WATER USE?

16 **A** FIRST OF ALL --

17 **MR. ZIMMER:** OBJECTION. OBJECTION, YOUR HONOR.
18 WE'RE GETTING INTO AN EQUIVALENT. THERE WAS NO
19 TESTIMONY ABOUT AN EQUIVALENT ON DIRECT. IT IS BEYOND
20 THE SCOPE.

21 **MR. LEININGER:** WE'LL STRIKE EQUIVALENT.

22 **BY MR. LEININGER:**

23 **Q** WHY DID YOU USE 72 P.A.A. FIGHTER WING AS
24 YOUR REPRESENTATION FOR THE AMOUNT OF WATER THAT WOULD
25 BE NECESSARY IN THE FUTURE?

26 **A** IT WAS MY ESTIMATION THAT THE INSTALLATION
27 COULD ACCOMMODATE A 72 P.A.A. FIGHTER WING.

28 **Q** WHY?

1 **A** BASED ON THE AMOUNT OF RAMP SPACE WE HAVE,
2 BASED ON THE NUMBER OF RUNWAYS WE HAVE --

3 **MR. ZIMMER:** OBJECTION, YOUR HONOR. THIS WITNESS
4 WAS NOT CALLED FOR PURPOSES OF DETERMINING WHETHER A
5 FIGHTER WING WAS NECESSARY OR NOT. WE HAD I THINK ONE
6 OR AT LEAST POSSIBLY TWO WITNESSES TO TESTIFY, AND THIS
7 WITNESS WAS THE WITNESS THAT WAS CALLED FOR PURPOSES OF
8 THE WATER ISSUE RELATED TO --

9 **THE COURT:** WELL, I THINK, THOUGH, IN
10 CROSS-EXAMINATION YOU AND OTHERS HAVE CAST DOUBT ON THE
11 VALIDITY OF THE OPINION. AND I THINK HE'S ENTITLED TO
12 EXPLAIN WHY THAT NUMBER WAS (INAUDIBLE).

13 **THE REPORTER:** I'M SORRY, YOUR HONOR. I DIDN'T
14 HEAR THE END.

15 **THE COURT:** OVERRULED.

16 **THE COURT REPORTER:** YOUR HONOR, I DIDN'T HEAR.
17 YOU SAID TO EXPLAIN WHY ...

18 **THE COURT:** HE ANSWERED THE QUESTION.

19 **MR. DUBOIS:** YOUR HONOR, I THINK THAT THE COURT
20 REPORTER IS HAVING TROUBLE HEARING YOU, SO --

21 **THE REPORTER:** YES.

22 **THE COURT:** HAVING TROUBLE HEARING ME?

23 **MR. DUBOIS:** YES.

24 **THE COURT:** I'M HAVING TROUBLE HEARING YOU TOO,
25 SO.

26 THE OBJECTION WAS OVERRULED.

27 **MR. LEININGER:** THAT'S GOOD, YOUR HONOR.

28 **THE WITNESS:** SO BASED ON THE AMOUNT OF RAMP SPACE

1 WE HAVE, BASED ON THE NUMBER OF RUNWAYS WE HAVE, BASED
2 ON THE COMPONENTS OF THE INSTALLATION THAT WE HAVE, IT
3 WAS MY INSTALLATION -- WE COULD -- WE, THE INSTALLATION,
4 COULD ACCEPT A FIGHTER WING.

5 **BY MR. LEININGER:**

6 Q SO IT'S YOUR OPINION?

7 A YES, SIR.

8 Q AND YOU VETTED YOUR OPINION?

9 A I VETTED THAT OPINION WITH MY LEADERSHIP.

10 Q WHO WAS AT THE TIME?

11 A COLONEL GANDY WAS THE AIR BASE WING
12 COMMANDER AND THE INSTALLATION COMMANDER AT THE TIME,
13 AND HE VETTED IT WITH GENERAL EICHHORN.

14 Q AND IT'S STILL YOUR OPINION?

15 A YES, SIR.

16 Q OKAY. I BELIEVE IN CROSS-EXAMINATION YOU
17 WERE ASKED WITH REGARD TO ONE FACTOR, WHICH WAS IN YOUR
18 E-MAIL, REGARDING DECLINING MILITARY AND CIVILIAN
19 POPULATION.

20 CAN YOU EXPLAIN WHY, WITH A FACTOR OF
21 DECLINING MILITARY AND CIVILIAN POPULATION, YOU THINK
22 THAT THIS BASE MAY REQUIRE MORE WATER THAN IT'S ACTUALLY
23 USING NOW?

24 **MR. KUHS:** OBJECTION. BEYOND THE SCOPE OF THE
25 DIRECT OR CROSS.

26 **MR. LEININGER:** WELL, YOUR HONOR, WHAT WAS RAISED
27 HERE WAS THE QUESTION WITH REGARD TO DECLINING MILITARY
28 AND CIVILIAN POPULATION AS A FACTOR IN HIS

1 JUSTIFICATION --

2 **THE COURT:** LET ME HEAR THE QUESTION AGAIN,
3 PLEASE.

4 **BY MR. LEININGER:**

5 **Q** CAN YOU PLEASE EXPLAIN WHY YOU INCLUDED
6 DECLINING MILITARY AND CIVILIAN POPULATION IN YOUR
7 OPINION FOR FUTURE WATER NEEDS IN LIGHT OF THE TESTIMONY
8 THAT WE'VE HEARD, THAT YOU'RE ACTUALLY USING LESS WATER?

9 SO YOU'RE USING THIS -- AS I UNDERSTAND IT,
10 YOU'RE USING THIS AS A FACTOR --

11 **A** UH-HUH.

12 **Q** -- FOR THE REASONING OF WHY YOU NEED MORE
13 WATER THAN YOU'RE CURRENTLY USING.

14 **MR. KUHS:** AGAIN, OBJECTION, YOUR HONOR. HE WAS
15 ASKED WHAT HIS ASSUMPTIONS WERE.

16 **MR. LEININGER:** WELL, YOUR HONOR --

17 **THE COURT:** I'M GOING TO LET HIM ANSWER THE
18 QUESTION. OVERRULED.

19 **BY MR. LEININGER:**

20 **Q** IF I MAY, I'LL JUST RESTATE THE QUESTION.
21 WHY WAS DECLINING MILITARY AND CIVILIAN POPULATION ONE
22 OF THE FACTORS THAT YOU CONSIDERED?

23 **A** I LISTED IN THE "GIVEN" SECTION OF THE
24 E-MAIL, AND IT IS A GIVEN, THAT THE INSTALLATION
25 POPULATION AT THAT TIME WAS DECREASING. AND IT'S ALSO
26 A -- THERE'S ALSO A POSSIBILITY THAT WITH -- ACROSS THE
27 DEPARTMENT OF DEFENSE, IF WE DECLINE AS WE -- WHAT'S THE
28 WORD I'M LOOKING FOR? -- AS WE DOWNSIZE, THAT THERE'S

1 ALWAYS THE POSSIBILITY OF A CONSOLIDATION AT AN
2 INSTALLATION LIKE EDWARDS AIR FORCE BASE. BUT, IN FACT,
3 IT WAS A GIVEN AT THE TIME THE POPULATION WAS
4 DECREASING.

5 **MR. KUHS:** OBJECTION, YOUR HONOR. IT'S
6 MANUFACTURED. HIS ASSUMPTION WAS THE POPULATION WAS
7 DECLINING. THERE WAS NO MENTION IN THAT E-MAIL OR HIS
8 TESTIMONY ABOUT BASE CONSOLIDATION.

9 **MR. LEININGER:** I BELIEVE THAT WAS HIS TESTIMONY
10 PRIOR, YOUR HONOR.

11 **THE COURT:** OBJECTION IS OVERRULED.

12 **BY MR. LEININGER:**

13 **Q** LET'S -- JUST WITH REGARD TO YOUR -- YOUR
14 REFERENCE TO MR. DIORIO IN THIS STRING OF E-MAILS -- I
15 THINK THIS WAS ESTABLISHED LAST WEEK, BUT, AGAIN,
16 MR. DIORIO WORKED FOR YOU?

17 **A** YES, SIR, HE DID.

18 **Q** OKAY. AND SO BASIS OF YOUR OPINION, YOU
19 HAD REQUIRED -- YOU HAD REQUESTED PEOPLE FROM YOUR STAFF
20 TO ASSIST YOU?

21 **A** YES, SIR, I DID.

22 **Q** LET'S GO TO SOME OF THE QUESTIONS THAT WERE
23 ASKED EARLIER WITH REGARD TO SOME OF THE USES AT EDWARDS
24 AIR FORCE BASE.

25 THE F.A.A. HAS A COMPONENT THERE; IS THAT
26 CORRECT?

27 **A** YES, SIR, IT DOES.

28 **Q** WHAT DOES THE F.A.A. DO AT EDWARDS AIR

1 FORCE BASE?

2 **A** THE F.A.A. PROVIDES AIR SPACE CONTROL FOR
3 THE AIR FORCE MISSION IN THE AIR SPACE.

4 **Q** SO IS THAT MILITARY PURPOSE?

5 **A** YES, SIR, IT IS.

6 **MR. ZIMMER:** LEGAL OPINION, YOUR HONOR. MOVE TO
7 STRIKE.

8 **MR. LEININGER:** LEGAL OPINION?

9 **MR. KUHS:** ALSO BEYOND THE SCOPE OF CROSS.

10 **THE COURT:** WELL, IT'S A CONCLUSION. IT'S A
11 CONCLUSION THAT FOLLOWS FROM HIS STATEMENT OF FACT. I'M
12 GOING TO OVERRULE THE OBJECTION.

13 **BY MR. LEININGER:**

14 **Q** DO YOU KNOW HOW MANY F.A.A. EMPLOYEES THERE
15 ARE ON THE BASE, APPROXIMATELY?

16 **A** NO, SIR, I DON'T.

17 **Q** OKAY. LET'S -- THERE WAS ALSO REFERENCES,
18 I GUESS, TO WHAT WAS CIVILIAN. I BELIEVE THE TERM WAS
19 USED BY COUNSEL, CIVILIAN USES ON THE BASE. AND THERE
20 WAS REFERENCE TO SUCH THINGS AS THE GOLF COURSE. THERE
21 WAS REFERENCES TO SUCH THINGS AS THE RECREATIONAL POND
22 AND SCHOOLS.

23 FOR PURPOSES OF DETERMINING HOW MUCH WATER
24 HERE, I MEAN, WAS THAT -- WAS IT YOUR CONSIDERATION THAT
25 THESE WERE UNRELATED TO THE MILITARY ACTIVITIES -- TO
26 THE MILITARY PURPOSES AT EDWARDS AIR FORCE BASE?

27 **MR. ZIMMER:** SAME OBJECTION. IT'S COMPOUND.

28

1 **BY MR. LEININGER:**

2 **Q** WERE THOSE PARTICULAR USES OF WATER, IN
3 YOUR OPINION, UNRELATED TO THE MILITARY PURPOSE OF
4 EDWARDS AIR FORCE BASE?

5 **A** ABSOLUTELY NOT. THEY ARE INEXTRICABLY
6 LINKED TO THE MILITARY PRESENCE.

7 **MR. ZIMMER:** YOUR HONOR, SAME OBJECTION. MOTION
8 TO STRIKE. THAT'S SOMETHING FOR THE COURT TO DETERMINE,
9 TO THE EXTENT IT'S RELEVANT.

10 **THE COURT:** IT DOES STATE A LEGAL CONCLUSION THE
11 COURT'S GOING TO HAVE TO DETERMINE. HE CAN DESCRIBE THE
12 ACTIVITY. THE COURT WILL DETERMINE ITS SIGNIFICANCE.

13 **MR. LEININGER:** YOUR HONOR, I'D LIKE TO END THE
14 REDIRECT WITH CALLING UP THE EXHIBIT -- I BELIEVE IT WAS
15 TEJON EXHIBIT 4.

16 **THE COURT:** ALL RIGHT.

17

18 (PAUSE IN THE PROCEEDINGS.)

19

20 **MR. LEININGER:** YOUR HONOR, I'M GOING TO ASK THE
21 WITNESS TO MARK ON THIS EXHIBIT, SO WE HAVE A FRESH COPY
22 OF IT FOR THE COURT'S PURPOSES. MAY I APPROACH?

23 **THE COURT:** WELL, IT WILL BE A REFLECTION OF HIS
24 TESTIMONY AS LONG AS IT'S CLEARLY NOTED, SO HE MAY.

25 **MR. LEININGER:** (INDICATING.)

26 **BY MR. LEININGER:**

27 **Q** OKAY. I BELIEVE YOU TESTIFIED -- AND
28 CORRECT ME IF I GET THIS WRONG, BUT I BELIEVE YOU

1 TESTIFIED LAST WEEK WITH REGARD TO THE BASIS FOR YOUR
2 PREDICTION OF FUTURE WATER NEEDS, INCLUDING A FIVE-YEAR
3 AVERAGE; IS THAT CORRECT?

4 A YES, SIR, IT IS.

5 Q AND THAT FIVE-YEAR AVERAGE WAS PREVIOUS TO
6 2009?

7 A YES, SIR, STARTING -- IT WAS.

8 Q AND I BELIEVE YOUR CALCULATIONS FOR THIS
9 PERIOD WAS AN AVERAGE WATER USE. AND JUST TO CLEAR THE
10 RECORD HERE, WHEN YOU'RE TALKING ABOUT AVERAGE WATER
11 USE, YOU'RE NOT JUST TALKING ABOUT PUMPING FROM YOUR
12 WELLS; IS THAT CORRECT?

13 A THAT IS CORRECT.

14 Q SO THE WATER NEEDS AT EDWARDS AIR FORCE
15 BASE INCLUDE PUMPING AND IMPORTED WATER?

16 A YES, SIR.

17 Q OKAY. SO THAT SATISFIES THE WATER
18 REQUIREMENTS?

19 A YES, SIR.

20 Q ALL RIGHT. SO FOR THIS AVERAGE OF FIVE
21 YEARS PRIOR TO 2009, I BELIEVE YOUR FIGURE WAS
22 4,284-ACRE FEET?

23 A YES, SIR, I BELIEVE IT WAS.

24 Q AND TO THAT YOU ADDED 30 PERCENT TO THAT
25 FIGURE. LET'S -- LET'S GO TO THIS FIGURE AND -- YOUR
26 HONOR, WHAT I'M GOING TO ASK THE WITNESS TO DO, BUT
27 WE'RE ACTUALLY PROVIDING FOR THE COURT'S BENEFIT, IS A
28 DEMONSTRATION OF WHERE THAT 4,286 [SIC] LINE EXTENDS

1 ACROSS THE HISTORY OF THIS PUMPING PERIOD, OF THIS WATER
2 USE PERIOD AT EDWARDS AIR FORCE BASE.

3 SO IF THE WITNESS COULD DIRECT HIS
4 ATTENTION TO THIS EXHIBIT. DO YOU RECOGNIZE THIS?

5 A YES, SIR, I DO.

6 Q IS IT ESSENTIALLY TEJON NUMBER 4?

7 A WELL, IT APPEARS TO BE, WITHOUT CHECKING
8 THE DATA POINTS.

9 Q OKAY. AND WHAT'S THE ALTERATION? HOW HAS
10 THIS BEEN ALTERED? HOW DID YOU ALTER THIS? LET'S PUT
11 IT THAT WAY.

12 A WELL, SIR, THE RED LINE DEPICTS THE
13 FIVE-YEAR AVERAGE.

14 Q I'M SORRY. DO YOU HAVE A LASER POINTER?

15 A OH, I'M SORRY.

16 YOUR HONOR, MAY I STAND?

17 THE COURT: YES.

18 THE WITNESS: THE RED LINE RIGHT HERE REPRESENTS
19 THE FIVE-YEAR AVERAGE OF 4,284 ACRE-FEET.

20 BY MR. LEININGER:

21 Q AND TO THAT FIGURE YOU ADD?

22 A IF YOU -- 30 PERCENT.

23 Q 30 PERCENT. AND WHAT --

24 A THAT SHOULD BRING YOU UP TO ABOUT 5,572.

25 Q GO TO THE NEXT SLIDE.

26 A SO THAT WOULD BRING YOU UP TO RIGHT ABOUT
27 HERE. AND AS YOU CAN SEE (INDICATING), A LARGE PORTION,
28 HISTORICALLY, OF THE WATER DEMAND IS ABOVE THAT IF

1 YOU -- IN FACT, IF YOU JUST COUNT THE POINTS, OVER A
2 THIRD OF THE DATA POINTS OR ABOVE THE 5,572 ACRE FEET.

3 **MR. KUHS:** YOUR HONOR, I'M GOING TO OBJECT. LACK
4 OF FOUNDATION. THIS WITNESS TESTIFIED ONLY TO WATER USE
5 OF 1997 FORWARD. NO FOUNDATION FOR EXHIBIT 178, THE
6 PRIOR WATER YEARS. AND THERE WAS AN AGREEMENT WITH
7 COUNSEL DURING THIS WITNESS'S DEPOSITION THAT HE WOULD
8 NOT TESTIFY TO ANY WATER USE PRIOR TO 1997. THAT'S THE
9 REASON I INTRODUCED THE REVISED CHART THIS MORNING, IS
10 TO SHOW THAT LIMITATION.

11 **MR. LEININGER:** YOUR HONOR, THAT TABLE OF WATER
12 USE FIGURES WAS ENTERED AND WAS DISCUSSED DURING HIS
13 DIRECT TESTIMONY AND HIS CROSS-EXAMINATION FROM LAST
14 YEAR -- FOR LAST WEEK. EXCUSE ME.

15 **MR. KUHS:** IT'S BEEN IDENTIFIED. IT HAS NOT BEEN
16 ENTERED. WE HAVE NOT OFFERED TO ADMIT IT.

17 **MR. LEININGER:** SO FOR ILLUSTRATIVE PURPOSES, YOUR
18 HONOR, WHAT THE WITNESS IS SHOWING HERE IS WHERE HIS
19 FIGURE FOR FUTURE WATER USE RUNS ACROSS THE EXHIBIT THAT
20 WAS PRODUCED BY MR. KUHS. AND I THINK THAT FOR
21 ILLUSTRATIVE PURPOSES IT IS IMPORTANT TO GET THIS FROM
22 THE WITNESS.

23 **MR. KUHS:** PROBLEM IS THERE'S STILL NO FOUNDATION
24 IN THIS PROCEEDING FOR ANY WATER USE BY EDWARDS AIR
25 FORCE PRIOR TO 1997. THIS WITNESS HASN'T TESTIFIED TO
26 IT, AND I DIDN'T ASK HIM ABOUT IT.

27 **MR. LEININGER:** THAT'S INCORRECT, YOUR HONOR. WE
28 DID --

1 **THE COURT:** WELL, YOUR EXHIBIT 5-4 --

2 **MR. KUHS:** YES.

3 **THE COURT:** -- SHOWS WATER USE GOING ALL THE WAY
4 BACK TO 1947, DOESN'T IT?

5 **MR. KUHS:** IT DOES.

6 **THE COURT:** AND THAT'S WHAT HE'S BEING EXAMINED ON
7 RIGHT NOW.

8 **MR. KUHS:** BUT IT WAS PREPARED FROM EXHIBIT 178,
9 AND THE WITNESS TESTIFIED HE DIDN'T PREPARE 178. HE
10 DIDN'T KNOW WHERE THE NUMBERS CAME FROM. AND IN
11 DEPOSITION, WHEN I ASKED MR. LEININGER -- MR. DUBOIS
12 WHETHER THIS WITNESS WAS GOING TO TESTIFY TO ANY WATER
13 USE PRIOR TO '97, THE ANSWER WAS NO. SO I RESTRICTED --

14 **MR. LEININGER:** YOUR HONOR --

15

16 (INDISCERNIBLE: SPEAKING SIMULTANEOUSLY.)

17

18 **MR. KUHS:** -- TO THAT FACT.

19 **MR. LEININGER:** -- AS PART OF THE --

20 **MR. KUHS:** HOLD ON A SECOND.

21 I PREPARED THIS IN ADVANCE BECAUSE I DIDN'T
22 KNOW HOW FAR THE WITNESS WAS GOING TO GO OR WHETHER THEY
23 WERE GOING TO PUT ON A DIFFERENT WITNESS TO TESTIFY; SO
24 I PREPARED IT IN ADVANCE OF THIS WITNESS'S EXAMINATION.
25 THAT'S WHY IT REFLECTS THE PRIOR WATER YEARS.

26 BUT I STAND BY THE STATEMENT THERE'S BEEN
27 NO TESTIMONY IN THIS PROCEEDING OF ANY WATER USE BY
28 EDWARDS AIR FORCE BASE PRIOR TO 1997, WITH THE EXCEPTION

1 OF THE WATER REPORTS FOR '65 AND '66, BUT THOSE ARE
2 HEARSAY.

3 **MR. LEININGER:** YOUR HONOR, THIS IS A LITTLE
4 DIFFICULT BECAUSE THERE IS NO CASE IN CHIEF FROM THIS
5 SIDE. BUT LAST WEEK, WHEN HE WAS ESTABLISHING THE
6 FOUNDATION FOR THIS DOCUMENT, HE ASKED THE QUESTION, IS
7 THIS A FAIR REPRESENTATION OF THE WATER USE AT EDWARDS
8 AIR FORCE BASE THROUGH HISTORIC AND --

9 **THE COURT:** WELL, I'M LOOKING AT 178, AND 178 HAS
10 BEEN TESTIFIED TO RATHER EXTENSIVELY CONCERNING WATER
11 USE, AND THAT GOES, AGAIN, BACK TO 1947.

12 **MR. KUHS:** WELL, THE QUESTIONING WAS LIMITED TO
13 1997 FORWARD, YOUR HONOR. FOR THAT BASIS THERE WAS
14 NO --

15 **THE COURT:** THE WHOLE DOCUMENT WAS REFERRED TO.

16 **MR. KUHS:** THE DOCUMENT, AS YOU SAID, ARE DATA
17 POINTS. ONLY THE DATA POINTS FROM '97 FORWARD WERE
18 REFERRED TO. AND YOU'LL RECALL THEY DIDN'T OFFER IT
19 INTO EVIDENCE BECAUSE THERE WAS NO FOUNDATION; SO THEY
20 HAD TO READ THE NUMBERS INTO THE RECORD.

21 **MR. LEININGER:** THIS IS NOT OUR EXHIBIT, YOUR
22 HONOR. WHAT WAS ASKED LAST WEEK WAS THE VERACITY AND
23 ACCURACY OF THAT CURVE. SO THEY HAVE --

24 **MR. KUHS:** PRIOR -- FROM 19 --

25 **MR. LEININGER:** THEY HAVE SUBMITTED OFFER OF PROOF
26 THAT THAT CURVE ACCURATELY REPRESENTS WATER USE AT
27 EDWARDS AIR FORCE BASE THROUGH TIME. THIS WITNESS IS
28 MERELY POINTING OUT THAT OUR FUTURE PROJECTIONS FOR

1 WATER NEEDS IS NOT UNREASONABLE COMPARED TO THE GRAPH OF
2 THEIR PAST YEARS.

3 **MR. ZIMMER:** YOUR HONOR, MR. ZIMMER. I THINK
4 THERE'S AN EASIER WAY TO LOOK AT THIS. I THINK
5 MR. LEININGER IS NOW TRYING TO USE THIS AS A BASIS FOR
6 THIS EXPERT'S OPINION. THIS EXPERT TESTIFIED TO ALL THE
7 BASES FOR HIS OPINION IN HIS DIRECT EXAMINATION
8 TESTIMONY AND WAS CROSS-EXAMINED WITH REGARD TO BASIS
9 FOR HIS OPINION. THIS RIGHT HERE WAS NOT A BASIS FOR
10 HIS OPINION.

11 SO I THINK WHAT'S HAPPENING NOW IS WE ARE
12 BEYOND DIRECT AND WE'RE TRYING TO COME UP WITH SOME NEW
13 BASIS FOR THE EXPERT'S OPINION WHICH HE DID NOT RELY ON
14 PREVIOUSLY AND WHICH HE WAS CROSS-EXAMINED ON; SO WE'RE
15 BEYOND THE SCOPE IN MY MIND AS WELL.

16 **THE COURT:** WELL, AS I UNDERSTAND THE TESTIMONY
17 AND THE QUESTION THAT'S BEEN ASKED IS CONCERN TO HAVE
18 HIM EXPLAIN HOW HE ARRIVED AT HIS 30 PERCENT AS A
19 CONTINGENCY; IS THAT CORRECT?

20 **MR. LEININGER:** YES, YOUR HONOR. AND IF I MAY,
21 THE TESTIMONY HAS BEEN ABOUT THE EBB AND FLOW. THE
22 30 PERCENT WAS A RESULT OF THE EBB AND FLOW, THE HIGHS
23 AND THE PEAKS OF WATER DEMANDS AT EDWARDS AIR FORCE
24 BASE.

25 SO IF HE COULD BE ALLOWED TO CONTINUE HIS
26 TESTIMONY, WHAT HE'S DEMONSTRATING HERE IS THAT
27 30 PERCENT LINE, THROUGH HISTORY, REPRESENTS THE EBB AND
28 FLOW OF WATER USE AT EDWARDS AIR FORCE BASE.

1 **MR. ZIMMER:** BUT THAT'S EXACTLY THE POINT, YOUR
2 HONOR. THIS WITNESS DID NOT TESTIFY THAT HE USED
3 30 PERCENT. IN FACT, THE 30 PERCENT FACTOR, BECAUSE OF
4 THESE NUMBERS, HE DID NOT RELY ON THESE NUMBERS
5 WHATSOEVER IN COMING UP WITH THAT 30 PERCENT. HE JUST
6 SAID HE THOUGHT 30 PERCENT WAS REASONABLE. HE NEVER
7 SAID THAT HE RELIED ON THESE NUMBERS GOING BACK IN TIME.

8 **THE COURT:** HE SAID HE RELIED ON A NUMBER OF
9 FACTORS IN COMING UP WITH AN ENGINEERING ESTIMATE. AND
10 IF THIS IS ONE OF THE FACTORS, THEN HE CAN SO TESTIFY.
11 YOU CAN CROSS-EXAMINE HIM ON IT AND MAKE WHATEVER POINTS
12 YOU WISH TO MAKE.

13 **MR. KUHS:** YOUR HONOR, I'D LIKE TO READ FROM THE
14 DEPOSITION TRANSCRIPT.

15 **THE COURT:** GO AHEAD.

16 **MR. KUHS:** (READING:)

17 "QUESTION: WHEN WAS THE A.F.R.L. FIRST
18 ESTABLISHED?

19 "ANSWER: I DON'T KNOW. I DON'T KNOW WHEN
20 THE AIR FORCE RESEARCH LAB WAS
21 FIRST ESTABLISHED. I DON'T RECALL.
22 I'M SORRY.

23 "QUESTION: DO YOU HAVE ANY (INDISCERNIBLE)
24 AT ALL?"

25 **THE COURT:** YOU'RE GOING WAY TOO FAST FOR THE
26 REPORTER.

27 **MR. KUHS:** I'M SORRY.

28 "QUESTION: DO YOU HAVE ANY INFORMATION AS

1 TO THE A.F.R.L.'S WATER USE PRIOR TO 1997?

2 "ANSWER: IN THE INFORMATION THAT WAS IN
3 THE DATA THAT WAS PROVIDED.

4 "OKAY. BUT AS YOU SIT HERE, ARE YOU
5 PREPARED TO OFFER ANY OPINIONS
6 ABOUT THE WATER USE? THAT IS, CAN
7 YOU TELL ME WHAT THE WATER
8 PRODUCTION IS OR WAS AT THE
9 A.F.R.L. IN 1990, FOR EXAMPLE?

10 "ANSWER: I WOULD HAVE TO LOOK AT THE LOGS.
11 I CAN'T TELL YOU OFF THE TOP OF MY
12 HEAD.

13 "DID YOU BRING THOSE DOCUMENTS WITH YOU?

14 "NO, SIR.

15 "MR. LEININGER: IF I COULD INTERJECT FOR
16 THE PURPOSES OF DISCOVERY STATEMENT
17 THAT WAS PRODUCED IN DECEMBER, A
18 NUMBER OF WELL LOGS GOING BACK TO
19 19 BLANKS."

20 MR. GERALD BOSH (PHONETIC) THEN MAKES A
21 COMMENT.

22 MR. LEININGER AGAIN:

23 "2000, 2001, (INDISCERNIBLE WORD)
24 ADDITIONAL INFORMATION
25 PROVIDED FROM EARLIER HISTORICAL
26 PRODUCTION WE HAVE IDENTIFIED AS
27 ADDITIONAL EXPERTS, HISTORIAN,
28 WHICH HAVE EXAMINED PURPOSE AND

1 WATER USAGE ON THE BASE.

2 "SO MR. JUDKINS' TESTIMONY TODAY WITH
3 REGARD TO HIS EXPERTISE AS TO THE
4 HISTORY OF WATER PRODUCTION MAY NOT
5 GO BACK TO THOSE EARLIER DOCUMENTS,
6 BUT, AS HE STATED, HE HAS ASSISTED
7 IN THE PRODUCTION OF THAT TABLE
8 GOING BACK TO 1997.

9 "MR. KUHS: BUT IS HE GOING TO TESTIFY TO
10 WATER PRODUCTION PRIOR TO 1997?

11 "WELL, YOUR QUESTIONS WITH REGARD TO PRIOR
12 TO '60, NO."

13 AND THEN IT GOES ON. SO THERE WAS -- HE
14 WASN'T OFFERED FOR THAT PURPOSE. HE DIDN'T TESTIFY TO
15 THE FOUNDATION IN EXHIBIT 178. THE DATA POINTS ARE FROM
16 THAT EXHIBIT. SO NOT ONLY --

17 **MR. LEININGER:** YOUR HONOR, I MOVE TO STRIKE.
18 THAT'S IMPROPER USE OF DEPOSITION TESTIMONY. THERE'S NO
19 CONTEXT THERE. WHAT -- YOU CAN'T SELECTIVELY --

20 **THE COURT:** THE OBJECTION IS OVERRULED. THE
21 WITNESS MAY ANSWER THE QUESTION.

22 **BY MR. LEININGER:**

23 **Q** SO YOU WERE EXPLAINING THE GREEN LINE.

24 **A** IF I MAY, SIR, START OVER AT THE BEGINNING.
25 THE RED LINE --

26 **THE COURT:** YEAH. BUT I'M HAVING TROUBLE HEARING
27 YOU BECAUSE YOU DON'T HAVE A MIC. AND I'M AFRAID WE
28 NEED TO HAVE THE MIC SO --

1 **MR. OYARZO:** (INDICATING.)

2 **THE COURT:** THERE WE GO. YOU'RE FINE RIGHT WHERE
3 YOU ARE.

4 **THE WITNESS:** THE RED LINE REPRESENTS 4,284
5 ACRE-FEET. THE GREEN LINE REPRESENTS THE BURDEN BY
6 30 PERCENT OF THE RED LINE, WHICH BRINGS YOU UP TO ABOUT
7 5,000 -- I WANT TO SAY 5,572, SO MAKE IT 72.

8 **BY MR. LEININGER:**

9 **Q** AND JUST SO THE RECORD IS CLEAR ON THIS,
10 THE RED AND THE GREEN LINES ARE HORIZONTAL LINES, AND
11 THEY ARE ALL REPRESENTATIVE OF THAT SAME FIGURE THAT YOU
12 JUST MENTIONED?

13 **A** YES, SIR. AND THEN ACROSS -- ACROSS TIME
14 YOU CAN SEE THAT THE INSTALLATION HAS EXCEEDED THE 5,572
15 ACRE-FOOT CONSUMPTION.

16 **Q** OKAY.

17 **A** THIS -- YES, SIR.

18 **Q** I'M SORRY. IF YOU'RE NOT FINISHED, GO
19 AHEAD.

20 **A** THIS POINT RIGHT HERE REPRESENTS THE
21 MAXIMUM DEMAND OR MAXIMUM CONSUMPTION AT THE
22 INSTALLATION, I BELIEVE IN THE MID '60S.

23 **MR. KUHS:** OBJECTION, YOUR HONOR, BEYOND THE SCOPE
24 OF DIRECT.

25 **THE COURT:** OVERRULED.

26 **BY MR. LEININGER:**

27 **Q** NOW, I BELIEVE IN YOUR TESTIMONY YOU ALSO
28 TESTIFIED WITH REGARD TO A PROGRAM WHICH WAS RECENTLY

1 BEGUN IN 2007 UNDER PRESIDENTIAL DIRECTIVE. DO YOU
2 RECALL THAT TESTIMONY?

3 A YES, SIR, I DO.

4 Q AND THAT TESTIMONY WAS A PRESIDENTIAL
5 DIRECTIVE TO CONSERVE WATER, BE MORE WATER EFFICIENT; IS
6 THAT CORRECT?

7 A YES, SIR.

8 Q AND THE DIRECTIVE ASKED FOR A CERTAIN
9 PERCENTAGE OF WATER REDUCTION FROM MILITARY FACILITIES;
10 IS THAT CORRECT?

11 A YES, SIR.

12 Q DO YOU RECALL WHAT THAT IS?

13 A YES, SIR, I DO. IT'S 26 PERCENT OVER -- OF
14 POTABLE WATER CONSUMPTION COMPARED TO F.Y. '07 BASELINE.
15 YOU MUST ACHIEVE IT BY THE YEAR 2020.

16 Q SO WHAT IS 26 PERCENT FROM YOUR MAXIMUM USE
17 AT EDWARDS AIR FORCE BASE IN THIS?

18 A 26 -- REDUCING THIS FIGURE, THAT POINT
19 RIGHT THERE, BY 26 PERCENT BRINGS YOU RIGHT DOWN -- AND
20 THE NUMBER IS ESCAPING ME RIGHT NOW (INDICATING). IT
21 BRINGS YOU RIGHT DOWN VERY -- ACTUALLY, RIGHT AT THE
22 GREEN LINE. THAT LINE, THE RED LINE, IS MISMARKED. BUT
23 IT BRINGS YOU RIGHT DOWN TO THE GREEN LINE, RIGHT DOWN
24 TO 5,574 ACRE-FEET.

25 Q SO JUST TO UNDERSTAND YOUR TESTIMONY, YOU
26 SAY THAT BASED UPON THE MAXIMUM WATER USE AT EDWARDS AIR
27 FORCE BASE, WITH THE REDUCTION AND CONSERVATION MEASURES
28 OF 26 PERCENT, THE RESULT WOULD BE APPROXIMATELY?

1 **A** 5,574 OR -- I'M SORRY -- 72.

2 **Q** LET'S TAKE ONE MORE LOOK AT THIS CHART. IF
3 YOU GO TO THE PERIOD THAT WAS EXPANDED, I BELIEVE, BY
4 MR. KUHS, YOU'RE GETTING AT AROUND 1990, BUT LET'S LOOK
5 AT THE PERIOD OF 2007 ONWARD.

6 CAN YOU POINT TO WHERE 2007 IS?

7 **A** YES, SIR, I CAN.

8 **MR. DUBOIS:** YOUR HONOR, MAY I JUST PUT BATTERIES
9 IN THAT SO IT WORKS?

10 **THE COURT:** YES.

11 **MR. DUBOIS:** THANKS.

12 **THE WITNESS:** I'M SORRY.

13 **MR. DUBOIS:** THAT'S ALL RIGHT.

14 I FORGOT TO DO THIS THIS MORNING, YOUR
15 HONOR. IT'S MY FAULT.

16

17 (PAUSE IN THE PROCEEDINGS.)

18

19 **THE WITNESS:** MUCH BETTER. THANK YOU, SIR.

20 YES, SIR.

21 **BY MR. LEININGER:**

22 **Q** SO YOU'VE SHOWN -- YOU'VE DEMONSTRATED WITH
23 REGARD TO THE AMOUNT THAT'S BEING CLAIMED HERE THE
24 VARIABILITY THROUGH TIME AT EDWARDS AIR FORCE BASE.
25 LET'S GO TO THE 2007 --

26 **MR. KUHS:** OBJECTION.

27 **BY MR. LEININGER:**

28 **Q** LET'S GO TO THE 2007 PERIOD, WHEN THE

1 PRESIDENTIAL DIRECTIVE WITH REGARD TO CONSERVATION HAS
2 PASSED. WHERE IS 2007 ON THIS?

3 A RIGHT ABOUT THERE, SIR (INDICATING).

4 Q AND WATER USAGE AT EDWARDS AIR FORCE BASE
5 HAS DECLINED SINCE THEN; CORRECT?

6 A THAT IS CORRECT.

7 Q HAVE YOU MET YOUR 26 PERCENT?

8 A YES, SIR, WE HAVE.

9 Q WHERE APPROXIMATELY IS THE 26 PERCENT?

10 A 26 PERCENT IS RIGHT ABOUT THERE, THAT LEVEL
11 THERE. AND WE'RE CURRENTLY RIGHT ABOUT THERE ON THE
12 TOTAL -- ON THE TOTAL CONSUMPTION.

13 MR. KUHS: YOUR HONOR, I'D LIKE THE RECORD TO
14 REFLECT THAT THE WITNESS IS GOING INTO THE BLACK LINE
15 SHOWING TOTAL WATER CONSUMPTION.

16 THE WITNESS: YES, SIR, I AM. TOTAL WATER
17 CONSUMPTION.

18 BY MR. LEININGER:

19 Q SO YOU'RE SHOWING THAT FROM 2007 TO
20 APPROXIMATELY PRESENT, YOU'VE HAD A 26 PERCENT
21 REDUCTION --

22 A YES.

23 Q -- IS THAT CORRECT?

24 AND NOW IF YOU JUST GO BACK TO THE MAXIMUM
25 USE EVER AT EDWARDS AIR FORCE BASE --

26 A YES, SIR.

27 Q -- AND RESTATE FOR THE RECORD, PLEASE, A
28 26 PERCENT REDUCTION WHEN YOU'VE HAD THE MAXIMUM WATER

1 DEMAND AT EDWARDS AIR FORCE BASE.

2 **A** BRINGS YOU A 26 PERCENT REDUCTION --

3 **MR. ZIMMER:** RELEVANCE.

4 **MR. KUHS:** IRRELEVANT.

5 **THE COURT:** WELL --

6 **MR. LEININGER:** WELL, YOUR HONOR, WHAT THE WITNESS
7 HAS TESTIFIED TO IS THE FLUCTUATION OF WATER NEEDS.
8 WHAT HE'S DEMONSTRATING RIGHT NOW IS EVEN WITH THE
9 26 PERCENT REDUCTION, IF THERE IS A PERIOD OF MAXIMUM
10 WATER NEED AGAIN, IT EQUIVALATES -- EQUIVALENCE OF THE
11 CLAIM THAT HE IS NOW MAKING WITH REGARD TO FUTURE WATER
12 USE.

13 **MR. KUHS:** BUT THERE'S BEEN NO FOUNDATION THAT
14 FUTURE WATER NEEDS ARE GOING TO APPROACH THAT NUMBER,
15 YOUR HONOR. PURE SPECULATION.

16 **MR. LEININGER:** YOUR HONOR.

17 **THE COURT:** WELL, IT SEEMS TO ME WHETHER THERE IS
18 EVIDENCE OF THAT OR NOT, THE COURT IS INTERESTED IN
19 DETERMINING WHAT IS THE MAXIMUM WATER USAGE THAT THAT
20 BASE COULD SUPPORT, AND I THINK THAT RELATES TO WHAT HIS
21 TESTIMONY CURRENTLY IS, WHETHER THEY NEED IT NOW OR NOT,
22 WHETHER THEY WILL EVER ACHIEVE IT OR NOT.

23 **MR. KUHS:** HOW MUCH WATER THEY CAN USE REGARDLESS
24 OF WASTE AND OTHER PRINCIPLES?

25 **THE COURT:** NO, OBVIOUSLY NOT.

26 **MR. KUHS:** WHAT'S THE -- I'M LOST, YOUR HONOR.

27 WHAT'S THE RELEVANCE OF HOW MUCH WATER THEY CAN USE --

28 WHAT'S THE RELEVANCE OF HOW MUCH WATER MY CLIENT CAN USE

1 IN THIS PROCEEDING?

2 **THE COURT:** WELL, WE'RE TALKING ABOUT TRYING TO
3 DETERMINE WHAT THE RESERVATION OF WATER IS -- I'LL USE
4 THAT WORD, "RESERVATION" -- FOR THIS PARTICULAR BASE AND
5 FOR THESE END PURPOSES FOR WHICH IT WAS ESTABLISHED AND
6 CARRIED ON.

7 **MR. KUHS:** BUT IT'S JUSTICE CARDOZO WHO COINED THE
8 PHRASE, "ON A CLEAR DAY YOU CAN SEE FOREVER." THAT'S
9 KIND OF THE EXERCISE THAT'S GOING ON HERE, WHICH IS HOW
10 MUCH DEMAND CAN WE DREAM UP IF WE ASSUME A LOT OF THINGS
11 THAT WE DON'T -- A LOT OF FACTS THAT WE DON'T HAVE IN
12 THE RECORD.

13 **THE COURT:** I UNDERSTAND YOUR ARGUMENT, MR. KUHS.
14 I'M GOING TO PERMIT THE TESTIMONY ONLY AT THIS POINT.

15 **MR. LEININGER:** WELL, WE'LL -- I'M READY TO
16 CONCLUDE THE TESTIMONY, YOUR HONOR.

17 **BY MR. LEININGER:**

18 **Q** BUT JUST TO RECAP WITH REGARD TO YOUR
19 ESTIMATE FOR THE WATER NEEDS FOR THE FORT BASED UPON
20 THIS FLUCTUATION OF MISSIONS AND RESULTING FLUCTUATION
21 IN WATER NEEDS, THAT AMOUNT OF WATER, FOR THE RECORD, IN
22 YOUR OPINION IS?

23 **A** THE TOTAL AMOUNT FOR --

24 **MR. ZIMMER:** THAT WAS COMPOUND AND ARGUMENTATIVE
25 AS TO FLUCTUATING MISSIONS.

26 **MR. LEININGER:** HE'S ALREADY TESTIFIED WITH REGARD
27 TO HIS ESTIMATE FOR WATER NEEDS AND --

28 **THE COURT:** WHY DON'T YOU ADDRESS THE COURT, NOT

1 MR. ZIMMER.

2 MR. LEININGER: THANK YOU, YOUR HONOR.

3 THE COURT: AND I WOULD EXPECT HE DO THE SAME.

4 MR. ZIMMER: I AGREE, YOUR HONOR.

5 THE COURT: ASK YOUR QUESTION AGAIN.

6 BY MR. LEININGER:

7 Q TO SUMMARIZE, WHAT'S YOUR ESTIMATE FOR
8 WATER NEEDS FOR THE FUTURE BASED UPON THIS PATTERN OF
9 EBB AND FLOW OF MILITARY NEEDS?

10 THE COURT: WELL, WASN'T THAT ASKED AND ANSWERED
11 SEVERAL TIMES?

12 MR. LEININGER: YES, YOUR HONOR.

13 BY MR. LEININGER:

14 Q IN ADDITION -- COULD YOU JUST RECITE THE
15 FIGURE, PLEASE?

16 A YES, SIR. 10,000 ACRE-FEET.

17 Q NOW, 10,000 ACRE-FEET IS THE 5,600 --

18 MR. ZIMMER: ASKED AND ANSWERED.

19 MR. LEININGER: -- PLUS --

20 MR. KUHS: BEYOND THE SCOPE.

21 MR. LEININGER: I'M JUST TRYING TO ESTABLISH WHAT
22 THE 10,000 ACRE-FEET IS.

23 THE COURT: IT'S NOT BEYOND THE SCOPE. IT IS
24 ASKED AND ANSWERED. SUSTAINED.

25 ASK ANOTHER QUESTION.

26 BY MR. LEININGER:

27 Q THE 10,000 ACRE-FEET AMOUNT, WHICH IS YOUR
28 OPINION FOR HOW MUCH WATER IS NECESSARY TO MEET THE

1 MILITARY PURPOSES AT EDWARDS AIR FORCE BASE IN THE
2 FUTURE, IS BASED UPON WHAT TWO ELEMENTS?

3 **MR. ZIMMER:** IT'S ASKED AND ANSWERED.

4 **THE COURT:** SUSTAINED.

5 **MR. LEININGER:** ALL RIGHT.

6 **THE COURT:** I THINK IT'S TIME WE TAKE A RECESS.
7 15 MINUTES.

8
9 (RECESS.)

10
11 **THE COURT:** WANT TO LET THEM KNOW OUTSIDE THAT
12 WE'RE IN SESSION?

13 **MR. LEININGER:** ONE FINAL QUESTION, YOUR HONOR, IF
14 I MAY.

15 **THE COURT:** WAIT JUST A SECOND. YOU MAY BE
16 MISSING SOME PLAYERS.

17
18 (PAUSE IN THE PROCEEDINGS.)

19
20 **THE COURT:** ALL RIGHT. GO AHEAD.

21 **BY MR. LEININGER:**

22 **Q** MR. JUDKINS, JUST AS A POINT OF
23 CLARIFICATION, I BELIEVE YOU TESTIFIED WITH REGARD TO
24 THE NUMBER OF YEARS THAT THE WATER USE AT EDWARDS AIR
25 FORCE BASE HAD EXCEEDED THE 5,572 FIGURE; IS THAT
26 CORRECT?

27 **A** YES, SIR, I DID.

28 **Q** AND I BELIEVE YOU SAID APPROXIMATELY A

1 THIRD OF THAT.

2 A I BELIEVE I SAID OVER ONE-THIRD.

3 Q AND MY QUESTION, SIR, IS DO YOU KNOW HOW
4 MANY YEARS, IN FACT, THIS GRAPH, THIS WATER USE THROUGH
5 THE PERIOD OF 1947, I THINK, HAD EXCEEDED THE 5,572?

6 A YES, SIR, I DO.

7 Q WHAT IS THAT?

8 A TWENTY-THREE YEARS OUT OF THE 66.

9 MR. LEININGER: NO FURTHER QUESTIONS, YOUR HONOR.

10

11 THE COURT: ALL RIGHT. IS THERE ANYTHING ELSE?

12 MR. KUHS: YES, YOUR HONOR, BRIEFLY.

13 THE COURT: YES, MR. KUHS.

14

15 **RECROSS-EXAMINATION**

16 **BY MR. KUHS:**

17 Q MR. JUDKINS, ONE OF THE ASSUMPTIONS YOU
18 USED IN YOUR CALCULATION WAS A DECLINING BASE
19 POPULATION. DO YOU RECALL THAT TESTIMONY?

20 A YES, SIR, I DO.

21 Q AND THEN ON REDIRECT, YOU SUGGESTED THE
22 CONCEPT OF CONSOLIDATION.

23 A I DID.

24 Q OKAY. HOW LONG HAS THE U.S. AIR FORCE BEEN
25 CONSOLIDATING?

26 A SIR, FOR WELL OVER A DECADE.

27 Q AND IN THAT TEN-YEAR SPAN EDWARDS HAS
28 CONTINUED TO DECLINE IN POPULATION; CORRECT?

1 **A** YES, SIR.

2 **Q** SO EDWARDS HAS NOT BEEN THE BENEFIT OF ANY
3 BASE CONSOLIDATION IN TERMS OF INCREASED POPULATION;
4 CORRECT?

5 **A** CORRECT.

6 **Q** WERE YOU AWARE OF A REPORT PREPARED BY A
7 GROUP OF EXPERTS FOR LOS ANGELES COUNTY -- PREPARED A
8 REPORT CALLED THE "SUMMARY EXPERT REPORT"?

9 **A** I DON'T BELIEVE SO.

10 **Q** HAVE YOU EVER PROVIDED ANY WATER DATA TO
11 ANYBODY OUTSIDE OF THE AIR FORCE TO PREPARE ESTIMATES OF
12 EDWARDS' WATER USE?

13 **A** TO THE BEST OF MY KNOWLEDGE, NOT AS PART OF
14 THIS ADJUDICATION.

15 **Q** AND WITH RESPECT TO TABLE 178, YOU DON'T
16 KNOW THE SOURCE OF THE DATA PRIOR TO 1997; CORRECT?

17 **A** SIR, I NEED TO FIND 178 HERE.

18 **Q** 178 IS THE CHART OF HISTORICAL WATER USE.
19 THAT'S THE TABULATED EXHIBIT.

20 **A** OH, SORRY.

21 **MR. OYARZO:** (INDICATING.)

22 **THE WITNESS:** SAY AGAIN THE QUESTION, PLEASE, SIR.
23 **BY MR. KUHS:**

24 **Q** DO YOU KNOW THE SOURCE OF THE DATA USED FOR
25 WATER YEARS PRIOR TO 1997?

26 **A** YES, SIR, I DO.

27 **Q** WHAT'S --

28 **A** NOW, IF I COULD CLARIFY. I BELIEVE YOU

1 ASKED ME LAST WEEK IF I HAD ASKED FOR THIS PARTICULAR
2 CHART, AND I DID NOT RECALL ASKING FOR IT, BUT IN FACT I
3 HAD. I WAS MISTAKEN LAST WEEK. I HAD ASKED FOR THIS
4 CHART IN ANOTHER PROCEEDING.

5 AND THE SOURCE -- TO ANSWER YOUR QUESTION
6 ON THE SOURCE OF THE DATA PRIOR TO THE MID '90S WAS A
7 U.S.G.S. REPORT.

8 Q WHAT'S THE NAME OF THAT REPORT?

9 A SIR, I CALL IT THE "U.S.G.S. REPORT."

10 Q DO YOU HAVE ANY FURTHER IDENTIFYING
11 INFORMATION?

12 A NO, SIR, I DON'T. I'M SORRY.

13 Q DO YOU KNOW WHERE THE U.S.G.S. GOT ITS
14 DATA?

15 A NO, SIR, I DON'T.

16 Q DO YOU KNOW WHO PREPARED -- ACTUALLY
17 PREPARED THE CHART?

18 A THIS CHART HERE, SIR?

19 Q YES.

20 A YES, SIR, I DO.

21 Q WHO PREPARED IT?

22 A MR. TOM NEELY (PHONETIC).

23 Q AND DID YOU ASK TOM WHETHER HE PREPARED IT
24 DIRECTLY FROM THE U.S.G.S. REPORT?

25 A NO, SIR, I DID NOT.

26 MR. KUHS: YOUR HONOR, I HAVE NO FURTHER QUESTIONS
27 OF THIS WITNESS. I WOULD ASK THE COURT TO TAKE JUDICIAL
28 NOTICE OF A PRIOR EXHIBIT, AND IT'S PROBABLY NOT

1 JUDICIAL NOTICE. I'D JUST LIKE TO OFFER IT INTO THIS
2 RECORD, AS WE DISCUSSED.

3 AND THAT'S A JOE SCALMANINI, EXHIBIT
4 NUMBER 63, WHICH IS TABLE D.3-3 FROM THE SUMMARY EXPERT
5 REPORT, LISTING THE SUMMARY EXPERT REPORT'S CONCLUSIONS
6 AS TO WATER USE AT EDWARDS AIR FORCE BASE.

7 **THE COURT:** WELL, WHAT YOU HAVE TO DO IS PROVIDE
8 THE COURT WITH A COPY OF THAT MATERIAL IF YOU WANT ME TO
9 HAVE IT BEFORE ME AND IN MIND. DOESN'T REQUIRE A FORMAL
10 JUDICIAL NOTICE SINCE THAT WAS PART OF THE TESTIMONY
11 PREVIOUSLY IN PHASE THREE.

12 **MR. KUHS:** MAY I OFFER A COPY, YOUR HONOR?

13 **THE COURT:** YES.

14 **MR. KUHS:** (INDICATING.)

15
16 (EXHIBIT 63, IDENTIFIED: TABLE
17 D.3-3 FROM SUMMARY EXPERT REPORT.)

18
19 **THE COURT:** THANK YOU.

20
21 (PAUSE IN THE PROCEEDINGS.)

22
23 **THE COURT:** ALL RIGHT. IS THERE ANY FURTHER
24 EXAMINATION OF MR. JUDKINS?

25 **MR. ZIMMER:** NO, YOUR HONOR.

26 **THE COURT:** THANK YOU VERY MUCH, SIR. YOU MAY
27 STEP DOWN.

28 **THE WITNESS:** THANK YOU, YOUR HONOR.

1 **THE COURT:** YOU'RE EXCUSED. THANK YOU.

2 **MR. LEININGER:** YOUR HONOR, IN CONCLUSION, WE
3 WOULD MOVE FOR THE SUBMISSION INTO EVIDENCE OF EXHIBITS
4 THAT HAD BEEN PRESENTED IN MR. JUDKINS' TESTIMONY. AND
5 IN ADDITION, WE WOULD ASK THAT WE BE ALLOWED TO MARK AS
6 AN EXHIBIT THE TESTIMONY THAT HE JUST GAVE WITH REGARD
7 TO --

8 **THE COURT:** WHEN YOU TURN AWAY FROM THE
9 MICROPHONE, I CAN'T HEAR YOU.

10 **MR. LEININGER:** OH, I'M SORRY. JUST MOVING TO
11 ENTER THE EXHIBITS THAT WERE PRESENTED IN MR. JUDKINS'
12 TESTIMONY. AND IN ADDITION, WE WOULD LIKE TO MARK AS
13 U.S.A.F. EXHIBIT 262, OUR LAST EXHIBIT, WHICH WOULD BE
14 THE SERIES OF -- I GUESS THERE'S FOUR PAGES WITH REGARD
15 TO THAT GRAPH, WITH THE FIGURES THAT HE JUST TESTIFIED
16 TO.

17
18 (EXHIBIT U.S.A.F. 262, IDENTIFIED:
19 GRAPH.)

20
21 **THE COURT:** ALL RIGHT. MARK IT FOR
22 IDENTIFICATION. ARE YOU OFFERING IT INTO EVIDENCE AS
23 WELL?

24 **MR. LEININGER:** AND WE ARE OFFERING IT INTO
25 EVIDENCE.

26 **THE COURT:** AND IS THERE A FOUNDATION FOR THAT?

27 **MR. OYARZO:** (INDICATING.)

28 **THE COURT:** OH, THIS IS THE DOCUMENT, ESSENTIALLY,

1 THAT HAS BEEN PREVIOUSLY MARKED, HASN'T IT?

2 **MR. LEININGER:** NO, YOUR HONOR, IT WAS NOT.

3 **THE COURT:** TEJON 4?

4 **MR. LEININGER:** THE ONE ON THE TOP IS TEJON 4.

5 **THE COURT:** YES.

6 **MR. LEININGER:** SUBSEQUENT PAGES ARE WHAT

7 MR. JUDKINS JUST TESTIFIED --

8 **THE COURT:** I SEE, OKAY. IT'LL BE ADMITTED.

9

10 (EXHIBIT NUMBER 262, RECEIVED.)

11

12 **MR. LEININGER:** AND THE LAST POINT, YOUR HONOR,
13 WITH REGARD TO THE TEJON EXHIBIT 5, WHICH WAS THE 1953
14 DOCUMENT --

15 **THE COURT:** YES.

16 **MR. ZIMMER:** YOUR HONOR, ON THAT LAST EXHIBIT,
17 COULD WE TAKE A LOOK AND SEE WHAT THAT IS? I WASN'T
18 CLEAR ON WHAT THAT EXHIBIT WAS.

19 DO YOU HAVE A COPY?

20 **MR. LEININGER:** WE HAVE COPIES.

21 **MR. ZIMMER:** CAN I JUST LOOK AT THAT BEFORE WE
22 ADMIT THAT? IT WAS A NEW EXHIBIT, 262.

23 **THE COURT:** ALL RIGHT. NOW YOU'RE ON 5-5. WHAT
24 IS IT THAT YOU WANT TO TELL ME ABOUT THAT?

25 **MR. LEININGER:** WELL, WHAT WE ALSO WANTED TO
26 SUBMIT FOR PURPOSES OF THE COURT'S INTERPRETATION OF
27 THIS DOCUMENT -- I'M STILL NOT QUITE SURE WHAT THE
28 EXHIBIT IS FOR, BUT FOR PURPOSES OF EXPLANATION,

1 INTERPRETATION OF THIS DOCUMENT, IT'S REFERENCING THE
2 AIR FORCE PLANT 42 TRANSACTION. AND WE WOULD LIKE TO
3 ENTER -- AND I BELIEVE THIS IS EXHIBIT 80 -- WAS IT
4 ALREADY IN?

5 **MR. OYARZO:** (SPOKE SOTTO VOCE.)

6 **MR. LEININGER:** IT WAS PREVIOUSLY MARKED AS
7 EXHIBIT 87 BUT NOT ENTERED DURING MR. HERBERT'S
8 TESTIMONY. BUT IT IS THE ACTUAL DEED BETWEEN THE UNITED
9 STATES AND CITY OF PALMDALE. AND WE OFFER THAT FOR THE
10 PURPOSES -- AND THERE'S NONE OF THIS LANGUAGE WITH
11 REGARD TO SUBJECT TO IN THE ACTUAL DEED.

12 **MR. OYARZO:** (INDICATING.)

13 **MR. LEININGER:** SO WE WOULD MOVE TO ENTER THAT
14 ALSO, YOUR HONOR.

15 **THE COURT:** ANY OBJECTION?

16 **MR. ZIMMER:** I'M NOT SURE WE'VE SEEN THAT, YOUR
17 HONOR.

18 **THE COURT:** WELL, IT'S A COPY OF A DEED, GRANT
19 DEED TO PLANT 42, PRESUMABLY.

20 **MR. LEININGER:** AND THE BATES NUMBER IS ON THE
21 BOTTOM.

22 **THE COURT:** IT'S 023766.

23 ALL RIGHT. IT WILL BE ADMITTED.

24 **MR. LEININGER:** THANK YOU, YOUR HONOR.

25

26 (EXHIBIT 87, IDENTIFIED: GRANT
27 DEED, RECEIVED.)
28

1 **THE COURT:** NOW, I PREVIOUSLY EXCUSED MR. JUDKINS.
2 WHY IS HE SITTING THERE?

3 **MR. LEININGER:** YOU CAN LEAVE.

4 **THE WITNESS:** I'M SORRY, YOUR HONOR.

5 **MR. DUBOIS:** YOUR HONOR, I AM NOT GOING TO ASK
6 MR. JUDKINS ANY QUESTIONS.

7 **MR. KUHS:** YOUR HONOR, COULD I HAVE A RECITATION
8 OF WHAT U.S. EXHIBITS WE'VE ADDRESSED AND WHAT NOT?
9 THERE ARE A NUMBER OF DEMONSTRATIVE EXHIBITS WHICH WERE
10 MARKED FOR IDENTIFICATION BUT NOT GOING TO BE ADMITTED.
11 SO I DON'T KNOW THAT I'VE HEARD AN OFFER OR REQUEST BY
12 THE UNITED STATES TO MOVE ALL OF THEM IN.

13 **THE COURT:** I DON'T THINK I'VE HEARD ANY
14 DIFFERENTIATION.

15 **MR. KUHS:** WE'D OBJECT, YOUR HONOR, TO U.S.
16 EXHIBITS 196, 197.

17 **THE COURT:** JUST A MINUTE HERE. THAT'S WHAT I WAS
18 WAITING TO HEAR.

19 **MR. KUHS:** 196 IS THE POWERPOINT SUMMARY PREPARED
20 FOR MR. BREWER -- GENERAL BREWER, THE WITNESS WHO
21 TESTIFIED.

22 **THE COURT:** (INAUDIBLE.)

23 **THE REPORTER:** I'M SORRY, YOUR HONOR. I DIDN'T
24 HEAR THAT.

25 **MR. DUBOIS:** YEAH, 196 WAS OFFERED, AND I THINK
26 THE COURT ALLOWED IT IN FOR DEMONSTRATIVE PURPOSES ONLY.

27 **THE COURT:** ALL RIGHT.

28 **MR. DUBOIS:** THAT'S WHAT MY NOTES SHOW, YOUR

1 HONOR.

2 **THE COURT:** SO 196 IS NOT ADMITTED. IT'S STILL
3 MARKED FOR IDENTIFICATION FOR THE RECORD.

4

5 (EXHIBIT NUMBER 196, NOT
6 RECEIVED.)

7

8 **MR. KUHS:** I'M SAYING WITH RESPECT TO 197, THAT
9 WAS THE POPULATION SUMMARY.

10 **THE COURT:** YES.

11

12 (EXHIBIT NUMBER 197, IDENTIFIED:
13 POPULATION SUMMARY.)

14

15 **MR. KUHS:** YOUR HONOR, TEJON WOULD MOVE TO
16 INTRODUCE TEJON 3 THROUGH 8.

17 **THE COURT:** VERY WELL.

18 **MR. LEININGER:** YOUR HONOR, MAY I JUST HAVE ONE
19 MOMENT TO REVIEW TEJON 3 THROUGH 8?

20 **THE COURT:** YOU WHAT?

21 **MR. LEININGER:** MAY WE JUST HAVE ONE MOMENT TO
22 REVIEW TEJON 3 THROUGH 8?

23

24 (PAUSE IN THE PROCEEDINGS.)

25

26 **MR. KUHS:** YOUR HONOR, WITH ONE CORRECTION, WE HAD
27 MARKED -- PREMARKED AN EXHIBIT TEJON 7, AND WE DIDN'T
28 OFFER THAT OR HAVE IT MARKED FOR IDENTIFICATION.

1 **THE COURT:** SO YOU'RE NOT OFFERING 7?

2 **MR. KUHS:** NOT OFFERING 7.

3 **THE COURT:** ALL RIGHT. THE OTHERS WILL BE
4 ADMITTED.

5

6 (EXHIBIT NUMBERS TEJON 3 THROUGH
7 TEJON 6, AND TEJON 8 RECEIVED.)

8

9 **THE COURT:** ALL RIGHT. NOW -- YES, YOU HAVE A
10 WITNESS.

11 **MR. DUBOIS:** YES, I HAVE A WITNESS, YOUR HONOR.

12 **THE COURT:** GOOD. CALL YOUR WITNESS AND JUST HAVE
13 HIM SWORN.

14 **MR. DUBOIS:** COLONEL, COME TO THE STAND, PLEASE.

15 **THE CLERK:** SIR, WOULD YOU RAISE YOUR RIGHT HAND.

16 YOU DO SOLEMNLY STATE THAT THE TESTIMONY
17 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
18 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
19 TRUTH, SO HELP YOU GOD?

20 **THE WITNESS:** I DO.

21 **THE CLERK:** COULD YOU PLEASE STATE AND SPELL YOUR
22 NAME FOR THE RECORD.

23 **THE WITNESS:** LIEUTENANT COLONEL GENE FRANKLIN
24 CUMMINS. G-E-N-E, F-R-A-N-K-L-I-N, C-U-M-M-I-N-S.

25 **MR. DUBOIS:** AND FOR THE BENEFIT OF THE COURT AND
26 COURT REPORTER, PLEASE TRY AND SPEAK INTO THE
27 MICROPHONE. THAT WILL HELP. AND I WILL DO AS WELL.

28 **THE COURT:** GO AHEAD, PLEASE.

DIRECT EXAMINATION

BY MR. DUBOIS:

Q COLONEL CUMMINS, WHAT'S YOUR CURRENT POSITION?

A I'M THE DIRECTOR FOR AIR FORCE PLANT 42 IN PALMDALE, CALIFORNIA.

Q WHAT'S YOUR ROLE AS DIRECTOR OF PLANT 42?

A I OVERSEE THE DAILY OPERATIONS, COMMAND AND CONTROL FOR APPROXIMATELY 190 PERSONNEL THAT REPORT TO ME FOR CIVIL ENGINEERING.

THE COURT: COULD YOU SPEAK MORE DIRECTLY INTO THE MIC, PLEASE?

MR. DUBOIS: IS THE MIC ON I THINK IS THE QUESTION PERHAPS, YOUR HONOR.

THE WITNESS: (INDICATING.)

MR. DUBOIS: THERE WE GO.

THE WITNESS: I'M THE DIRECTOR OF OPERATIONS FOR PLANT 42 IN PALMDALE, CALIFORNIA. I OVERSEE APPROXIMATELY 190 PERSONNEL AT PLANT 42 THAT DO THE DAILY OPERATIONS FOR CIVIL ENGINEERING, FIREFIGHTERS, FIRE AND EMERGENCY SERVICES, SECURITY FORCES, CONTRACTING, FINANCIAL MANAGEMENT.

MR. DUBOIS: OKAY. WOULD YOU HAND, IF MR. OYARZO MAY APPROACH, EXHIBIT 6.

MR. OYARZO: (INDICATING.)

BY MR. DUBOIS:

Q OKAY. CAN YOU IDENTIFY THIS DOCUMENT FOR

1 ME, PLEASE?

2 **A** YES. THIS IS MY BIOGRAPHY.

3

4 (EXHIBIT 6, IDENTIFIED: BIOGRAPHY
5 OF LIEUTENANT COLONEL CUMMINS.)

6

7 **BY MR. DUBOIS:**

8 **Q** AND DOES EXHIBIT 6 ACCURATELY REFLECT YOUR
9 EDUCATION AND EXPERIENCE?

10 **A** YES, IT DOES.

11 **Q** IS IT UP TO DATE?

12 **A** YES, IT IS.

13 **Q** ALL RIGHT. CAN YOU BRIEFLY DESCRIBE YOUR
14 EDUCATIONAL BACKGROUND FOR THE COURT?

15 **A** YES. I RECEIVED MY BACHELOR'S AND MASTER'S
16 DEGREE FROM MISSISSIPPI STATE UNIVERSITY IN AEROSPACE
17 ENGINEERING.

18 THROUGH THE COURSE OF MY MILITARY CAREER, I
19 HAVE ATTENDED THE PROFESSIONAL MILITARY EDUCATION THAT'S
20 EXPECTED OF AN OFFICER, INCLUDING SQUADRON OFFICER
21 SCHOOL, BOTH IN RESIDENCE AS WELL AS CORRESPONDENCE; AIR
22 COMMAND AND STAFF COLLEGE BY CORRESPONDENCE, AND AIR WAR
23 COLLEGE BY CORRESPONDENCE. ADDITIONALLY, I ATTENDED THE
24 INTELLIGENCE MASTER SKILLS COURSE AT GOODFELLOW AIR
25 FORCE BASE.

26 **Q** OKAY. AND CAN YOU BRIEFLY TELL THE COURT
27 REGARDING -- ABOUT YOUR EXPERIENCE SINCE BEING
28 COMMISSIONED, PLEASE?

1 **A** YES, SIR. I'M AN ACQUISITIONS OFFICER; SO
2 I SPECIALIZE IN THE BUILDING AND BUYING, TEST AND
3 EVALUATION OF ASSETS AND ARTICLES, BOTH AVIONIC SYSTEMS,
4 AIRCRAFT SYSTEMS, AS WELL AS SPACE SYSTEMS.

5 SO I STARTED OUT AS A G.P.S. INTEGRATION
6 ENGINEER, TESTING G.P.S. AVIONICS BOXES. MOVED ON
7 THROUGH THERE, PROMOTED THROUGH TO CHIEF OF THAT
8 ELEMENT.

9 FROM THERE I WENT TO THE 339TH FLIGHT TEST
10 SQUADRON AT WARNER ROBINS AIR FORCE BASE, WHERE I DID
11 FLIGHT TESTING, PRIMARILY OF HEAVY AIRCRAFT, C-5, 130,
12 141, F-15 FIGHTERS AS WELL. PROGRESSED THROUGH THERE
13 INTO LEADERSHIP MANAGEMENT. BECAME THE DIRECTOR --
14 DEPUTY DIRECTOR FOR -- THE TEST AND EVALUATION DIRECTOR
15 THERE AT WARNER ROBINS.

16 FROM THERE I WENT TO THE PENTAGON AND
17 WORKED FOR THE DIRECTOR OF INTELLIGENCE, SURVEILLANCE
18 AND RECONNAISSANCE. IN THAT JOB I WAS BASICALLY HELPING
19 THE INTELLIGENCE COMMUNITY IDENTIFY REQUIREMENTS FOR NEW
20 ACQUISITION PROGRAMS, NEW SYSTEMS THAT WE WERE BUYING,
21 FOR THEIR INTEL ISSUES THAT NEEDED TO BE SOLVED.

22 FROM THERE PROMOTED TO MAJOR. MOVED ON TO
23 MORE OF A LEADERSHIP ROLE. WENT TO THE SPACE-BASED
24 INFRARED SYSTEMS WING, LOS ANGELES AIR FORCE BASE, AND
25 THERE I WAS THE DIRECTOR FOR TEST AND EVALUATION OF A
26 ASSET THERE THAT WE HAVE.

27 AS THAT PROGRAM PROGRESSED THROUGH ITS
28 DEVELOPMENT INTO OPERATIONS, I TRANSITIONED TO THE CHIEF

1 OF THE CAPABILITIES DIVISION, BRINGING THAT ASSET FROM,
2 ONCE AGAIN, DEVELOPMENT INTO FULL OPERATION AND
3 DELIVERING IT TO THE WAR FIGHTER.

4 FROM THAT ASSIGNMENT, WENT TO A CAREER
5 BROADENING TOUR ONCE AGAIN, TAKING MY ACQUISITION
6 EXPERIENCE BACK TO MAXWELL AIR FORCE BASE, HELPING THEM
7 IDENTIFY INFORMATION TECHNOLOGY SYSTEMS FOR EDUCATION,
8 AND THEN BECAME THE DIRECTOR OF OPERATIONS FOR THE
9 EDUCATION SUPPORT SQUADRON, SO BASICALLY THE DEPUTY
10 SQUADRON COMMANDER, IF YOU WILL, FOR THAT ORGANIZATION.

11 AND THEN FROM THERE, MAXWELL AIR FORCE
12 BASE, I MOVED TO MY PRESENT POSITION AS THE DIRECTOR FOR
13 PLANT 42 AT PALMDALE.

14 Q AND HOW LONG HAVE YOU BEEN THE DIRECTOR AT
15 PLANT 42?

16 A APPROXIMATELY, 18 MONTHS.

17 Q OKAY. IS IT FAIR TO SAY THAT YOU'RE
18 OVER -- THAT YOUR CAREER HAS BEEN INVOLVED IN BUILDING,
19 BUYING, TESTING AND EVALUATION OF FLIGHT AND WEAPON
20 SYSTEMS?

21 A YES, IT IS.

22 MR. DUBOIS: YOUR HONOR, I'D OFFER COLONEL CUMMINS
23 AS AN EXPERT IN THE OPERATION AND MANAGEMENT OF
24 PLANT 42.

25 THE COURT: IS THERE ANY VOIR DIRE? ALL RIGHT.
26 THE WITNESS IS CLEARLY QUALIFIED AND MAY SO TESTIFY.

27 BY MR. DUBOIS:

28 Q OKAY. WHAT IS THE -- WELL, LET ME REPHRASE

1 THAT.

2 CAN YOU JUST GENERALLY DESCRIBE FOR THE
3 COURT WHAT PLANT 42 IS?

4 **A** PLANT 42 IS AN INDUSTRIAL PREPAREDNESS
5 PROPERTY. IT IS REAL ESTATE THAT THE AIR FORCE OWNS AND
6 THEN LEASES TO --

7 **THE COURT:** YOU'RE MOVING AWAY FROM THE MIC. IT'S
8 DIFFICULT SITTING THERE BECAUSE THERE'S NO PLACE FOR
9 YOUR KNEES, I KNOW.

10 **THE WITNESS:** YES, SIR.

11 **MR. DUBOIS:** IT MIGHT ACTUALLY -- IF IT'S HELPFUL,
12 TO TURN ACTUALLY TOWARD THE COURT SO YOU CAN TALK TO THE
13 COURT, SO THAT WAY THE COURT CAN HEAR YOU MORE EASILY.
14 AND I THINK THE MICROPHONE SHOULD ALLOW --

15 **THE WITNESS:** OKAY.

16 **MR. DUBOIS:** -- THE COURT REPORTER TO CATCH ALL.

17 **THE COURT:** YES.

18 **THE WITNESS:** PLANT 42 IS AN INDUSTRIAL
19 PREPAREDNESS PROPERTY. THE AIR FORCE OWNS THE REAL
20 ESTATE AND THEN LEASES THAT BACK TO INDUSTRIAL PARTNERS
21 THAT TYPICALLY BUILD ASSETS FOR THE DEPARTMENT OF
22 DEFENSE, NOT STRICTLY THE AIR FORCE.

23 SO MY ORGANIZATION MANAGES, CONTROLS WHAT'S
24 REFERRED TO AS THE COMMON AREA, THE -- IF YOU WILL, IT'S
25 THE DOUGHNUT HOLE, WHERE ALL OF THE DEFENSE INDUSTRY
26 CONTRACTORS RENT REAL ESTATE ALONG THE EDGES, ALONG THE
27 BOUNDARIES, IF YOU WILL, OF THE PROPERTY.

28 AND THEN WE MANAGE, MAINTAIN AND SUSTAIN

1 THE RUNWAYS, FIRE PROTECTION SYSTEMS, ALL OF THE
2 AIRFIELD PAVEMENTS, AND THEN ALL OF THE ASSOCIATED
3 CONTRACTING, MANPOWER, ET CETERA, REQUIREMENTS THAT GO
4 ALONG WITH MAINTAINING THAT SMALL ORGANIZATION OF ABOUT
5 190 PERSONNEL.

6 **BY MR. DUBOIS:**

7 **Q** LET'S TAKE A HALF STEP BACK HERE.

8 **A** OKAY.

9 **Q** IS AIR FORCE PLANT 42 PART OF THE AIR FORCE
10 LIFE CYCLE MANAGEMENT CENTER OPERATION?

11 **A** YES, IT IS. WE ARE AN OPERATING LOCATION
12 TO THE AIR FORCE LIFE CYCLE MANAGEMENT CENTER.

13 **Q** AND CAN YOU EXPLAIN WHAT THE AIR FORCE LIFE
14 CYCLE MANAGEMENT CENTER IS, PLEASE?

15 **A** THE AIR FORCE LIFE CYCLE MANAGEMENT CENTER
16 IS CHARGED WITH, ONCE AGAIN, THE BUILDING AND BUYING OF
17 ASSETS, AND WE REFER TO THAT AS CRADLE TO GRAVE, SO FROM
18 INCEPTION ALL THE WAY THROUGH DECOMMISSIONING OF
19 AIRCRAFT OR WHATEVER -- WE REFER TO IT AS A WIDGET, IF
20 YOU WILL, THAT WOULD -- THE AIR FORCE WOULD BUY. SO
21 FROM THE JOINT STRIKE FIGHTER TO THE RETIREMENT OF
22 B-52'S, 52 BOMBERS, IS WHAT THE AIR FORCE LIFE CYCLE
23 MANAGEMENT CENTER WOULD DO.

24 **Q** AND THEN YOU WERE STARTING TO TALK ABOUT
25 THE FUNCTION OF PLANT 42; SO I GUESS SORT OF GETTING
26 BACK TO THAT, DESCRIBING THE FUNCTION OF PLANT 42.

27 **A** OKAY. PLANT 42 BASICALLY HAS TWO, TWO AND
28 A HALF MILE LONG RUNWAYS. AND WE SUPPORT THE

1 PRODUCTION, FLIGHT TEST, MODIFICATION OF AIRCRAFT AND
2 AIRCRAFT SYSTEMS FOR THE DEPARTMENT OF DEFENSE.

3 SO IN ORDER FOR THE CONTRACTORS THAT WE
4 LEASE PROPERTY TO TO DO THEIR WORK, PLANT 42 HAS TO
5 PROVIDE SOME LEVEL OF BASIC SERVICES TO SUPPORT, ONCE
6 AGAIN, THOSE RUNWAYS AND THOSE COMMON AREAS.

7 Q AND DO ANY PERSONNEL LIVE ON BASE 40 -- OR
8 PLANT 42?

9 A NO, SIR. WE DO NOT HAVE ANY HOUSING ON
10 BASE.

11 Q ALL RIGHT.

12 CAN YOU PULL UP EXHIBIT 148?

13 EXHIBIT 148, BATES NUMBER 50627. CAN YOU
14 DESCRIBE -- ARE YOU FAMILIAR WITH THIS PHOTO?

15 MR. KUHS: COUNSEL, EXCUSE ME. IS THAT A NEW
16 EXHIBIT, OR IS HE REFERENCING AN EXHIBIT THAT'S
17 ALREADY --

18 MR. DUBOIS: NO. I DON'T THINK THAT THIS ONE HAS
19 BEEN -- I DON'T THINK THIS ONE'S BEEN OFFERED OR
20 INTRODUCED YET. THIS IS A NEW ONE.

21 MR. KUHS: THANK YOU.

22 THE WITNESS: I HAVE EXHIBIT 148, BATES
23 NUMBER 627.

24 BY MR. DUBOIS:

25 Q THANK YOU. ARE YOU FAMILIAR WITH THIS
26 PHOTO?

27 A YES, I AM.

28 Q ALL RIGHT. CAN YOU TELL THE COURT WHAT IT

1 SHOWS?

2 **A** YES. IT BASICALLY SHOWS IN THE -- IF I
3 COULD GET A LASER POINT.

4 **Q** OH.

5 IF I MAY APPROACH, YOUR HONOR.

6 THIS ONE HAS FRESH BATTERIES; SO WE'RE IN
7 GOOD SHAPE.

8 **A** BASICALLY, AN OVERVIEW. THIS SHOWS THE
9 PROXIMITY OF AIR FORCE PLANT 42 IN THE CENTER OF THE
10 SCREEN IN PURPLE, TO EDWARDS AIR FORCE BASE AT THE TOP
11 THIRD OF THE SCREEN IN WHAT'S GREEN ON THE PRINTED COPY.

12
13 (EXHIBIT NUMBER 148, IDENTIFIED:
14 PHOTO OVERVIEW OF PLANT 42.)
15

16 **THE WITNESS:** THE CITY OF PALMDALE COMPLETELY
17 SURROUNDS AIR FORCE PLANT 42, AND THEN THE CITY OF
18 LANCASTER IS JUST TO THE NORTH OF THE CITY OF PALMDALE.

19 **BY MR. DUBOIS:**

20 **Q** ALL RIGHT. DOES THIS EXHIBIT ACCURATELY
21 SHOW THE GENERAL LOCATION OF PLANT 42 IN ITS LOCATION
22 RELATIVE TO EDWARDS?

23 **A** YES, SIR, IT DOES.

24 **Q** ALL RIGHT. AND HOW DOES PLANT 42 RELATE TO
25 EDWARDS AIR FORCE BASE?

26 **MR. KUHS:** OBJECTION, VAGUE.

27 **BY MR. DUBOIS:**

28 **Q** CAN YOU DESCRIBE THE RELATIONSHIP BETWEEN

1 PLANT 42 AND EDWARDS AIR FORCE BASE, PLEASE?

2 A YES. BASICALLY, PRODUCTION OF AIRCRAFT AND
3 MODIFICATION OF AIRCRAFT ARE ACCOMPLISHED IN THE
4 INDUSTRIAL FACILITIES AT PLANT 42. AND THEN THE
5 DEVELOPMENTAL TEST AND EVALUATION OF THOSE AIRCRAFT AND
6 SUBASSEMBLIES WOULD BE ACCOMPLISHED AT EDWARDS AIR FORCE
7 BASE AND THROUGH PERSONNEL ASSIGNED TO EDWARDS AIR FORCE
8 BASE.

9 Q OKAY. YOU WERE HERE FOR DR. HALLION'S
10 TESTIMONY, WEREN'T YOU?

11 A YES, SIR, I WAS.

12 Q AND SO I THINK HE HAD AN EXAMPLE OF THE
13 B-2, WHICH HAD BEEN CONSTRUCTED AT PLANT 42, AND IT
14 WAS -- YES, B-2. IT WAS A B-2, WASN'T IT?

15 A YES. BASICALLY, NORTHROP GRUMMAN DOES
16 DEPOT-LEVEL MAINTENANCE OF THE B-2 AIRCRAFT; SO WHENEVER
17 THAT AIRCRAFT GOES THROUGH A CERTAIN NUMBER OF FLIGHT
18 HOURS, IT IS TOTALLY REFURBISHED BY THAT CONTRACTOR,
19 NORTHROP GRUMMAN, AND THEN FLIGHT TEST MISSIONS WOULD BE
20 ACCOMPLISHED THROUGH EDWARDS AIR FORCE BASE.

21 Q OKAY. I'D LIKE TO -- MITCH, IF YOU'D PULL
22 UP EXHIBIT 148, BATES NUMBER 50623.

23 ARE YOU FAMILIAR WITH THIS AERIAL
24 PHOTOGRAPH?

25 A YES, SIR. I HAVE IT.

26 Q ALL RIGHT.

27 SAME EXHIBIT NUMBER, YOUR HONOR, BUT 50623
28 INSTEAD OF --

1 **THE COURT:** I UNDERSTAND.

2 **MR. DUBOIS:** OKAY.

3 **BY MR. DUBOIS:**

4 **Q** CAN YOU DESCRIBE WHAT THIS SHOWS?

5 **A** THIS IS BASICALLY THE OUTLINE OF AIR FORCE
6 PLANT 42. IF YOU CAN SEE, THE RED (INDICATING) BORDERS
7 SHOW THE EXTERNAL BOUNDARIES, REAL ESTATE BOUNDARIES OF
8 AIR FORCE PLANT 42. WE SHOW IN THE CENTER OF THE
9 DIAGRAM OUR PRIMARY AND ALTERNATE RUNWAYS, TWO AND A
10 HALF MILES IN LENGTH APPROXIMATELY.

11 ACROSS THE NORTHERN BOUNDARY AND THE
12 SOUTHERN BOUNDARY ARE THE VARIOUS SITES THAT ARE AT
13 PLANT 42. SMALL GREEN AREA HERE IS WHERE MY OFFICE
14 WOULD BE LOCATED.

15 AND JUST FOR A SCOPE, YOUR HONOR,
16 REFERENCE, THESE ARE AGRICULTURAL PIVOTS OUT TO THE
17 RIGHT. THEY'RE APPROXIMATELY A HALF MILE IN DIAMETER.
18 THE PENTAGON WOULD FIT INSIDE ONE OF THOSE AGRICULTURAL
19 PIVOTS. SO IT'S A VERY LARGE FACILITY. IT'S JUST FLAT,
20 SO IT'S DECEIVING AS TO HOW BIG IT ACTUALLY IS, ABOUT
21 6,000 ACRES, PLUS OR MINUS.

22 **Q** AND CAN YOU GENERALLY DESCRIBE THE LAYOUT
23 OF PLANT 42 AND WHAT FACILITIES ARE THERE?

24 **A** YES. SO STARTING IN THE UPPER LEFT-HAND
25 CORNER WE HAVE -- BOEING RENTS THAT PROPERTY AT SITE 1.
26 THEY ACCOMPLISH THE X-51 WAVERIDER HYPERSONIC TEST
27 FLIGHT -- I BELIEVE IT WAS SPOKEN TO LAST WEEK -- AND
28 CURRENTLY DOING TESTING OF F-15 AIRCRAFT THERE.

1 SITE 2 IS CURRENTLY LEASED BY LOCKHEED
2 MARTIN, WHERE THEY'RE DOING THE DEPOT MAINTENANCE OF THE
3 U-2 INTELLIGENCE, SURVEILLANCE AND RECONNAISSANCE
4 PLATFORM.

5 SITES 3 AND 4 ARE LEASED TO NORTHROP
6 GRUMMAN, WHERE THEY ARE DOING, ONCE AGAIN, B-2
7 DEPOT-LEVEL MAINTENANCE. THEY ARE PRODUCING A PORTION,
8 THE MID-FUSELAGE SECTION, OF THE F-35 JOINT STRIKE
9 FIGHTER. THEY ARE BUILDING THE UNMANNED DRONE, IF YOU
10 WILL, VEHICLE, GLOBAL HAWK, AS WELL AS THE NAVY'S
11 VARIANT OF THAT, THE TRITON.

12 THEN DOWN, WE'LL HAVE 5 AND 6, WHICH IS
13 REFERRED TO AS THE COMMON AREA, WHICH IS, ONCE AGAIN, MY
14 OFFICE AND ORGANIZATION.

15 SITE 7 IS LEASED TO LOCKHEED MARTIN. AND
16 SITE 8 IS A WAREHOUSE, ABOUT A HALF MILLION SQUARE FEET,
17 THAT IS LEASED CURRENTLY TO NORTHROP GRUMMAN. THAT
18 RECENTLY CHANGED HANDS FROM LOCKHEED MARTIN TO NORTHROP
19 GRUMMAN.

20 ADJACENT TO OUR PROPERTY WE HAVE THE
21 PRIVATE PROPERTY, LOCKHEED MARTIN SKUNK WORKS, IN THE
22 LOWER LEFT-HAND CORNER OF THIS DRAWING, AND THE PRIVATE
23 PROPERTY THAT IS OWNED BY L.A. WORLD AIRPORTS AND
24 CURRENTLY LEASED TO NASA.

25 IN ADDITION TO OUR CONTINUOUS BLOCK IN THE
26 CENTER, WE HAVE TWO SMALL PROPERTIES NORTH AND DUE WEST
27 OF OUR -- OF OUR PROPERTY.

28 Q AND WHAT'S THE PROPERTY DUE WEST THAT'S NOT

1 ON THE PHOTOGRAPH?

2 **A** RIGHT. DUE WEST, WE HAVE AN AERO -- I'M
3 SORRY -- A RUNWAY OVERRUN SO THAT IF AN AIRCRAFT LANDS
4 LONG OR LANDS SHORT, IT WOULD LAND IN AN UNPOPULATED
5 AREA. BUT IT IS ACROSS SIERRA HIGHWAY, STATE
6 HIGHWAY 14, ON THE OTHER SIDE OF STATE HIGHWAY 14. SO
7 IF AN AIRCRAFT WERE TO LAND AND LAND LONG ON THIS
8 RUNWAY, IT WOULD BE IN AN UNPOPULATED PART OF THE WORLD.

9 **Q** BUT THERE'S NO BUILDINGS OR WATER USE ON
10 THAT PIECE; IS THAT CORRECT?

11 **A** NO BUILDINGS.

12 **Q** OKAY.

13 **A** NORTH OF THE PROPERTY IS A DEFUNCT FIRING
14 RANGE AND I BELIEVE A WATER TREATMENT FACILITY THAT'S
15 BEEN OUT OF COMMISSION I DON'T KNOW HOW LONG.

16 **Q** AND DO ALL OF THE CONTRACTORS AND THE AIR
17 FORCE SHARE THE COMMON RUNWAY COMPLEX?

18 **A** YES, THEY DO.

19 **Q** DOES THE AIR FORCE USE THOSE -- THAT RUNWAY
20 COMPLEX AS WELL?

21 **A** YES, THEY DO.

22 **Q** ALL RIGHT. ASIDE FROM THE TENANTS THAT YOU
23 MENTIONED -- AND I THINK YOU MENTIONED THAT BOEING'S AT
24 SITE ONE, LOCKHEED'S AT SITE TWO, NORTHROP'S AT
25 SITE THREE. FOUR AND FIVE ARE AIR FORCE FACILITIES.
26 EIGHT IS A WAREHOUSE UNIT THAT I DON'T THINK YOU
27 ASCRIBED ANY PARTICULAR GROUP TO. AND THEN SIX AND
28 SEVEN ARE -- WHICH CONTRACTORS WERE AT SIX AND SEVEN?

1 **A** I DON'T DISCUSS THE CONTRACTORS AT
2 SITE SIX.

3 **Q** OKAY.

4 **A** SITE SEVEN IS CURRENTLY LEASED BY LOCKHEED
5 MARTIN.

6 **Q** ALL RIGHT. ASIDE FROM THE TENANTS, DO --
7 ASIDE FROM THE TENANTS IN THE AIR FORCE, DOES ANYONE
8 ELSE END UP USING THE RUNWAYS AT PLANT 42?

9 **A** YES. LOCKHEED MARTIN USES THE RUNWAYS AT
10 PLANT 42 THROUGH THIS TAXIWAY ON THE DUE WEST SIDE OF
11 THE RUN -- OF THE PROPERTY, AS WELL AS NASA USES THE
12 RUNWAYS BASED ON THIS TAXIWAY, ONCE AGAIN, AT THE -- IT
13 WOULD BE THE SOUTHEASTERN BOUNDARY BASICALLY OF THE
14 PROPERTY.

15 **Q** DO THE PLANES FROM EDWARDS AIR FORCE BASE
16 USE THE RUNWAYS AT PLANT 42?

17 **A** YES, THEY DO. THEY USE THEM BOTH FOR PILOT
18 PROFICIENCY, AND OCCASIONALLY WE WILL HAVE A TEST SERIES
19 THAT COMES DOWN AND UTILIZES THE RUNWAYS AT PLANT 42.

20 IN ADDITION, WE HAVE NATIONAL GUARD UNITS
21 THAT WOULD COME OUT AND USE PLANT 42 FOR PILOT
22 PROFICIENCY, BASED ON OUR FLYING CONDITIONS, THE GOOD
23 WEATHER THAT'S SHARED BY THE ANTELOPE VALLEY AS WELL AS
24 EDWARDS AIR FORCE BASE, AND ALSO BASED ON THE -- WITHOUT
25 THE OCEAN, ET CETERA, WE HAVE A LOWER BIRD STRIKE, BIRD
26 HAZARD PROBLEM AT EDWARDS -- I'M SORRY -- AT PLANT 42.

27 **Q** WHAT CAN YOU TELL THE COURT ABOUT FUTURE
28 PLANS FOR ACTIVITY AND USE OF PLANT 42?

1 **A** BASED ON OUR CURRENT MISSION AND CURRENT
2 TENANTS, WE HAVE PRETTY MUCH THE ENTIRE GAMUT OF AIR
3 FORCE AND DEPARTMENT OF DEFENSE ASSETS. SO WE HAVE
4 SUPPORTING STRATEGIC BOMBERS WITH THE B-2 DEPOT
5 MAINTENANCE, THE INTELLIGENCE, SURVEILLANCE AND
6 RECONNAISSANCE PLATFORMS WITH THE U-2 AND THE GLOBAL
7 HAWK AND TRITON AIRCRAFT, AS WELL AS FIGHTER AIRCRAFT
8 SUCH AS THE F-35 PRODUCTION AND THE F-15 PRODUCTION.

9 SO ALONG THOSE BASIC PHASES OR TYPES OF
10 MISSIONS, IF YOU WILL, I SEE THOSE KINDS OF MISSIONS
11 REMAINING, NOT SPECIFIC PLATFORMS, BUT WE ARE WELL
12 SITUATED TO SUPPORT INTELLIGENCE, SURVEILLANCE AND
13 RECONNAISSANCE SYSTEMS, EITHER MANNED OR UNMANNED, IN
14 THE FUTURE.

15 WE ARE WELL-SUITED TO SUPPORT A STRATEGIC
16 BOMBING PLATFORM INTO THE FUTURE, AS WELL AS FIGHTER
17 AIRCRAFT IN THE FUTURE AND, ONCE AGAIN, THE PRODUCTION,
18 MAINTENANCE, MODIFICATION, AND FLIGHT TEST OF THOSE
19 AIRCRAFTS.

20 **Q** SO YOU BASICALLY JUST SAID THAT -- IF I MAY
21 PARAPHRASE --

22 **A** UH-HUH.

23 **Q** -- THAT YOU -- YOUR OPINION, PLANT 42 IS
24 WELL-SITUATED FOR FUTURE GROWTH AND USE; IS THAT
25 CORRECT?

26 **A** I BELIEVE, IN MY OPINION, AIR FORCE
27 PLANT 42 IS WELL-SITUATED TO CONTINUE THE MISSION THAT
28 WE HAVE TODAY AND CONTINUES.

1 **Q** WHAT DO YOU RELY ON FOR -- IN FORMING THAT
2 OPINION?

3 **A** BASED ON MY EXPERIENCE IN BUILDING AND
4 BUYING ASSETS THROUGHOUT MY CAREER, I SEE THE RESOURCES
5 THAT WE HAVE AVAILABLE TO US, BOTH THE INFRASTRUCTURE AT
6 PLANT 42, THE BUILDINGS AND THE RUNWAYS THAT WE HAVE
7 THERE, COUPLED WITH THE PROXIMITY TO EDWARDS AIR FORCE
8 BASE AND THE TEST MISSION THAT EXISTS THERE.

9 WE ARE IN BETWEEN EDWARDS AIR FORCE BASE
10 AND THE AEROSPACE PRODUCERS DOWN IN THE LOS ANGELES
11 VALLEY; SO THAT PUTS US IN A GOOD LOCATION, AS WELL AS
12 SHARING THE WONDERFUL WEATHER AND FLIGHT CONDITIONS,
13 ONCE AGAIN, IN SOUTHERN CALIFORNIA. SO THOSE THINGS
14 BROUGHT TOGETHER, WE HAVE THE, ONCE AGAIN,
15 INFRASTRUCTURE AND RESOURCES AVAILABLE TO CONTINUE THIS
16 MISSION.

17 **Q** DO YOU HAVE ENCROACHMENT PROBLEMS AT
18 PLANT 42?

19 **A** WE DO. WE ARE SURROUNDED BY THE CITY OF
20 PALMDALE; SO WE HAVE THAT TO BE CONCERNED ABOUT. IT'S A
21 DIFFERENT PROBLEM FROM EDWARDS AIR FORCE BASE.

22 THE GOOD THING IS WE HAVE GOOD NEIGHBORS IN
23 THE CITY OF PALMDALE AND THE CITY OF LANCASTER THAT ARE
24 CONCERNED ABOUT ENCROACHMENT AND TRYING TO PROTECT THE
25 MISSION AT PLANT 42. THEY UNDERSTAND THE ECONOMIC
26 BENEFITS OF MAINTAINING PLANT 42 AND MAINTAINING THE
27 INDUSTRIAL BASE FOR THE NATION AND THE NATIONAL SECURITY
28 FOR THE NATION.

1 **MR. ZIMMER:** OBJECTION, YOUR HONOR, SOLELY THE
2 PART ABOUT WHAT THEY --

3 **THE COURT:** I'M SORRY.

4 **MR. ZIMMER:** OBJECTION AS TO WHAT PALMDALE
5 UNDERSTANDS. IT'S SPECULATION AND HEARSAY.

6 **THE COURT:** WELL, I'LL SUSTAIN THAT.

7 **MR. ZIMMER:** I'LL ASK TO STRIKE THAT LIMITED
8 PORTION.

9 **BY MR. DUBOIS:**

10 **Q** OKAY. COLONEL CUMMINS, IS IT LIKELY THAT
11 PLANT 42 WILL REMAIN A KEY INSTALLATION IN THE DESIGN,
12 DEVELOPMENT AND DELIVERY OF AEROSPACE WEAPONS GOING
13 FORWARD?

14 **MR. KUHS:** LACKS FOUNDATION.

15 **THE COURT:** OVERRULED.

16 **THE WITNESS:** YES.

17 **BY MR. DUBOIS:**

18 **Q** AND IS WATER NECESSARY TO THE FUNCTION OF
19 THE MILITARY AT PLANT 42?

20 **A** YES, IT IS. WE PROVIDE A COUPLE OF THINGS.
21 WE PROVIDE THE FIRE PROTECTION, EVERY FIRE HYDRANT,
22 EVERY SPRINKLER SYSTEM, NOT JUST FOR THE BUILDING THAT I
23 WORK IN BUT FOR ALL OF THE INDUSTRIAL COMPLEX, FOR ALL
24 OF THE CONTRACTORS THAT ARE ALL TIED INTO THE SAME FIRE
25 PROTECTION, FIRE WATER LOOP, IF YOU WILL. AND WE --
26 THAT'S ONE OF THE SERVICES THAT WE PROVIDE TO EACH OF
27 THOSE CONTRACTORS. SO IT IS CRITICAL FROM THAT SAFETY
28 ASPECT.

1 AND THEN THERE ARE PRODUCTION ASPECTS AS
2 WELL, THAT IN ORDER FOR THE DEFENSE CONTRACTORS TO DO
3 THEIR WORK, THEY NEED BASIC RESOURCES, AND I CONSIDER
4 THE AVAILABILITY OF WATER TO BE A BASIC RESOURCE.

5 **Q** AND WATER IS USED AT EACH OF THE EIGHT
6 SITES ON PLANT 42; ISN'T THAT CORRECT?

7 **A** THAT IS CORRECT.

8 **MR. DUBOIS:** NOTHING FURTHER OF THIS WITNESS, YOUR
9 HONOR.

10 **THE COURT:** ALL RIGHT.

11 **MR. DUBOIS:** YOUR HONOR, I'D ALSO MOVE TO
12 INTRODUCE -- OR TO ADMIT EXHIBIT 6 AND 148, TO THE
13 EXTENT THAT THAT'S ACTUALLY A MULTIPLE PAGE EXHIBIT, BUT
14 I'D ONLY BE MOVING TO ADMIT 50627 AND 50623.

15 **THE COURT:** ALL RIGHT. ANY OBJECTION TO THOSE?
16 THEY'RE ADMITTED.

17
18 (EXHIBIT NUMBERS 6 AND 148 BATES
19 50623 AND 50627, RECEIVED.)

20
21 **MR. DUBOIS:** THANK YOU, YOUR HONOR.

22 **THE COURT:** ALL RIGHT. CROSS-EXAMINATION.

23
24 **CROSS-EXAMINATION**

25 **BY MR. HERREMA:**

26 **Q** GOOD MORNING, COLONEL CUMMINS. MY NAME IS
27 BRAD HERREMA. I'M AN ATTORNEY FOR THE ANTELOPE VALLEY
28 GROUND WATER AGREEMENT ASSOCIATION. I'VE JUST A FEW

1 QUESTIONS FOR YOU.

2 THE FACT THAT YOU'RE AT PLANT 42, THAT
3 ASSUMES THAT THERE HAVE BEEN AT LEAST 41 OTHER AIR FORCE
4 PLANTS. DO YOU HAVE ANY IDEA HOW MANY OTHER AIR FORCE
5 PLANTS THERE ARE?

6 A IN EXISTENCE TODAY?

7 Q YES.

8 A YES. THERE ARE CURRENTLY FIVE OTHER AIR
9 FORCE PLANTS. I'M SORRY, FIVE TOTAL.

10 Q FIVE TOTAL AT THIS TIME?

11 A YES.

12 Q DO YOU KNOW HOW MANY THERE WERE IN THE
13 PAST?

14 A I DO NOT KNOW AN EXACT NUMBER. I
15 UNDERSTOOD THERE TO BE OVER 100.

16 Q OKAY. AND IS IT FAIR TO SAY THAT THERE'S
17 BEEN SOME CONSOLIDATION OF THOSE PLANTS SIMILAR TO WHAT
18 WE -- WHAT WAS TALKED ABOUT BY WITNESSES EARLIER
19 REGARDING AIR FORCE CONSOLIDATION AND DOWNSIZING?

20 A I WOULD NOT USE THE TERM "CONSOLIDATION."

21 Q OKAY. BUT SOME OF -- THERE ARE NO LONGER
22 AS MANY AIR FORCE PLANTS AS THERE PREVIOUSLY WERE?

23 A THAT IS CORRECT.

24 Q OKAY. AND DO YOU KNOW OF ANY PLANS BY THE
25 AIR FORCE TO FURTHER DIVEST OF THE FIVE CURRENT PLANTS?

26 A YES, I DO. OF THE FIVE PLANTS, THERE IS
27 ONE IN NEW YORK STATE THAT WAS SEVERELY DAMAGED BY
28 FLOODING SEVERAL YEARS BACK, AND WE ARE WORKING

1 THROUGH -- THE AIR FORCE IS WORKING THROUGH DIVESTITURE
2 OF THAT PLANT.

3 Q OKAY. AND I THINK YOU REFERRED TO -- IN
4 YOUR TESTIMONY, REFERRED TO PLANT 42 AS A KEY
5 INSTALLATION; IS THAT CORRECT?

6 A YES.

7 Q AND WHAT, IN YOUR OPINION, WOULD BE THE
8 COMPONENTS OF A KEY INSTALLATION?

9 A IN MY ORGANIZATION, IN MY PARENT
10 ORGANIZATION BACK AT LIFE CYCLE MANAGEMENT CENTER, THE
11 AIR FORCE LIFE CYCLE MANAGEMENT CENTER, WE REFER TO
12 PLANT 42 AS ONE OF THE FOUR REMAINING, QUOTE, KEEPER
13 PLANTS, IN THAT THE MISSION THAT WE ACCOMPLISH OF THE
14 PRODUCTION, MODIFICATION AND FLIGHT TESTING OF AIRCRAFT
15 IS REQUIRED FOR THE AIR FORCE, FOR THE DEPARTMENT OF
16 DEFENSE, AND IS A LONG-TERM AND ENDURING MISSION THAT
17 WOULD BE ONGOING.

18 SO BASED ON THAT KEEPER DISCUSSION, I WOULD
19 TALK ABOUT THE RESOURCES AND THE CHARACTERISTICS OF
20 PLANT 42 AS THE REASON AND RATIONALE FOR RETAINING THAT
21 PLANT.

22 SO THE LOCATION, ONCE AGAIN, BEING IN THE
23 ANTELOPE VALLEY, WITH GOOD WEATHER, BEING CLOSE TO
24 EDWARDS AIR FORCE BASE, BEING CLOSE TO THE INDUSTRIAL,
25 AEROSPACE INDUSTRY IN ANTELOPE VALLEY, HAVING GOOD
26 RELATIONSHIPS WITH, ONCE AGAIN, THE NEIGHBORS AND LOCAL
27 CITIES WITH RESPECT TO ENCROACHMENT, AND BASICALLY
28 HAVING THE INFRASTRUCTURE AND, ONCE AGAIN, THE RESOURCES

1 IN PLACE.

2 Q OKAY. AND EVEN THOUGH PLANT 42 IS LOCATED
3 QUITE NEAR EDWARDS AIR FORCE BASE, THE WORK THAT'S DONE
4 AT PLANT 42 ISN'T SOLELY FOR THE BENEFIT OF THE
5 FUNCTIONS AT EDWARDS; IS THAT CORRECT?

6 A IT IS NOT SOLELY FOR THE BENEFIT OF
7 FUNCTIONS AT EDWARDS. IT HAS A DIFFERENT MISSION FROM
8 EDWARDS AIR FORCE BASE IN THAT WE SPECIALIZE. ONCE
9 AGAIN, WHENEVER I SAY WE, IT'S THE ENTIRE REAL ESTATE,
10 THE ENTIRE PROPERTY, INCLUDING OUR INDUSTRY PARTNERS
11 THAT SPECIALIZE IN THAT PRODUCTION, MODIFICATION,
12 MAINTENANCE AND FLIGHT TESTING OF AEROSPACE SYSTEMS.

13 Q AND YOU SAID THAT SOME OF THE AEROSPACE
14 SYSTEMS THAT ARE DEVELOPED, IF YOU WILL, AT PLANT 42 ARE
15 USED NOT ONLY FOR THE AIR FORCE BUT FOR OTHER FACTIONS
16 OF THE DEPARTMENT OF DEFENSE?

17 A THAT IS CORRECT, I DID.

18 Q OKAY. WHEN MR. DUBOIS WAS TALKING TO YOU
19 EARLIER, YOU TALKED ABOUT EIGHT DIFFERENT SITES THAT YOU
20 DIVIDE THE PLANT UP INTO.

21 A UH-HUH.

22 Q DO YOU RECALL THAT?

23 A YES, I DO.

24 Q AND AT PRESENT ARE ALL OF THOSE EIGHT SITES
25 BEING USED?

26 A THEY ARE ALL CURRENTLY LEASED TO INDUSTRY
27 PARTNERS.

28 Q SIX OF THE EIGHT ARE; IS THAT CORRECT?

1 **A** SEVEN OF THE EIGHT ARE CURRENTLY LEASED TO
2 INDUSTRY PARTNERS. SITE 5 IS WHAT I REFER TO AS THE
3 COMMON AREA OR MY ORGANIZATION.

4 **Q** OKAY. BUT AT PRESENT ALL EIGHT SITES ARE
5 OCCUPIED; IS THAT CORRECT?

6 **A** THAT IS CORRECT, YES.

7 **Q** OKAY. AND DO YOU KNOW WHETHER THERE'S ANY
8 PLAN TO EXPAND THE LEASABLE AREA ON THE PLANT?

9 **A** I'M NOT AWARE OF ANY PLAN TO EXPAND THE
10 LEASABLE AREA.

11 **Q** OKAY. OR ANY PLAN TO EXPAND THE FACILITIES
12 THAT ARE LOCATED ON THE PRESENTLY LEASABLE AREA?

13 **A** NOT AWARE OF ANY PLANS.

14 **Q** OKAY. I THINK YOU -- WHEN ASKED ABOUT THE
15 FUTURE OF THE PLANT, YOU SAID THAT IT'S WELL-SUITED TO
16 CONTINUE ITS MISSION; IS THAT CORRECT?

17 **A** YES, THAT IS CORRECT.

18 **Q** OKAY. AND YOU DON'T KNOW OF ANY PLAN TO
19 EXPAND THE ACTIVITIES OF THE PLANT BEYOND THOSE THAT ARE
20 DONE IN FURTHERANCE OF THE CURRENT MISSION?

21 **A** NO, I'M NOT [SIC].

22 **Q** OKAY. AND JUST A COUPLE OF LAST QUESTIONS.
23 WHEN DID THE AIR FORCE BEGIN OPERATING THE
24 COMMON AREAS OF PLANT 42?

25 **A** THE AIR FORCE HAS ALWAYS MAINTAINED A SMALL
26 CONTINGENT OF CADRE OR MANAGEMENT, IF YOU WILL. IN 2010
27 AND 2011, WE WENT THROUGH WHAT'S REFERRED TO AS AN
28 IN-SOURCING. PRIOR TO 2010, A SMALL AIR FORCE

1 CONTINGENT OVERSAW A SUBCONTRACTOR THAT MANAGED THE
2 COMMON AREA, AND THROUGH THAT IN-SOURCING EFFORT WE
3 BROUGHT 190 OR SO POSITIONS INTO THE DEPARTMENT OF
4 DEFENSE, THE DEPARTMENT OF THE AIR FORCE, CIVIL SERVICE.

5 SO NOW THE FUNCTIONS THAT WERE CONTRACTED
6 OUT, SUCH AS SECURITY GUARDS, SUCH AS FIREFIGHTERS AND
7 CIVIL ENGINEERING, HAVE BEEN BROUGHT IN-HOUSE AND NOW
8 THEY ARE DEPARTMENT OF THE AIR FORCE EMPLOYEES AS CIVIL
9 SERVICE.

10 Q ARE THE DEPARTMENT OF AIR FORCE EMPLOYEES
11 DOING ANYTHING DIFFERENT THAN WHAT THE PRIVATE
12 CONTRACTORS' EMPLOYEES HAD DONE PREVIOUSLY?

13 A YES. WHAT WE HAVE FOUND IS -- WE ARE NOW
14 HELD TO AIR FORCE INSTRUCTIONS AS AIR FORCE -- AS AN AIR
15 FORCE ORGANIZATION AS OPPOSED TO A CONTRACTED
16 ORGANIZATION, SO DIFFERENT -- WE ARE STILL ACCOMPLISHING
17 THE SAME MISSION. WE HAVE A HIGHER LEVEL OF SCRUTINY
18 AND A HIGHER LEVEL OF DOCUMENTATION THAT IS REQUIRED
19 TO -- DON'T JUST ACCOMPLISH THE MISSION BUT PROVE TO ME
20 THAT YOU ARE DOTTING EVERY I., CROSSING EVERY T.

21 Q BUT THE TASKS THAT ARE BEING UNDERTAKEN ARE
22 THE SAME TASKS?

23 A YES, THAT IS CORRECT.

24 Q EXCUSE ME (COUGHING).

25 IN TERMS OF THE WATER NECESSARY TO
26 ACCOMPLISH THE AIR FORCE'S MISSION AT THE PLANT, YOU
27 SAID THAT WAS FOR THE FIRE PROTECTION THAT IS PROVIDED
28 BY THE AIR FORCE TO ALL OF THE CONTRACTORS; IS THAT

1 CORRECT?

2 **A** THAT IS CORRECT. AND THAT IS WHAT IS UNDER
3 MY PURVIEW. EACH OF THE INDUSTRIAL SITES, EACH OF THE
4 DEFENSE INDUSTRY CONTRACTORS IS RESPONSIBLE FOR
5 PROCURING THEIR OWN WATER. I PROVIDE THEM WITH FIRE
6 WATER, FIRE PROTECTION SERVICES. EACH INDUSTRY SITE
7 WOULD PURCHASE OR PUMP THEIR OWN WATER FOR POTABLE WATER
8 OR FOR INDUSTRIAL PURPOSES.

9 **Q** AND YOU DON'T HAVE ANY CONTROL OVER THEIR
10 WATER USE ON THOSE SEVEN SITES?

11 **A** I DO NOT.

12 **Q** OKAY. NO FURTHER QUESTIONS. THANK YOU.

13 **THE COURT:** ALL RIGHT. ANY OTHER EXAMINATION?

14 **MR. ZIMMER:** I JUST HAVE A FEW QUESTIONS.

15

16 **FURTHER CROSS-EXAMINATION**

17 **BY MR. ZIMMER:**

18 **Q** GOOD MORNING, GENERAL. I'LL MAKE THIS
19 BRIEF.

20 IN TERMS OF THE CONTRACTORS THAT ARE OUT
21 THERE, WHAT THEY'RE DOING OUT THERE IS NOT SOLELY
22 LIMITED TO MILITARY PURPOSES; TRUE?

23 **A** THAT IS TRUE, IT IS NOT.

24 **Q** FOR EXAMPLE, BOEING. AND BOEING SELLS
25 AIRPLANES TO OTHER ENTITIES OTHER THAN THE AIR FORCE;
26 CORRECT?

27 **A** ALL OF THE INDUSTRY PARTNERS AT PLANT 42
28 HAVE OTHER BUSINESSES WHERE THEY WOULD SELL AIRCRAFT

1 ACROSS THEIR PORTFOLIO. I'M NOT AWARE OF THE DEPTH OR
2 BREADTH OF THEIR ENTIRE PORTFOLIO.

3 Q AND THAT WOULD BE TRUE AS TO NASA AS WELL?
4 IT HAS ITS OWN OBJECTIVES AND, IN TERMS OF WHAT IT'S
5 ACCOMPLISHING, ARE INDEPENDENT FROM THE MILITARY. WOULD
6 THAT BE CORRECT?

7 A I SEE THE -- THE LINKAGE BETWEEN NASA AND
8 THE DEPARTMENT OF DEFENSE IS HISTORICAL AND GOES FORWARD
9 TODAY; SO I HAVE DIFFICULTY DRAWING A LINE BETWEEN THE
10 TWO. AND MY EXAMPLE IS MANY OF THE ASTRONAUTS ARE
11 EITHER CURRENT, ACTIVE DUTY MILITARY, OR FORMER
12 MILITARY.

13 Q ALL I'M SAYING, IT'S CLEAR THAT BOEING,
14 LOCKHEED, AND NORTHROP ARE ALL AIRPLANE MANUFACTURERS
15 WHO SELL TO OTHERS, BUT NASA ALSO HAS SOME ACTIVITIES
16 THEY PERFORM THAT ARE NOT DIRECTLY RELATED TO THE
17 MILITARY MISSION OR TO THE MILITARY; CORRECT?

18 A YES, SIR, THAT'S CORRECT.

19 Q AND YOU SAID THAT THESE OTHER -- THE PEOPLE
20 THAT THE UNITED STATES LEASES THESE SPACES TO, DID YOU
21 SAY THEY PUMP WATER AS WELL?

22 A YES, SIR. THEY HAVE WELLS ON THEIR -- ON
23 THEIR INDUSTRIAL, LEASED SITE.

24 Q DO YOU KNOW IF THEY'RE A PART OF THIS
25 LITIGATION?

26 A I AM NOT AWARE.

27 Q ALL RIGHT. THANK YOU, SIR. I HAVE NO
28 FURTHER QUESTIONS.

1 **A** YES, SIR.

2 **THE COURT:** ALL RIGHT, MR. KUHS.

3 **MR. KUHS:** THANK YOU, YOUR HONOR.

4

5 **FURTHER CROSS-EXAMINATION** (CONTINUED)

6 **BY MR. KUHS:**

7 **Q** GOOD MORNING, COLONEL.

8 **A** GOOD MORNING, SIR.

9 **Q** HOW MANY MILES IS IT FROM THE NORTHERN
10 BOUNDARY OF PLANT 42 TO THE SOUTHERN BOUNDARY, TO
11 EDWARDS AIR FORCE BASE?

12 **A** DRIVING OR --

13 **Q** WHATEVER YOUR PREFERRED MODE OF
14 TRANSPORTATION, SIR. AS THE CROW FLIES, AS WE SAY IN
15 THE COUNTRY.

16 **A** IT'S APPROXIMATELY 30 MILES FROM BOUNDARY
17 TO BOUNDARY. IF YOU LOOK AT AIR SPACE, FROM THE
18 PALMDALE AIR SPACE -- I'M SORRY -- FROM THE PLANT 42 AIR
19 SPACE TO THE EDWARDS AIR SPACE, IT'S ABOUT SEVEN MILES.

20 **Q** NOW, ARE THERE ANY RULES WHICH GOVERN THE
21 NOISE OUTPUT AT PLANT 42? THAT IS, ARE YOU UNDER ANY
22 NOISE CONSTRAINTS?

23 **A** I'M NOT AWARE OF ANY NOISE CONSTRAINTS AT
24 THIS TIME.

25 **Q** ARE YOU AWARE OF ANY RESTRAINTS ON THE
26 FREQUENCY OF FLIGHT?

27 **A** WITH RESPECT TO THE MILITARY MISSION AT
28 PLANT 42, NO, SIR, I AM NOT.

1 **Q** ANY RESTRAINTS ON THE TIME OF FLIGHT?

2 **A** NO, SIR, I'M NOT AWARE OF ANY RESTRAINTS.

3 **Q** SO AS FAR AS YOU'RE AWARE, ANY OF
4 PLANT 42'S TENANTS CAN TAKE OFF AND LAND AT ANY TIME,
5 DAY OR NIGHT?

6 **A** YES, SIR, THAT IS A TRUE STATEMENT.

7 **Q** YOU USED THE TERM "INDUSTRIAL PARTNERS"
8 SEVERAL TIMES. WHAT DO YOU MEAN BY THAT?

9 **A** AS PART OF THE AIR FORCE AND THE UNITED
10 STATES STRATEGIC -- OR STRATEGY, IF YOU WILL, NATIONAL
11 STRATEGY, IN ORDER FOR US TO WAGE WAR AND PROVIDE
12 DEFENSE FOR THE NATION, WE RELY ON AN INDUSTRIAL BASE.
13 AND PART OF THAT INDUSTRIAL BASE -- THE AIR FORCE IS NOT
14 IN THE BUSINESS OF MASS PRODUCTION OF ASSETS; SO WE RELY
15 ON THAT INDUSTRIAL BASE TO PROVIDE THOSE ASSETS FOR THE
16 AIR FORCE ON OUR BEHALF.

17 SO WHENEVER I REFER TO INDUSTRIAL PARTNERS,
18 I REFER TO THAT INDUSTRIAL BASE OF PRIVATE CORPORATIONS,
19 LOCKHEED MARTIN, NORTHROP GRUMMAN, BOEING, ET CETERA,
20 THAT WORK FOR OR ON BEHALF OF THE UNITED STATES AIR
21 FORCE OR DEPARTMENT OF DEFENSE.

22 **Q** BUT THESE ARE -- WHAT I WANT TO UNDERSTAND
23 IS IS THE AIR FORCE IN PARTNERSHIP WITH THESE PRIVATE
24 INDUSTRIES IN BUILDING THESE AIRCRAFT, OR IS IT JUST
25 THAT THEY'RE BUILDING THEM AS THE LOWEST RESPONSIBLE
26 BIDDER PURSUANT TO AN AWARD PROGRAM?

27 **A** I BELIEVE THAT TO ANSWER THAT HONESTLY, IT
28 IS A CASE-BY-CASE BASIS. SO SOME PRODUCTION IS BASED ON

1 LOWEST BID, SOME IS BASED ON BEST VALUE, SOME IS BASED
2 ON THE AIR FORCE AND WHAT VEHICLE, WHAT LEASE
3 ARRANGEMENT OR CONTRACT ARRANGEMENT IS PUT TOGETHER AS
4 TO WHO MAINTAINS THE RISK.

5 IS IT ON THE INDUSTRY, AS IN A FIRM, FIXED
6 PRICE CONTRACT, WHERE THE INDUSTRY IS HOLDING THE BAG,
7 OR IS IT BASED ON THE AIR FORCE'S LEVERAGE OF
8 POTENTIALLY FULL COST, WHATEVER THAT COST MAY BE, PLUS
9 AN INCENTIVE FEE? SO THERE ARE MANY DIFFERENT VEHICLES
10 THAT COULD BE USED FOR THOSE ARRANGEMENTS.

11 **Q** WELL, INsofar AS YOU'RE AWARE, DOES THE AIR
12 FORCE SHARE IN ANY OF THE PROFIT GENERATED BY THESE
13 CONTRACTORS THAT OCCUPY PLANT 42?

14 **A** NO, WE DO NOT.

15 **Q** THANK YOU.

16 **THE COURT:** ANY OTHER EXAMINATION? MR. DUBOIS.

17 **MR. DUBOIS:** JUST GOT ONE SMALL QUESTION. I
18 HOPEFULLY WILL NOT TRIGGER MORE CROSS-EXAMINATION.

19

20 **REDIRECT EXAMINATION**

21 **BY MR. DUBOIS:**

22 **Q** COLONEL CUMMINS, YOU WERE TALKING ABOUT
23 EXPANSION OF FACILITIES AT PLANT 42. WERE YOU TALKING
24 ABOUT PHYSICAL EXPANSION OR EXPANSION WITHIN THE
25 PHYSICAL BUILDINGS?

26 **A** I WAS REFERRING TO EXPANSION OF THE
27 PHYSICAL BUILDINGS ITSELF. WHENEVER WE START TALKING
28 ABOUT LEASES AND LEASE AGREEMENTS, IT'S BASED ON USEFUL

1 SQUARE FOOTAGE, AND THE SQUARE FOOTAGE OF THE BUILDING
2 IS BASED ON WHAT IS THAT AREA THAT -- INSIDE THE
3 BUILDING USED FOR.

4 SO THE -- AN AUDITORIUM OR A HANGAR WOULD
5 HAVE A LOWER RATE THAN, SAY, A HIGH DENSITY, OFFICE
6 CUBICLE VILLAGE. SO I WAS REFERRING TO THE PHYSICAL
7 BOUNDARIES OF THE BUILDING ITSELF, THE BUILDINGS THAT
8 EXIST TODAY.

9 Q AND DOES A STATIC BUILDING SIZE NECESSARILY
10 MEAN THAT THE AMOUNT OF ACTIVITY OR THE NUMBER OF FOLKS
11 EMPLOYED INSIDE THAT BUILDING IS A CONSTANT?

12 A NO, IT DOES NOT.

13 Q SO CAN THERE BE EXPANSION OF USE WITHIN THE
14 CONFINES OF THE GROSS SQUARE FOOTAGE OF THE BUILDINGS?

15 MR. ZIMMER: VAGUE AND SPECULATIVE.

16 THE COURT: OVERRULED. YOU MAY ANSWER.

17 THE WITNESS: THE DENSITY OF PERSONNEL OCCUPYING A
18 BUILDING CAN CHANGE WITHOUT THE PHYSICAL BOUNDARIES OF
19 THE BUILDING CHANGING. SO IF WE WANTED TO OR IF AN
20 INDUSTRY PARTNER WANTED TO REPURPOSE, SAY, FOR AN
21 EXAMPLE, THIS AUDITORIUM INTO -- THIS COURTROOM INTO A
22 CUBICLE VILLAGE WHERE MANY DIFFERENT PEOPLE WOULD SIT IN
23 A VERY SMALL CUBICLE, YOU COULD VASTLY INCREASE THE
24 NUMBER OF PERSONNEL.

25 BY MR. DUBOIS:

26 Q AND DOES THAT HAPPEN AT PLANT 42?

27 A IT DOES HAPPEN WITH EBBS AND FLOWS.

28 Q ALL RIGHT. THANK YOU.

1 **MR. DUBOIS:** I HAVE NOTHING FURTHER FROM THIS
2 WITNESS, YOUR HONOR. THANK YOU.

3 **THE COURT:** ANYTHING ELSE?

4 **MR. ZIMMER:** NO QUESTIONS.

5 **THE COURT:** I DO HAVE A QUESTION. I PRESUME WHAT
6 YOU'RE TESTIFYING TO, THAT THE VARIOUS INDUSTRY
7 CORPORATIONS, BUSINESSES THAT ARE ON THE PROPERTY --

8 **THE WITNESS:** YES.

9 **THE COURT:** -- HAVE LEASE ARRANGEMENTS WITH THE
10 AIR FORCE; IS THAT CORRECT?

11 **THE WITNESS:** YES, SIR, THAT IS CORRECT.

12 **THE COURT:** SO THEY'RE PAYING LEASE PAYMENTS,
13 RENTAL BASICALLY, FOR THE USE OF THE PREMISES?

14 **THE WITNESS:** YES. IN BROAD TERMS, YES, SIR.
15 YES, YOUR HONOR, THEY ARE.

16 IT BASICALLY GOES INTO AN ESCROW ACCOUNT,
17 IF YOU WILL, AND THAT -- THOSE MONIES ARE USED TO
18 MAINTAIN AND IMPROVE THE PROPERTIES FOR FUTURE -- FOR
19 FUTURE USE.

20 **THE COURT:** IS EVERY RENT PAYMENT DESTINED FOR
21 MAINTENANCE OF THE PROPERTY, IF YOU KNOW?

22 **THE WITNESS:** I DO NOT KNOW THE ANSWER TO THAT.
23 I'M SORRY, YOUR HONOR.

24 **THE COURT:** OKAY. BUT ALL OF THE BUSINESSES THAT
25 ARE THERE ARE THERE UNDER THE AEGIS OF THE DEPARTMENT OF
26 DEFENSE?

27 **THE WITNESS:** YES, YOUR HONOR.

28 **THE COURT:** BUT THEY ARE PERMITTED TO MANUFACTURE

1 FOR CIVILIAN PURPOSES AS WELL; IS THAT CORRECT?

2 **THE WITNESS:** ON OCCASION. THAT IS A CASE-BY-CASE
3 DECISION THAT'S CARRIED UP THROUGH MY CHAIN OF COMMAND,
4 BACK TO WRIGHT-PATTERSON, AND ULTIMATELY THE PENTAGON.

5 **THE COURT:** SO IF BOEING, FOR EXAMPLE, WANTS TO
6 DEVELOP A CIVILIAN AIRCRAFT, THEY OBTAIN PERMISSION FROM
7 WRIGHT-PATTERSON?

8 **THE WITNESS:** I BELIEVE IT WOULD -- I DON'T KNOW
9 THAT FOR A FACT, YOUR HONOR. I BELIEVE THEY WOULD HAVE
10 TO GO ALL THE WAY TO THE SECRETARY OF THE AIR FORCE
11 LEVEL FOR THAT PERMISSION.

12 **THE COURT:** OKAY. AND DO YOU KNOW IF THERE'S ANY
13 DOCUMENTATION THAT IS MAINTAINED REGARDING ANY OF THOSE
14 FUNCTIONS THAT ARE PURELY CIVILIAN, IF ANY?

15 **THE WITNESS:** NO, YOUR HONOR, I'M NOT AWARE.

16 **THE COURT:** ALL RIGHT. THANK YOU.

17 IF THERE IS NO FURTHER QUESTIONING OF THE
18 WITNESS, THE WITNESS IS EXCUSED.

19 THANK YOU VERY MUCH, COLONEL.

20 WE'LL TAKE OUR NOON RECESS.

21 **MR. DUBOIS:** YOUR HONOR.

22 **THE COURT:** YES.

23 **MR. DUBOIS:** COULD I REQUEST THAT WE AT LEAST HAVE
24 UNTIL ONE --

25 **THE COURT:** THAT WE WHAT?

26 **MR. DUBOIS:** THAT WE HAVE AT LEAST UNTIL 1:30 FOR
27 THE NOON RECESS. WE'VE GOT SOME DISCUSSIONS THAT ARE
28 ONGOING. WE'D LIKE A LITTLE BIT OF TIME TO DO THAT.

1 CAN WE START AT 1:30?

2 **THE COURT:** YES.

3 **MR. DUBOIS:** THANK YOU.

4 **THE COURT:** ALL RIGHT. HAVE A NICE LUNCH
5 EVERYBODY. 1:30.

6

7 (NOON RECESS WAS TAKEN UNTIL
8 1:30 P.M.)

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1 CASE NUMBER: JCCP4408
2 CASE NAME: ANTELOPE VALLEY GROUNDWATER
3 LOS ANGELES, CALIFORNIA FEBRUARY 18, 2014
4 DEPARTMENT 3 HON. JACK KOMAR
5 REPORTER: RHONA S. REDDIX, CSR 10807
6 TIME: P.M. SESSIONS
7 APPEARANCES: (SEE TITLE PAGE.)
8
9

10 **THE COURT:** ALL RIGHT. MR. LEININGER.

11 **MR. LEININGER:** THANK YOU, YOUR HONOR. AND FOR
12 THE UNITED STATES' FINAL WITNESS WE CALL JARED SCOTT.

13 **THE COURT:** ALL RIGHT. THE WITNESS WILL COME
14 FORWARD AND BE SWORN.

15 **THE CLERK:** PLEASE RAISE YOUR RIGHT HAND AND BE
16 SWORN.

17 YOU DO SOLEMNLY STATE THAT THE TESTIMONY
18 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
19 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
20 TRUTH, SO HELP YOU GOD?

21 **THE WITNESS:** I DO.

22 **THE CLERK:** PLEASE HAVE A SEAT.

23 SIR, PLEASE STATE AND SPELL YOUR NAME FOR
24 THE RECORD.

25 **THE WITNESS:** LET ME TURN ON THIS MICROPHONE
26 (INDICATING).

27 YES. IT'S JARED SCOTT, JARED ELAM SCOTT.
28 J-A-R-E-D, E-L-A-M, S-C-O-T-T.

1 **THE CLERK:** THANK YOU.

2 **THE COURT:** WHAT IS YOUR BUSINESS ADDRESS?

3 **THE WITNESS:** MY BUSINESS ADDRESS IS 1801 10TH
4 STREET, WRIGHT-PATTERSON AIR FORCE BASE, OHIO.

5 **THE COURT:** ALL RIGHT. THANK YOU, SIR.

6 **MR. LEININGER:** YOUR HONOR, MAY WE APPROACH THE
7 WITNESS WITH A PACKET OF EXHIBITS?

8 **THE COURT:** YES.

9 **MR. OYARZO:** (INDICATING.)

10 **MR. LEININGER:** YOUR HONOR, THESE ARE ALL THE
11 EXHIBITS THAT WE PROPOSE TO -- HAVE BEEN TESTIFIED TO
12 TODAY. SO WE'LL JUST BEGIN WITH THE ONE ON TOP, AND
13 IT'S BEEN PREVIOUSLY MARKED AS EXHIBIT NUMBER 5. IT'S
14 HIS RESUME.

15 **THE COURT:** ALL RIGHT.

16
17 (EXHIBIT NUMBER 5, IDENTIFIED:
18 JARED ELAM SCOTT'S RESUME.)
19
20

21 **DIRECT EXAMINATION**

22 **BY MR. LEININGER:**

23 **Q** MR. SCOTT, LET'S GO OVER YOUR EDUCATION,
24 YOUR UNDERGRADUATE AND GRADUATE DEGREES.

25 **A** YES. I HAVE A B.S. IN MECHANICAL
26 ENGINEERING AND A MASTER OF SCIENCE IN MILITARY
27 OPERATIONAL ARTS AND SCIENCES.

28 **Q** AND WHAT YEARS DID YOU GRADUATE?

1 **A** GRADUATED FROM MY B.S. IN '92 AND MY M.S.
2 IN 2007.

3 **Q** AND YOUR EDUCATION INCLUDES MANUFACTURING
4 ENGINEERING?

5 **A** YES. YOU PROBABLY SEE ON MY RESUME I HAVE
6 BOTH FACILITY ENGINEERING AND WEAPON SYSTEM -- SYSTEMS
7 DEVELOPMENT, MANUFACTURING AND MATERIALS BACKGROUND.

8 **Q** CAN YOU TELL ME A LITTLE BIT MORE ABOUT
9 THIS BACKGROUND WITH -- REGARDING MANUFACTURING
10 ENGINEERING AND THEN SYSTEMS MATERIAL ENGINEERING. JUST
11 GIVE US A LITTLE TIME FRAME.

12 **A** OKAY. I STARTED OFF ACTUALLY WORKING AT A
13 AIR FORCE PLANT REPRESENTATIVE OFFICE IN EVENDALE, OHIO.
14 THAT WAS A AIR FORCE OFFICE THAT WAS REVIEWING THE
15 PRODUCTION PROGRAMS OF AIR FORCE ENGINES THAT WERE BEING
16 MANUFACTURED AT THE GENERAL ELECTRIC PLANT.

17 THEN I WENT TO THE C-17 PROGRAM OFFICE,
18 WHERE I WORKED AS A -- YOU KNOW, WORKED IN THE
19 PRODUCTION GROUP. WE DID ALL THE PRODUCTION ANALYSIS OF
20 THE TOOLING AND EQUIPMENT REQUIRED TO PRODUCE THE C-17.

21 AFTER THAT, I WENT TO SAN ANTONIO, KELLY
22 AIR FORCE BASE, WHERE I WORKED -- KELLY AIR FORCE BASE
23 WAS A AIR FORCE DEPOT, A MAJOR INDUSTRIAL SITE FOR THE
24 AIR FORCE WHERE WE OVERHAUL AIRPLANES. AT KELLY AIR
25 FORCE BASE I WAS INVOLVED IN ALL OF THE COATINGS,
26 CORROSION CONTROL PROCESSES, PRIMARILY FOCUSED ON THE
27 C-5 AND C-17 AIRCRAFT SYSTEMS.

28 **Q** OKAY. IN YOUR LINE OF DUTIES HAVE YOU

1 RECEIVED ANY AWARDS OR RECOGNITION?

2 **A** I'VE RECEIVED THE AIR FORCE EXEMPLARY
3 SERVICE MEDAL, THE CIVILIAN ACHIEVEMENT MEDAL, AND
4 SEVERAL NOTABLE ACHIEVEMENT AWARDS.

5 **Q** AND I BELIEVE YOU'VE ALSO TAUGHT COURSES.

6 **A** YEAH. I TEACH AT WRIGHT-PATTERSON AIR
7 FORCE BASE, THE AIR FORCE LOGISTICS OR LIFE CYCLE
8 MANAGEMENT CENTER. I TEACH AIR FORCE ACQUISITION
9 PROGRAM MANAGERS AND LOGISTICIANS ON HOW TO IDENTIFY,
10 PLAN, BUDGET, AND THEN EXECUTE THEIR FACILITY
11 REQUIREMENTS THAT THEY REQUIRE TO BUDGET FOR TO SUPPORT
12 THE WEAPON SYSTEM PROGRAMS THAT THEY WORK ON.

13 **Q** WHAT IS YOUR CURRENT JOB TITLE?

14 **A** MY CURRENT JOB TITLE, I'M THE SUPERVISORY
15 CIVIL ENGINEER AND I'M THE CHIEF OF THE INDUSTRIAL
16 FACILITIES BRANCH AT THE AIR FORCE LIFE CYCLE MANAGEMENT
17 CENTER.

18 **Q** AND SO THAT'S A SUPERVISORY POSITION. HOW
19 MANY PEOPLE DO YOU SUPERVISE?

20 **A** I HAVE -- IT'S A -- WE'RE AN OFFICE OF
21 EIGHT PEOPLE.

22 **Q** AND HOW MANY FACILITIES DO YOU SUPERVISE?

23 **A** OKAY. I'M RESPONSIBLE FOR ALL FIVE OF THE
24 AIR FORCE -- AIR FORCE PLANTS' INDUSTRIAL FACILITIES.
25 YOU KNOW, THEY'RE SCATTERED ACROSS THE COUNTRY. THEY,
26 YOU KNOW, TOTAL UP TO ABOUT 16 AND A HALF MILLION SQUARE
27 FEET OF INDUSTRIAL PRODUCTION SPACE, AND AT A PLANT
28 REPLACEMENT VALUE OF ABOUT \$17.2 BILLION.

1 **Q** SO THIS IS THE FIVE FACILITIES THAT I THINK
2 WE HEARD EARLIER THIS MORNING?

3 **A** YES. AIR FORCE PLANT 42 IS ONE OF THOSE
4 FIVE FACILITIES.

5 **Q** AND IN GENERAL, OVER ALL OF THESE AIRPORT
6 FACILITIES, WHAT ARE YOUR GENERAL DUTIES?

7 **A** GENERAL DUTIES IS THE, YOU KNOW, THE DAY --
8 DAY-TO-DAY MANAGEMENT AND EXECUTION OF PLANS AND
9 PROGRAMS TO ENSURE THESE FACILITIES REMAIN OPERATIONALLY
10 SUITABLE AND EFFECTIVE.

11 WE PRIMARILY DO THAT THROUGH NEGOTIATING
12 AND ENTERING INTO REAL PROPERTY LEASES WITH
13 INDUSTRIAL-BASED PLAYERS, YOU KNOW, TO -- FOR THEM TO
14 MAINTAIN AND HAVE OPERATING CONTROL OF THOSE SITES.

15 AND THEN WE ALSO PLAN AND PROGRAM OTHER
16 FACILITY PROJECTS REQUIRED TO KEEP -- YOU KNOW, THESE
17 ARE AGING FACILITIES; SO WE PLAN, PROGRAM, AND EXECUTE
18 PROJECTS TO KEEP THESE FACILITIES UP AND RUNNING, YOU
19 KNOW, NEW ROOFS, NEW BOILERS, NEW AIRCRAFT PAVEMENTS,
20 ET CETERA.

21 **Q** SO DOES IT INCLUDE WATER RESOURCE
22 MANAGEMENT?

23 **A** YES. YEAH. WATER IS A KEY RESOURCE THAT I
24 AM MINDFUL OF TO MAKE SURE THAT THAT CAPABILITY IS
25 AVAILABLE TO THESE PLANTS.

26 **Q** AND THAT INCLUDES AIR FORCE PLANT 42?

27 **A** THAT INCLUDES PLANT 42.

28 **MR. LEININGER:** YOUR HONOR, AT THIS TIME I'D LIKE

1 TO PROFFER MR. SCOTT AS AN EXPERT IN FACILITY AND
2 SYSTEMS ENGINEERING, SPECIFICALLY WATER RESOURCE AND
3 FACILITIES MANAGEMENT.

4 **THE COURT:** ALL RIGHT. IS THERE ANY VOIR DIRE?
5 THE WITNESS IS QUALIFIED. HE CAN SO
6 TESTIFY.

7 **BY MR. LEININGER:**

8 **Q** WHAT WERE YOU ASKED TO PROVIDE TESTIMONY ON
9 THIS PHASE OF THE TRIAL?

10 **A** I WAS ASKED TO PROVIDE THE PAST, CURRENT
11 WATER USE, THE CHANGING MISSION, YOU KNOW, PROGRAMS THAT
12 ARE SUPPORTED AT PLANT 42, AND THE CHANGING PRODUCTION
13 PROCESSES AT PLANT 42, TO HELP DEVELOP A PROJECTION OF
14 FUTURE WATER REQUIREMENTS.

15 **Q** CAN WE BEGIN WITH EXHIBIT MARKED 144? IF
16 YOU COULD JUST GIVE ME A BRIEF DESCRIPTION OF WHAT THIS
17 SHOWS.

18 **A** YES. THIS IS A OUTLINE, WITHOUT THE AERIAL
19 PHOTO, OF PLANT 42.

20
21 (EXHIBIT NUMBER 144, IDENTIFIED:
22 OUTLINE OF PLANT 42.)
23

24 **THE WITNESS:** I JUST WANTED TO SHOW THE DIFFERENT
25 INDUSTRIAL SITES AND HOW THEY'RE SERVED WITH WATER. THE
26 WATER TO THESE SITES IS A MIXTURE OF PRODUCTION WELLS
27 AND WATER PURCHASED FROM PALMDALE WATER DISTRICT.

28 ALONG THE NORTH SIDE WE DO NOT HAVE ANY --

1 IT'S ALL SERVED BY WELLS. PLANT SITE 1 (INDICATING)
2 RIGHT THERE HAS TWO PRODUCTION WELLS. PLANT SITE 2, IT
3 SHOWS TWO, BUT ONE IS ONLY -- IS CURRENTLY ACTIVE AT
4 THIS POINT.

5 PLANT SITE 3 SHOWS THREE WELLS, AND OF
6 THOSE THREE, TWO ARE CURRENTLY ACTIVE. PLANT SITE 4
7 SHOWS TWO ACTIVE WELLS. PLANT SITE 5 AND 6, THE COMMON
8 AREA IN 6 HERE, THEY RECEIVE ALL THEIR WATER FROM
9 PALMDALE WATER DISTRICT FOR DOMESTIC, POTABLE PURPOSES.

10 PLANT SITE 7 HAS ONE PRODUCTION WELL;
11 HOWEVER, IT REMAINS IN PLACE, BUT IT HASN'T BEEN -- IT'S
12 NOT ACTIVELY USED, AS IN 2003 PALMDALE -- YOU KNOW, WE
13 EXTENDED THE LINE FROM PALMDALE WATER DISTRICT THAT
14 SERVES THE WATER TO PLANT SITE 7.

15 AND THEN PLANT SITE 8 HAS TWO PRODUCTION
16 WELLS THAT PROVIDES ALL THEIR WATER. SO THAT --
17 THAT'S --

18 Q WHAT'S THE TOTAL -- DO YOU RECALL THE TOTAL
19 SQUARE FOOTAGE OF THESE FACILITIES, THESE SITES?

20 A PLANT 42 IS APPROXIMATELY 3.7 MILLION
21 SQUARE FEET OF PRODUCTION FACILITIES, TOTAL SQUARE
22 FOOTAGE OF THE PLANT.

23 Q AND I BELIEVE -- WERE YOU HERE IN THE
24 COURTROOM WHEN LIEUTENANT CUMMINS TESTIFIED?

25 A YES, I WAS.

26 Q DO YOU RECALL THERE WAS SOME TESTIMONY WITH
27 REGARD TO EXPANDABLE SPACE? AND I BELIEVE ONE OF THE
28 QUESTIONS WAS WITHIN ANY OF THESE SITE STRUCTURES, ARE

1 THERE CURRENTLY ANY ACTIVE EXPANSION?

2 **A** YES. MY OFFICE, YOU KNOW, WE ARE THE -- WE
3 DIRECTLY INTERFACE WITH THE PLANT OPERATORS AND ALSO
4 WEAPON SYSTEM PROGRAMS, TO ALWAYS CAPTURE -- YOU KNOW,
5 PART OF THE JOB IS TO MAKE SURE THAT INDUSTRIAL FACILITY
6 SPACE IS AVAILABLE; SO WE HAVE ACTIVE DISCUSSIONS WITH
7 ALL THE PARTIES.

8 AND CURRENTLY, AT PLANT SITE 4, JUST GIVE
9 YOU AN EXAMPLE, WE'RE CURRENTLY WORKING A PROJECT TO ADD
10 ABOUT 120,000 SQUARE FOOT OF OFFICE SPACE SO THEY COULD
11 BED DOWN 600 ADDITIONAL ENGINEERS TO SUPPORT NEW
12 PROGRAMS. SO WITHIN THE SITES, YOU KNOW, WE ARE
13 CONSTANTLY WORKING NEW AND CHANGING SPACE REQUIREMENTS.

14 **Q** SO THAT WAS AN EXAMPLE -- I THINK
15 LIEUTENANT CUMMINS PUT THE EXAMPLE AS TAKING THIS ROOM
16 AND CONVERTING IT TO CUBICLES AND OFFICE SPACE.

17 **A** YES. AND THAT'S SOMETHING WE DO AS -- WE
18 CALL THAT PLANT REARRANGEMENT, WHERE WE, YOU KNOW,
19 CHANGE.

20 ANOTHER EXAMPLE WE'RE CURRENTLY WORKING
21 RIGHT NOW, PLANT SITE 3, BUILDING 308 IS AN OLD
22 WAREHOUSE FACILITY. WE'RE CURRENTLY WORKING WITH THAT
23 LEASE OPERATOR TO CONVERT THAT TO ENGINEERING, FOR SPACE
24 FOR THEIR ENGINEERS AND MAINTAINERS.

25 **Q** AND WHAT ABOUT EXPANDABLE SPACE ACROSS THE
26 FACILITY? IS THERE ROOM FOR ADDITIONAL SITES?

27 **A** YEAH. YOU CAN SEE IT -- THIS CHART DOESN'T
28 SHOW THE RUNWAYS, BUT IF YOU LAID IN THE RUNWAY THAT

1 RUNS HERE (INDICATING) AND THE RUNWAY THAT RUNS HERE,
2 THE ONLY SPACE THAT WE REALLY HAVE LEFT FOR DEVELOPMENT
3 IS ALONG THE SOUTH AND HERE, THESE PARCELS HERE.

4 SO, YOU KNOW, WE'RE PRETTY CLOSE TO BUILT
5 OUT. YOU KNOW, IF WE HAD TO BUILD A NEW INDUSTRIAL
6 SITE, THAT WOULD BE THE LAST REMAINING SPACE AVAILABLE
7 TO DO THAT.

8 Q OKAY. BUT THAT SPACE IS AVAILABLE FOR AN
9 ADDITIONAL SITE.

10 CAN WE HAVE THE NEXT EXHIBIT, PLEASE?

11 AND THIS IS -- ONE MOMENT -- EXHIBIT 146,
12 YOUR HONOR.

13 THE WITNESS: YEAH. THIS IS THE SAME DIAGRAM, BUT
14 IN RED WE LAID IN THE FIRE WATER SYSTEM, BECAUSE THE
15 FIRE WATER SYSTEM -- YOU KNOW, EACH OF THE SITES HAS
16 ITS, YOU KNOW, OWN SUPPLY OF WATER FOR DOMESTIC, POTABLE
17 PURPOSES, INDUSTRIAL PURPOSES.

18 THE RED -- THEN WE HAVE A SEPARATE FIRE
19 WATER SYSTEM. THE RED SHOWS ALL THE FIRE WATERLINES
20 THAT SUPPORT THE PLANT -- ALL THE PLANT SITES.

21
22 (EXHIBIT 146, IDENTIFIED: DIAGRAM
23 OF FIRE WATER SYSTEM.)
24

25 THE WITNESS: THE RED LINES ARE -- IS SERVED --
26 THAT FIRE WATER SYSTEM IS SERVED BY TWO FIRE WELLS ON
27 THE NORTH SIDE OF THE FACILITY. ACTUALLY, ONE OF THOSE
28 WELLS IS CURRENTLY ACTIVE. THE OTHER ONE IS -- WE'RE --

1 HAVE PLANS TO REHABILITATE OR REPLACE THAT WELL.

2 AND THEN THE SOUTH SIDE IS SERVED -- THE
3 BLUE LINE HERE SHOWS THE INFRASTRUCTURE THAT SUPPLIES
4 PALMDALE WATER DISTRICT WATER TO PLANT 42. IT'S JUST
5 THE AREAS ON THE SOUTH, AND THAT -- THE SOUTH SIDE FIRE
6 WATER SYSTEMS -- WE HAVE MILLION GALLON TANK ON THE
7 SOUTH AND MILLION GALLON TANK ON THE NORTH. THE SOUTH
8 SIDE MILLION GALLON FIRE WATER TANK IS SUPPLIED BY
9 PALMDALE WATER DISTRICT.

10 **BY MR. LEININGER:**

11 **Q** LET'S JUST TALK ABOUT A LITTLE BIT ABOUT
12 SOME OF THIS WATER USE. IS THERE ANY HOUSING ON THE
13 FACILITY?

14 **A** NO, THERE'S NO HOUSING.

15 **Q** IS THERE ANY RECREATIONAL FACILITIES?

16 **A** NO.

17 **Q** ALL RIGHT. IS THERE ANY LANDSCAPING?

18 **A** INSIGNIFICANT AMOUNT OF LANDSCAPING.

19 **Q** OKAY. BEFORE WE GO ON WITH THE WATER USES,
20 I JUST WANTED TO TALK A LITTLE BIT ABOUT THIS -- THE
21 LEASING. I BELIEVE THAT ALSO CAME UP THIS MORNING.

22 AND THE QUESTION WAS, IN SOME OF THESE
23 LEASE ACTIVITIES AND ON THESE SITES, WAS THERE
24 COMMERCIAL AIRPLANE-RELATED PRODUCTION? DO YOU KNOW
25 CURRENTLY WHETHER OR NOT THERE'S COMMERCIAL ACTIVITIES
26 AT THESE SITES?

27 **A** THERE'S NO SIGNIFICANT COMMERCIAL
28 ACTIVITIES AT PLANT 42.

1 **Q** AND NOW LET'S GET BACK TO WATER IN THE
2 LEASES THEMSELVES. DO THE LEASES -- DO THE TERMS OF THE
3 LEASE ALLOW FOR PRODUCTION OF THE WATER?

4 **A** YES. EACH PLANT SITE HAS ITS OWN LEASE,
5 SEPARATE LEASE. THOSE LEASES INCLUDE -- YOU KNOW,
6 THEY'RE OPERATING LEASES WITH THE LEASE OPERATORS, AND
7 IT PROVIDES THEM, YOU KNOW, WITHIN THEIR BOUNDARIES,
8 WHICH INCLUDES THE WELLS AND INCLUDES THE OPERATING
9 CONTROL OF ALL THE INFRASTRUCTURE WITHIN THAT LEASE
10 BOUNDARY, WHICH INCLUDES THE WELLS.

11 **Q** AND ARE THERE ANY CONSERVATION TERMS IN
12 THOSE LEASES THAT THEY HAVE TO ABIDE BY?

13 **A** OUR LEASES REQUIRE FOR ANY NEW FACILITY,
14 MODIFICATIONS OR ALTERATIONS, THE LESSEE HAS TO ABIDE BY
15 THE DEPARTMENT OF DEFENSE UNIFIED FACILITIES CRITERIA,
16 WHICH INCLUDES WATER CONSERVATION REQUIREMENTS, YOU
17 KNOW, EVERYTHING FROM HVAC SYSTEMS TO BATHROOMS. THAT'S
18 ALL -- THAT'S LEVIED ON THE LEASE OPERATORS WITHIN OUR
19 LEASES, THAT THEY HAVE TO COMPLY WITH THOSE
20 REQUIREMENTS.

21 **Q** AND DO YOU KNOW, ARE THESE LEASES ENTERED
22 INTO TO ALLOW FOR COMMERCIAL ACTIVITY OR ARE THERE
23 RESTRICTIONS?

24 **A** WE -- OUR CONGRESSIONAL LEASING AUTHORITY,
25 THAT WE LEASE THESE OUT, REQUIRE A SECRETARIAL LEVEL
26 DETERMINATION WHETHER THESE -- TO ENTER THE LEASE, YOU
27 KNOW, THE SECRETARY HAS TO DETERMINE THAT ENTERING THE
28 LEASE WOULD BE IN THE INTEREST OF NATIONAL DEFENSE OR

1 PUBLIC INTEREST.

2 ALL OF OUR DETERMINATION FINDINGS THAT WE
3 HAVE WRITTEN TO ENTER THESE LEASES, YOU KNOW, ALL
4 SPECIFY THE NATIONAL DEFENSE REQUIREMENT TO PROVIDE THE
5 FACILITIES TO EFFECTIVELY, EFFICIENTLY DEVELOP AND
6 PRODUCE THESE WEAPON SYSTEMS FOR THE NATION'S WAR
7 FIGHTERS.

8 MR. KUHS: YOUR HONOR, I'M GOING TO OBJECT TO THIS
9 LINE OF QUESTIONING.

10 THE COURT: I CAN'T HEAR YOU. STAND UP.

11 MR. KUHS: YES. YOUR HONOR, I'M GOING TO OBJECT
12 ON LACK OF FOUNDATION TO THE CONTENTS OF LEASES THAT WE
13 DON'T HAVE BEFORE THE COURT.

14 THE COURT: OVERRULED.

15 BY MR. LEININGER:

16 Q SO TO SUMMARIZE, THEN, THE LEASE ACTIVITY,
17 THE ABILITY TO USE WATER IS, YOU SAY, DESCRIBED IN THIS
18 LEASE. SO BASICALLY THAT ABILITY GOES WITH THE LEASE
19 AND THE LESSEE; IS THAT CORRECT?

20 A THAT'S CORRECT.

21 Q LET'S GO BACK TO SPECIFIC WATER USES. SO
22 CAN YOU DESCRIBE FOR ME WHAT ARE THE USES, IN THE ORDER
23 OF CONSUMING THE MOST TO LEAST AMOUNT, OF WATER FOR THE
24 ACTIVITY AT PLANT 42?

25 A YEAH. OUR TOP WATER USE IS INDUSTRIAL
26 HEATING AND COOLING OF THE PRODUCTION AREAS. OUR --
27 PROBABLY OUR SECOND HIGHEST USE WOULD BE DIRECT
28 PRODUCTION SUPPORT, YOU KNOW, THE CLEANING, PARTS

1 CLEANING, THE WATER USED ON THE PRODUCTION FLOOR. THE
2 THIRD WOULD BE THE WORKERS AT THE PLANT, THEIR DOMESTIC
3 NEEDS, AND THE FOURTH WOULD BE THE FIRE PROTECTION
4 SYSTEM.

5 Q I'M NOT SURE WE -- THE RECORD WAS QUITE
6 CLEAR WITH REGARD TO THE WELLS THEMSELVES AND THE ONES
7 THAT ARE ROUTINELY USED IN EACH OF THESE SITES. AND IF
8 YOU CAN JUST REPEAT THAT FOR THE RECORD, TO THE EXTENT
9 THAT WE COVER ALL OF THESE WELL USES.

10 A OKAY. PLANT SITE 1 HAS TWO ACTIVE WELLS.
11 PLANT SITE 2 -- DID I SAY PLANT -- PLANT SITE 1 HAS TWO
12 ACTIVE WELLS. PLANT SITE 2 HAS ONE ACTIVE WELL. PLANT
13 SITE 3 HAS TWO ACTIVE WELLS. PLANT SITE 4 HAS TWO
14 ACTIVE WELLS. PLANT SITE 7 HAS AN INACTIVE WELL, AND
15 PLANT SITE 8 HAS TWO ACTIVE WELLS. PLANT SITE 5, 6 AND
16 7 RECEIVE WATER FROM PALMDALE WATER DISTRICT.

17 MR. LEININGER: IF WE COULD GO TO EXHIBIT 151,
18 PLEASE. AND WE MAY NEED TO EXPAND THIS AGAIN, IF AT ALL
19 POSSIBLE. SORRY, YOUR HONOR.

20 Q I'LL JUST HAVE THE WITNESS FIRST DESCRIBE,
21 WHAT IS THIS DOCUMENT?

22 A THIS DOCUMENT WAS PREPARED DURING THE PHASE
23 FOUR ACTIVITIES TO SHOW BY SITE FOR THE YEARS OF
24 INTEREST, 2000 THROUGH 2004 AND 2011 THROUGH 2012, BY
25 EACH SITE, YOU KNOW, THE SOURCE OF WATER AND THE
26 QUANTITY OF WATER USED AT EACH SITE.

27 Q AND I'M SORRY, MR. SCOTT. DO YOU HAVE THE
28 LASER POINTER?

1 **A** YES.

2 **Q** OKAY.

3 **A** YOU CAN SEE --

4 **Q** IF YOU CAN JUST SHOW US ACROSS THE TOP --

5 **A** YEAH.

6 **Q** -- WHAT YEARS YOU'RE TALKING ABOUT.

7 **A** YEAH. 2000 THROUGH 2004, AND THEN 2011 AND
8 2012.

9 **Q** OKAY. WAS THIS DOCUMENT CREATED BY YOU OR
10 AT YOUR DIRECTION?

11 **A** IT WAS CREATED BY MY STAFF AND WITH MY
12 DIRECT INPUT INTO THE DEVELOPMENT OF THIS -- OF THE
13 FINAL PRODUCT.

14

15 (EXHIBIT 151, IDENTIFIED: CHART OF
16 WATER USAGE, SITES 1-8, 2000-2004,
17 2011-2012.)

18

19 **BY MR. LEININGER:**

20 **Q** AND LET'S TALK ABOUT THE SOURCE OF THIS
21 INFORMATION. WHAT DID YOU OR YOUR STAFF RELY UPON?

22 **A** OKAY. FOR THE INDUSTRIAL SITES 1, 2, 3, 4,
23 7 AND 8, WE RELIED ON THE LEASE OPERATOR PLANT RECORDS,
24 THEIR RAW METER DATA THAT THEY HAD ON FILE FOR THOSE
25 TIME PERIODS.

26 SITE 5 AND 6 (INDICATING), THOSE CAME
27 FROM -- FOR THE -- WHAT I CALL MUNICIPAL -- THIS COLUMN
28 HERE, THAT WAS BASED ON PALMDALE WATER DISTRICT INVOICE

1 DATA THAT WE HAD ON FILE AT AIR FORCE PLANT 42.

2 Q AND IT'S PART OF YOUR FUNCTION AS A
3 FACILITY AND SYSTEMS ENGINEER TO UNDERSTAND THIS DATA?

4 A YES.

5 Q AND IT HELPED YOU AND ASSISTED YOU IN
6 FORMING YOUR OPINIONS TODAY?

7 A YES, IT DID.

8 Q OKAY. LET'S LOOK DIRECTLY AT A COUPLE OF
9 THESE VALUES. LET'S BEGIN WITH YOUR DESCRIPTION, I
10 THINK ON HERE, AND IT MAY BE ON THE BASE. YOU DESCRIBE
11 DOMESTIC USE. WHAT DO YOU MEAN BY DOMESTIC USE IN
12 THESE -- FOR THIS PURPOSE?

13 A YEAH. THE LINES THAT SAY "DOMESTIC WELL,"
14 THOSE ARE THE WELLS THAT SERVE THE DOMESTIC AND
15 INDUSTRIAL PURPOSES AT EACH OF THE SITES. I MAKE THAT
16 DISTINCTION FROM THE FIRE WELLS -- THE FIRE WELL AT
17 SITE 5 AND 6.

18 WHERE IT SAYS "MUNICIPAL," THE ONLY ROW
19 THAT HAS DATA IS PLANT 5 AND 6 AND SITE 7. THAT SHOWS
20 WATER RECEIVED FROM PALMDALE WATER DISTRICT.

21 Q OKAY. AND ALL THE REST ARE ON-SITE --

22 A YES.

23 Q -- WELL SOURCES?

24 DO WE HAVE THE -- (SPOKE SOTTO VOCE).

25 AND WHAT HAVE YOU DONE HERE?

26 A THIS IS THE SAME TABLE, BUT WE HIGHLIGHTED
27 AND CIRCLED A COUPLE DIFFERENT COLUMNS TO SHOW --
28 BECAUSE IF YOU LOOK AT OUR BOTTOM LINE NUMBER FROM

1 2000 -- YOU KNOW, FOR EACH YEAR, WE -- OUR WATER USE HAS
2 TRENDED, YOU KNOW, IN A FAIRLY NARROW RANGE. IT LOOKED
3 LIKE FROM A LOW VALUE OF 425 TO A HIGH VALUE OF 458 --
4 OR 473 WOULD BE OUR HIGH VALUE ON THAT CHART, YOU KNOW.

5 SO THAT SHOWS RELATIVELY CONSISTENT FROM
6 YEAR TO YEAR. HOWEVER, THAT DOES NOT SHOW THAT WITHIN
7 EACH OF THE SITES THERE'S A HIGH DEGREE OF VARIABILITY
8 AND VARIATION SITE TO SITE AND YEAR TO YEAR.

9 I HIGHLIGHTED JUST A COUPLE COLUMNS TO SHOW
10 ABOUT HOW THE CHANGING MISSION SUPPORTED IN EACH OF
11 THESE SITES COULD HAVE A GREAT IMPACT ON OUR WATER USE.
12 THE FIRST EXAMPLE WOULD BE SITE 3.

13 YOU CAN SEE IN THE EARLY 2000S, YOU KNOW,
14 WE WERE AVERAGING, YOU KNOW, 40 TO 50 ACRE-FEET A YEAR.
15 AT THAT POINT, YOU KNOW, SITE 3 WASN'T -- YOU KNOW, IT
16 WAS LEASED OUT, BUT IT WASN'T PARTICULARLY HIGHLY
17 UTILIZED. AS YOU CAN SEE IN THE 2011 AND 2012 TIME
18 FRAME, THAT WATER USE HAD NEARLY DOUBLED TO, YOU KNOW,
19 100 ACRE-FEET BY 2012.

20 A LOT OF THAT CHANGE IS DUE TO ADDITIONS OF
21 NEW PROGRAMS AT SITE 3. ONE I CAN NAME SPECIFICALLY IS
22 GLOBAL HAWK, OUR Q-4 PRODUCTION AND ITS NAVY COUNTERPART
23 PRODUCTION, AND CHECK OUT ACTIVITIES AT SITE 3, YOU
24 KNOW, HAS REALLY INCREASED THE UTILIZATION OF SITE 3.
25 SO THAT'S AN EXAMPLE OF A SITE SHOWING INCREASED WATER
26 REQUIREMENTS, JUST CHANGED TO THE EVOLVING MIX OF
27 PROGRAMS THAT THAT SITE SUPPORTS.

28 Q SO THE MILITARY ACTIVITIES AT EACH OF THESE

1 SITES ISN'T CAPPED BY WATER USE?

2 A NO, IT'S NOT.

3 Q AND ARE EACH OF THESE FACILITIES, WITH
4 THEIR INFRASTRUCTURE NOW, ARE THEY CAPABLE OF BEING
5 OPERATED AT FULL CAPACITY?

6 A YES.

7 Q OKAY. FULL CAPACITY, AS SHOWN ON THIS
8 CHART, IF YOU COULD JUST GO THROUGH WHAT WERE THE
9 HIGHEST VALUES FOR EACH OF THESE SITES IN THIS PERIOD.

10 A YEAH. AS YOU CAN SEE, I CIRCLED THE HIGH
11 WATER USE FOR EACH OF THE SITES. AS YOU CAN SEE, WE
12 DIDN'T HAVE A SINGLE YEAR -- YOU KNOW, THEY WERE SPREAD
13 THROUGHOUT ALL OF THE YEARS.

14 YOU CAN SEE SITE 1. ITS HIGHEST WATER USE
15 WAS 120 ACRE-FEET IN 2001. SITE 2'S HIGHEST WATER USE
16 WAS 18.26 IN 2001. SITE 3'S HIGHEST WATER USE WAS IN
17 2012. SITE 4, 231 IN 2011, AND SO ON. SO WE HAVE A LOT
18 OF VARIABILITY GOING YEAR TO YEAR, SITE BY SITE.

19 Q ARE ALL THESE SITES CAPABLE OF BEING
20 OPERATED AT THIS HIGHEST LEVEL SIMULTANEOUSLY?

21 MR. KUHS: OBJECTION. CALLS FOR SPECULATION.
22 VAGUE.

23 THE COURT: OVERRULED.

24 THE WITNESS: YES.

25 BY MR. LEININGER:

26 Q AND HAVE YOU TOTALED THESE HIGH VALUES
27 TOGETHER?

28 A YEAH. IF YOU TOTAL EACH SITE'S HIGHEST

1 WATER USE FOR THE DATA ON THIS CHART, IT WOULD EQUAL 677
2 ACRE-FEET.

3 Q OKAY. AND BEFORE -- 677 ACRE-FEET. AND
4 BEFORE WE LEAVE THIS CHART, LET'S TALK A LITTLE BIT
5 ABOUT THE FIRE WELLS. I BELIEVE YOU HAVE A VALUE?

6 A YES. YOU CAN SEE ON HERE -- BECAUSE OUR
7 FIRE WELLS ARE NOT USED FOR POTABLE, DOMESTIC PURPOSES,
8 THEY ARE NOT CHLORINATED, TREATED, AND THEY'RE NOT
9 METERED; SO WE DO NOT HAVE METERS ON OUR FIRE WATER
10 WELLS.

11 SO THAT VALUE WAS DETERMINED BY ENGINEERING
12 ANALYSIS BASED ON OPERATOR VISUAL INSPECTION AND
13 KNOWLEDGE OF HOW FAST -- HOW FAR THE MAIN STORAGE TANK
14 DROPS IN A DAY. SO THAT'S HOW THAT VALUE OF 64.45
15 ACRE-FEET FOR OUR FIRE WELLS WAS DETERMINED.

16 Q SO THAT VALUE ISN'T FOR PUTTING OUT FIRES.
17 WHAT DO YOU USE THAT FOR, YOUR ANNUAL BASIS?

18 A THE ULTIMATE PURPOSE IS TO PROVIDE THE
19 VOLUME AND PRESSURE OF WATER NECESSARY TO PUT OUT A
20 FIRE. OUR FIRE WATER SYSTEM, IT SERVES ALL THE FIRE
21 HYDRANTS AND, WITHIN EACH OF THE FACILITIES, THE
22 SPRINKLER SYSTEMS AND THE -- YOU KNOW, THE PHONE SYSTEMS
23 WITHIN ALL THE PRODUCTION HANGARS. SO THAT'S THE
24 ULTIMATE PURPOSE, YOU KNOW. HOPEFULLY, WE DON'T HAVE TO
25 USE THAT VERY OFTEN.

26 BUT IN THE INTERIM, THE FIRE WATER SYSTEM
27 REQUIRES PERIODIC FLUSHING AND MAINTENANCE REQUIREMENTS.
28 YOU'RE REQUIRED TO FLUSH THE METERS TO MAKE SURE THE

1 WATER QUALITY AND PRESSURE IS THERE.

2 AND THE SECONDARY PURPOSE OF OUR FIRE WATER
3 SYSTEM IS WE USE -- BECAUSE THIS WATER IS NOT TREATED,
4 WE USE IT FOR CONSTRUCTION PURPOSES. WE USE IT FOR --
5 JUST A COUPLE EXAMPLES. WE'RE DOING A PROJECT RIGHT NOW
6 TO REGRADE THE SHOULDERS OF OUR RUNWAYS, THE SLOPING,
7 THE DITCHES OF OUR RUNWAYS; SO WE USE WATER FOR DUST
8 ABATEMENT DURING THOSE CONSTRUCTION ACTIVITIES.

9 Q LET'S GO ON, THEN, TO YOUR NEXT AND FINAL
10 SLIDE. I BELIEVE THIS IS EXHIBIT 164.

11 AND, AGAIN, YOUR HONOR, I THINK WE'LL HAVE
12 TO BLOW THIS UP.

13 IF YOU COULD JUST BLOW UP THE NUMBERS.

14 **TECHNICAL ASSISTANT:** (INDICATING.)

15 **BY MR. LEININGER:**

16 Q SO THIS CHART -- LET'S BEGIN WITH THE
17 BASICS. WAS THIS CREATED BY YOU, UNDER YOUR DIRECTION?

18 A IT WAS CREATED BY MY STAFF, WITH MY DIRECT
19 INPUT IN THIS DEVELOPMENT.

20 Q IN GENERAL TERMS RIGHT NOW, WHAT IS IT?

21 A THIS CHART HERE SHOWS OUR PROJECTIONS OF
22 WATER REQUIREMENTS IN FIVE-YEAR INCREMENTS FROM 2013 OUT
23 TO 2033 BY SITE, AND THEN IT'S TOTALED UP ON THE BOTTOM
24 (INDICATING) FOR ALL SITES, FOR THE TOTAL OF THE PLANT.

25

26 (EXHIBIT 164, IDENTIFIED: CHART OF
27 WATER USAGE BY SITE, 2013-2033.)

28

1 **BY MR. LEININGER:**

2 **Q** WAS THIS HELPFUL FOR YOU TO FORM YOUR
3 ULTIMATE OPINION --

4 **A** YES.

5 **Q** -- FOR FUTURE WATER USES --

6 **A** YES, IT WAS.

7 **Q** -- NECESSARY AT AIR FORCE PLANT 42?

8 **A** CORRECT.

9 **Q** LET'S TALK ABOUT THE BASIS FOR SOME OF
10 THESE PROJECTIONS. YOU SHOW A GROWTH ACROSS THIS PERIOD
11 OF TIME, AND I BELIEVE YOU -- THERE'S A PERCENTAGE
12 GROWTH; IS THAT CORRECT?

13 **A** YES. THE -- THESE NUMBERS WERE
14 DEVELOPED -- THE TWO PRIMARY CRITERIA -- THE FIRST ONE
15 WAS, YOU KNOW, FULL UTILIZATION OF EACH OF THE SITES.
16 AND THE SECOND ONE WAS THE GENERAL CHANGE IN AEROSPACE
17 MANUFACTURING PROCESSES THAT WE'VE SEEN HAVE PUT A
18 PRESSURE FOR MORE WATER REQUIRED.

19 **Q** AND WHAT'S THE PERCENTAGE FACTOR THAT YOU
20 APPLIED TO THIS FOR THOSE PURPOSES?

21 **A** YOU'LL SEE IT WAS A 2 PERCENT INCREASE PER
22 YEAR; HOWEVER, YOU WILL SEE SOME LARGER JUMPS THAN
23 2 PERCENT IF YOU LOOK SITE BY SITE.

24 FOR INSTANCE, WE'RE NOT EXPECTING, YOU
25 KNOW, SITE 1 TO BE MORE HIGHLY UTILIZED UNTIL AFTER
26 2013; SO FOR SITE 1 WE SHOW A LARGER JUMP TO GET THE
27 FULL UTILIZATION AND THEN A 2 PERCENT PER YEAR -- OR
28 2 PERCENT PER YEAR OR 10 PERCENT FOR EACH FIVE-YEAR JUMP

1 OUT TO 2033.

2 Q LET'S GO BACK TO ONE OF YOUR BASES. YOU
3 SAID, I THINK, HEATING AND AIR CONDITIONING
4 IMPROVEMENTS, I THINK WAS YOUR TESTIMONY. CAN YOU
5 EXPLAIN THAT A LITTLE BIT FURTHER?

6 A YEAH. THAT'S WHAT -- WE'RE SEEING A LOT OF
7 PRESSURE AS OUR HIGHEST WATER, YOU KNOW, NEED AT THE
8 PLANT CURRENTLY, AND WE'RE SEEING CONTINUED NEED FOR
9 HIGHER LEVELS OF HEATING, VENTILATION, AIR CONDITIONING,
10 CLIMATE CONTROL, HUMIDITY CONTROL WITHIN OUR PRODUCTION
11 SITES, BASED ON MODERN AIRCRAFT PRODUCTION REQUIREMENTS.

12 YOU KNOW, IN THE PAST, OLDER SYSTEMS, YOU
13 KNOW, MOSTLY METALLIC SYSTEMS RIVETED TOGETHER DID NOT
14 HAVE AS TIGHT OF HUMIDITY AND TEMPERATURE CONTROL AS THE
15 MODERN COMPOSITE AIRCRAFT AND SEALANTS AND HIGH
16 PERFORMANCE COATINGS THAT WE'RE APPLYING TO CURRENT
17 WEAPON SYSTEMS.

18 SO ALL -- YOU KNOW, THOSE HVAC SYSTEMS
19 REQUIRED TO MAINTAIN THAT HIGHER, YOU KNOW, BAND OF
20 HUMIDITY AND TEMPERATURE CONTROL ARE -- THEY REQUIRE
21 WATER.

22 Q AND I BELIEVE YOU GAVE AN EXAMPLE OF HOW
23 YOU MADE COOL FOR THESE SITE FACILITIES CURRENTLY IN THE
24 EVENING HOURS. CAN YOU JUST EXPLAIN THAT?

25 A YEAH. I MEAN, CURRENTLY, WE ARE WORKING --
26 I'LL GIVE ONE -- YOU KNOW, ONE EXAMPLE IS -- GO DOWN AND
27 LOOK AT SITE 7. YOU CAN SHOW RIGHT NOW THE SITE IS NOT
28 VERY HIGHLY UTILIZED. SO IN 2013 WE HAVE A -- SHOW A

1 LOW APPROXIMATE -- YOU KNOW, LOW ESTIMATION OF THEIR
2 WATER NEED IN 2013 AND THEN A RELATIVELY LARGE JUMP.

3 WE'RE WORKING WITH A NEW WEAPON SYSTEM
4 PROGRAM THAT'S INTERESTED IN BEDDING DOWN AT SITE 7.
5 ONE OF THEIR REQUIREMENTS FOR THIS NEW WEAPON SYSTEM IS
6 THAT THEY HAVE TO PUT HEATING AND COOLING WITHIN THE
7 PRODUCTION HANGARS.

8 THAT SITE WAS, YOU KNOW, PREVIOUSLY -- YOU
9 KNOW, THE WEAPON SYSTEMS THAT WERE SUPPORTED PREVIOUSLY
10 AT SITE 7 DID NOT REQUIRE THAT DEGREE OF HEATING AND
11 COOLING, BUT THE NEW SYSTEM DOES. THE NEW WEAPON SYSTEM
12 REQUIRES...

13 Q SO BEYOND THIS HVAC SYSTEM, I THINK YOU HAD
14 GIVEN A FIGURE A FEW MOMENTS AGO WITH REGARD TO THE
15 MAXIMUM USE THAT WE'VE SEEN RECENTLY AT THESE SITES.

16 A RIGHT.

17 Q DO YOU RECALL WHAT THAT FIGURE IS?

18 A YEAH. YOU COULD -- THAT WAS 677 ACRE-FEET,
19 IF YOU LOOKED AT OUR PREVIOUS EXHIBIT AND USED THE HIGH
20 WATER USE FOR EACH SITE ACROSS THAT PERIOD OF TIME.

21 YOU CAN SEE, HOWEVER, WE USED A DIFFERENT
22 METHODOLOGY. WE DETERMINED THESE VALUES BASED ON WHAT
23 WE KNOW WAS CURRENTLY GOING ON AT THOSE SITES AND WHAT
24 WE'RE PLANNING TO SUPPORT AT THOSE SITES IN THE FUTURE,
25 AND LAID THOSE IN. SO I THINK THAT'S A MORE ACCURATE,
26 MORE REASONABLE, YOU KNOW, ESTIMATION.

27 Q AND BASED ON THOSE TWO FACTORS -- IF YOU
28 COULD JUST BLOW UP THAT LOWER RIGHT CORNER. AND I'M

1 SORRY. COULD YOU GO TO THE TOP OF THAT COLUMN FIRST?

2 **TECHNICAL ASSISTANT:** (INDICATING.)

3 **MR. LEININGER:** JUST THE VERY TOP.

4 **BY MR. LEININGER:**

5 **Q** SO THIS FINAL COLUMN IS YOUR -- WELL, I'LL
6 HAVE YOU DESCRIBE IT. WHAT IS THIS FINAL COLUMN?

7 **A** YEAH. THAT IS AS FAR OUT AS I FELT, YOU
8 KNOW, ABLE TO ESTIMATE WHAT OUR WATER NEEDS WOULD BE,
9 WAS 2033, 20 YEARS OUT, AND WE CAME UP WITH A FINAL
10 VALUE OF, WHAT, 966 ACRE-FEET BY 2013 AS ...

11 **Q** SO IN YOUR OPINION, 966 ACRE-FEET PER YEAR
12 IS A REASONABLE ESTIMATE OF THE AMOUNT OF WATER
13 NECESSARY FOR THE MILITARY PURPOSES AT AIR FORCE
14 PLANT 42?

15 **A** YES, I DO.

16 **MR. LEININGER:** NO FURTHER QUESTIONS, YOUR HONOR.

17 **THE COURT:** ALL RIGHT. CROSS-EXAMINATION.

18

19 **CROSS-EXAMINATION**

20 **BY MR. HERREMA:**

21 **Q** GOOD AFTERNOON, MR. SCOTT. MY NAME IS BRAD
22 HERREMA. I'M AN ATTORNEY FOR THE ANTELOPE VALLEY GROUND
23 WATER AGREEMENT ASSOCIATION.

24 **A** GOOD AFTERNOON.

25 **Q** AND I HAVE JUST A HANDFUL OF QUESTIONS
26 RELATED TO YOUR OPINIONS TODAY.

27 **A** OKAY.

28 **Q** FIRST, I THINK YOU SAID THAT THE MISSION --

1 YOUR MISSION IN REGARD TO OPERATING PLANT 42 IS TO
2 ENSURE THAT THE PLANT IS AVAILABLE FOR WHATEVER TYPE OF
3 ACTIVITY THAT THE LESSEES MIGHT UNDERTAKE ON THE
4 PROPERTY; IS THAT RIGHT?

5 A YEAH. MAKE SURE THE FACILITY IS CAPABLE,
6 SUITABLE, EFFECTIVE.

7 Q AND IN TERMS OF WATER AVAILABILITY, WHAT
8 DOES THAT MEAN FOR ENSURING THAT IT'S SUITABLE AND
9 AVAILABLE?

10 A WATER AVAILABILITY, WATER SURETY IS A KEY
11 ELEMENT FOR THE FUTURE ABILITY OF PLANT 42 TO DEVELOP
12 AND PRODUCE WEAPON SYSTEMS.

13 Q OKAY. COULD WE -- COULD YOU PLEASE BRING
14 UP EXHIBIT 151?

15 WHEN MR. LEININGER WAS, I THINK, ASKING YOU
16 SOME QUESTIONS ABOUT THIS EXHIBIT, YOU REFERRED TO THE
17 TOTAL ACRE FEET PER YEAR THAT WERE IN THE BOTTOM COLUMN.
18 DO YOU REMEMBER THAT?

19 A YES, I DO.

20 Q AND I THINK AT THAT POINT YOU COMMENTED
21 THAT WITHIN THE 7 YEARS THAT ARE SHOWN HERE -- THIS IS
22 7 YEARS OUT OF A 13-YEAR PERIOD -- THAT THE TREND WAS
23 NOT INCREASING OR DECREASING BUT WAS REMAINING CONSTANT
24 WITHIN A RELATIVELY TIGHT RANGE. WOULD YOU AGREE WITH
25 THAT?

26 A YES, THAT'S CORRECT, WITH SHIFTING OF WATER
27 NEEDS FROM SITE TO SITE DURING THAT TIME PERIOD, BUT THE
28 BOTTOM LINE NUMBER REMAINED WITHIN A PRETTY TIGHT BAND.

1 Q OKAY. AND THEN AFTER YOU TALKED ABOUT WHAT
2 THAT TIGHT BAND WAS, MR. LEININGER HAD ASKED YOU IF YOU
3 ADDED UP ALL THE HIGHEST TOTALS ON EACH SITE DURING THE
4 HIGHEST INDIVIDUAL YEARS, WHAT THAT NUMBER WOULD LOOK
5 LIKE. DO YOU REMEMBER WHAT THAT NUMBER WAS?

6 A YEAH. IT WAS 677 ACRE-FEET.

7 Q OKAY. AND THAT -- IF MY MATH IS RIGHT,
8 THAT EXCEEDS THE HIGHEST PER YEAR TOTAL BY ALMOST 200
9 ACRE-FEET; IS THAT RIGHT?

10 A YEAH. 677 WOULD EXCEED -- OUR HIGH VALUE
11 SHOWN ON HERE IS 458 SO THAT WOULD -- YES, THAT WOULD BE
12 CORRECT.

13 Q OKAY. I SEE A 473 IN 2001, BUT IT'S STILL,
14 I THINK --

15 A YEAH, CORRECT.

16 Q -- RIGHT AROUND 200 ACRE-FEET.

17 A YES.

18 Q OKAY. IN YOUR EXPERIENCE WITH -- STRIKE
19 THAT.

20 NOW, THIS CHART SHOWS, AS I SAID, 7 OUT OF
21 13 YEARS. THERE'S AN INTERVENING TIME PERIOD THAT'S NOT
22 SHOWN HERE, 2005 TO 2010. IN YOUR EXPERIENCE WITH WATER
23 USE AT PLANT 42, HAS IT EVER APPROACHED THAT 660 ACRE
24 FOOT PER YEAR AMOUNT?

25 A NOT TO MY KNOWLEDGE.

26 Q OKAY. WE TALKED ALSO ABOUT -- YOU TALKED
27 ALSO ABOUT SOME FLUCTUATIONS WITHIN THE WATER USE AT THE
28 DIFFERENT SITES ON THE PLANT BASED ON THE CHANGE IN THE

1 MISSION. SO ONE PROJECT MIGHT BE RAMPING UP WHILE
2 ANOTHER PROJECT IS DECLINING, OR ONE -- A TENANT MIGHT
3 BE SHIFTING, FOR EXAMPLE, ON SITE 8, FROM LOCKHEED TO
4 NORTHROP GRUMMAN.

5 SO IS THERE ANY REASON TO THINK THAT EACH
6 SITE WOULD BE EXPERIENCING THAT HIGHEST WATER USE PER
7 YEAR IN A PARTICULAR YEAR?

8 A WELL, WE HAVE TO MAINTAIN THE CAPABILITY TO
9 SUPPORT THAT CONDITION.

10 Q OKAY. BUT YOU HAVEN'T -- YOU'VE NEVER SEEN
11 A YEAR LIKE THAT?

12 A NOT IN MY TIME MANAGING THE PLANTS, NO.

13 Q AND THAT'S BEEN HOW LONG?

14 A SINCE 2009.

15 Q OKAY. AND NOT IN THE DATA THAT YOU'VE
16 REVIEWED?

17 A AND NOT IN THE DATA THAT I'VE REVIEWED.

18 Q OKAY. WHEN MR. DUBOIS AND COLONEL CUMMINS
19 WERE TALKING EARLIER, THEY DIFFERENTIATED BETWEEN THE
20 LEASABLE PROPERTY ON THE PLANT AND THE USABLE SQUARE
21 FOOTAGE ON THE LEASABLE SITES. WERE YOU HERE FOR THAT
22 DISCUSSION?

23 A YES.

24 Q OKAY. AND I THINK THE EXAMPLE THAT COLONEL
25 CUMMINS GAVE WAS THAT THIS COURTROOM COULD BE CONVERTED
26 TO CUBICLES AND THAT WOULD -- ALTHOUGH THE SIZE OF THE
27 COURTROOM WOULDN'T CHANGE, THE USABLE SQUARE FOOTAGE
28 MIGHT.

1 YOU GAVE AN EXAMPLE OF ONE OF THE SITE'S
2 INCREASE IN -- SIMILAR INCREASE IN OFFICE SPACE FOR
3 ADDITIONAL ENGINEERS; IS THAT CORRECT?

4 **A** THAT'S CORRECT.

5 **Q** HAVE YOU SEEN ANY CASES WHERE THE REVERSE
6 HAS HAPPENED, WHERE THERE HAVE BEEN CONVERSIONS FROM --
7 TO LESS USABLE SQUARE FOOTAGE?

8 **A** I CAN GIVE AN EXAMPLE OF WHERE A PROGRAM
9 HAS DECLINED AND THE WATER USE AT THAT SITE HAS
10 DECLINED, YOU KNOW, WHERE THE POPULATION OF THE SITE HAS
11 GONE DOWN SIGNIFICANTLY.

12 **Q** SO, THEN, THERE MAY NOT HAVE BEEN
13 INFRASTRUCTURE CHANGES ON THE SITE, BUT BECAUSE OF THE
14 ACTIVITY ON A PARTICULAR PROJECT, THERE WERE FEWER
15 PEOPLE AND LESS WATER USE?

16 **A** YES, EXACTLY.

17 **Q** AND THERE'S KIND OF A GENERAL EBB AND FLOW
18 ON THE PLANT IN TERMS OF BOTH WHERE PROJECTS ARE IN
19 THEIR LIFELINES AND THE ASSOCIATED WATER USE?

20 **A** THAT'S CORRECT.

21 **Q** WOULD YOU ANTICIPATE THAT THAT WOULD
22 CONTINUE IN THE FUTURE?

23 **A** NO. WELL, MY -- YOU KNOW, MY JOB
24 RESPONSIBILITY IS TO MANAGE THE SITES SO THEY ARE ALL
25 HIGHLY UTILIZED; SO MY GOAL IS TO GET EVERY SITE AT THE
26 HIGHEST USE POSSIBLE.

27 **Q** ARE ALL THE SITES LEASED OR BEING USED AT
28 THIS POINT IN TIME?

1 **A** ALL THE SITES ARE PRESENTLY LEASED.

2 **Q** BUT THE PROJECTS THAT ARE TAKING PLACE ARE
3 AT DIFFERENT POINTS IN THEIR LIFELINE, AND SO YOU DON'T
4 HAVE FULL USE OR FULL HISTORIC USE AT ALL OF THE SITES
5 AT THE SAME TIME; IS THAT CORRECT?

6 **A** THAT'S CORRECT. (INAUDIBLE).

7 **Q** OKAY. SO THERE IS --

8 **THE REPORTER:** I'M SORRY. I DIDN'T HEAR THAT.

9 **THE WITNESS:** I WAS JUST GOING TO SAY THE LEVEL OF
10 USE VARIES YEAR TO YEAR BASED ON PROGRAM ACTIVITY.

11 **BY MR. HERREMA:**

12 **Q** AND FROM SITE TO SITE?

13 **A** SITE TO SITE, CORRECT.

14 **Q** OKAY. WAS THE DATA OR THE NUMBERS THAT ARE
15 SHOWN HERE ON EXHIBIT 151, WERE THESE USED IN YOUR
16 DEVELOPMENT OR YOUR TEAM'S DEVELOPMENT OF EXHIBIT 164?

17 **A** YES.

18 **Q** IF YOU LOOK AT THE NUMBER THAT IS LISTED
19 FOR 2011 TOTAL HERE, IT'S 458.39 ACRE-FEET.

20 IF WE COULD FLIP TO EXHIBIT 164. ON THE
21 BOTTOM, IN THAT REAL TINY TYPE, THERE IS A NUMBER THERE
22 THAT LISTS THE 2011 AVERAGE AND THAT NUMBER IS
23 532.94-ACRE FEET. DO YOU SEE THAT?

24 **A** RIGHT THERE (INDICATING)? IS THAT WHAT
25 YOU'RE TALKING ABOUT?

26 **Q** YES. COULD YOU EXPLAIN WHAT THE 2011
27 AVERAGE NUMBER MEANS?

28 **A** NO, I CAN'T.

1 **Q** DO YOU HAVE ANY IDEA WHY THIS NUMBER,
2 532.94, IS HIGHER THAN THE NUMBER 458.39 ON EXHIBIT 151?

3 **A** I'D HAVE TO GO LOOK AT MY WORKING PAPERS TO
4 SEE WHAT WENT INTO THIS 532 CALCULATION.

5 **Q** OKAY. AND IF I WERE TO TELL YOU THAT THE
6 NUMBER THAT'S LISTED HERE FOR 2012 FOR NINE OUT OF TEN
7 MONTHS, 461.87 ACRE-FEET, EXCEEDS THE 2012 NUMBER THAT'S
8 ON EXHIBIT 151, WHICH WAS A 12-MONTH NUMBER, WOULD YOU
9 KNOW WHY THOSE TWO ARE DIFFERENT?

10 **MR. LEININGER:** OBJECTION. STATES FACTS NOT IN
11 EVIDENCE.

12 **MR. HERREMA:** WE CAN FLIP TO THE OTHER SIDE.

13 **THE COURT:** OVERRULED. YOU MAY ANSWER.

14 **THE WITNESS:** OKAY. THIS 2012 NUMBER, AS IT SAYS,
15 INCLUDED DATA THROUGH THE END OF SEPTEMBER '12. THE
16 OTHER EXHIBIT -- LET'S SEE. WHAT DID IT SAY FOR '12?
17 THE OTHER EXHIBIT SAYS 446.

18 **BY MR. HERREMA:**

19 **Q** AND EXHIBIT 151, IS THAT A TWELVE-MONTH
20 NUMBER OR NINE-MONTH NUMBER?

21 **A** TWELVE-MONTH NUMBER.

22 **Q** OKAY. SO DO YOU KNOW WHY THIS NUMBER
23 PRESENTED ON 164, WHICH IS A NINE-MONTH NUMBER, WOULD
24 EXCEED THE TWELVE-MONTH NUMBER ON EXHIBIT 151?

25 **A** NO. I'D HAVE TO GO LOOK AT MY WORKING
26 PAPERS TO SEE, WHEN WE WERE DEVELOPING THIS TABLE, HOW
27 WE CALCULATED THESE AVERAGES HERE.

28 **Q** AND DO YOU KNOW HOW -- COULD YOU TELL ME

1 HOW THE PROJECTED 2013 ACRE-FEET NUMBER WAS DEVELOPED?

2 A YEAH. THE PROJECTED 2013 RIGHT HERE,
3 487.95, IT IS THE SUMMATION OF THE 2013 COLUMN OF EACH
4 OF THE SITES.

5 Q OKAY. AND HOW WERE THOSE NUMBERS -- THE
6 SITE-SPECIFIC 2013 NUMBERS DEVELOPED?

7 A I'D HAVE TO GO SITE BY SITE BY SITE. BUT
8 SITE 1, WE USED A VALUE OF -- MY EYES AREN'T THE SAME.

9 Q MAYBE YOU CAN JUST --

10 A 9.71?

11 Q MAYBE WE CAN SHORT-CIRCUIT THIS SITE BY
12 SITE --

13 A 9.21.

14 Q -- DISCUSSION, AND YOU CAN JUST EXPLAIN
15 GENERALLY HOW WAS --

16 A OKAY.

17 Q -- HOW WERE THE -- HOW WAS THE PROJECTED
18 2013 NUMBER DEVELOPED IN LIGHT OF THE DATA FOR 2000 TO
19 2004, 2011, 2012, THAT'S SHOWN ON EXHIBIT 151.

20 A OKAY. THE 2013 NUMBERS, THOSE WERE ALL
21 BASED ON WHAT I KNEW WHAT WAS GOING ON AT THAT SITE AND
22 WHAT I EXPECTED TO CHANGE IN 2013. SO FOR 2013, FOR
23 EACH OF THE SITES, I LOOKED AT WHERE THEIR CURRENT WATER
24 USE WAS AND MADE AN ASSESSMENT WHETHER I THOUGHT THERE
25 WERE GOING TO BE ANY SIGNIFICANT CHANGES AT EACH SITE BY
26 SITE IN THE NEXT YEAR.

27 Q AND WHEN YOU SAY WHAT THE CURRENT WATER USE
28 WAS, DO YOU RECALL WHICH INFORMATION YOU LOOKED AT?

1 **A** I WOULD HAVE LOOKED AT THE TABLE ON THE
2 PREVIOUS EXHIBIT.

3 **Q** AND WHAT YEAR, SPECIFICALLY?

4 **A** I WOULD HAVE LOOKED AT THE TREND GOING UP
5 TO THE LAST YEAR ON THAT TABLE, 2012, IF I SAW A RAMP UP
6 OR RAMP DOWN OR IF I SAW A STABLE -- A STABLE NUMBER.

7 **Q** OKAY. AND YOU TESTIFIED EARLIER THAT THE
8 TREND THAT'S SHOWN ON EXHIBIT 151 IS NOT TRENDING UP OR
9 DOWN BUT GENERALLY STAYING CONSTANT WITHIN A NARROW
10 RANGE.

11 **A** RIGHT. BUT THIS WAS DEVELOPED -- THIS WAS
12 A BUILDUP, SITE BY SITE, WHERE THERE IS TRENDS.

13 **Q** OKAY. SO YOU LOOKED AT THE SITE-BY-SITE
14 TRENDS?

15 **A** YES.

16 **Q** OKAY. AND IN TERMS OF THE DIFFERENCES
17 BETWEEN THE 2011 AND 2012 NUMBERS FROM EXHIBIT 151 TO
18 164, DO YOU RECALL WHICH OF THE TWO NUMBERS YOU LOOKED
19 AT WHEN DEVELOPING YOUR 2013 PROJECTION?

20 **A** I WOULD HAVE LOOKED AT BOTH OF THEM. I
21 WOULD HAVE LOOKED AT THE 2011 AND 2012. I WOULD HAVE
22 LOOKED BACK IN THE PREVIOUS YEARS TO SEE IF I COULD
23 DISCERN A TREND.

24 **Q** DO YOU AGREE THAT THE 2011 AND 2012 NUMBERS
25 SHOWN ON EXHIBIT 151 DIFFER FROM THOSE ON EXHIBIT 164?

26 **A** YEP. THE NUMBERS AT THE BOTTOM OF 164,
27 THEY DIFFER --

28 **Q** ARE HIGHER?

1 **A** -- FOR 2011 AND 2012.

2 **Q** THEY'RE HIGHER THAN THOSE SHOWN ON 151; IS
3 THAT CORRECT?

4 **A** CORRECT.

5 **Q** AND DO YOU RECALL WHETHER YOU USED THE
6 NUMBERS ON THE BOTTOM OF 164 OR THE NUMBERS ON THE
7 BOTTOM OF 151 WHEN MAKING YOUR 2013 PROJECTION?

8 **A** YEAH. I CAN'T -- I -- I -- WHEN THIS CHART
9 WAS CREATED, I USED THE LATEST WATER DATA THAT I HAD.
10 THIS WAS -- THIS TABLE WAS MADE IN DECEMBER OF 2012,
11 SO ...

12 **Q** OKAY. SO IF YOU WERE TO TAKE A LOOK AT 151
13 AND REALIZED THAT THE NUMBERS THAT ARE SHOWN THERE FOR
14 2011 AND 2012 ARE LOWER THAN WHAT WAS SHOWN ON 164,
15 WOULD THAT CHANGE YOUR 2013 PROJECTED WATER USAGE?

16 **A** NO.

17 **Q** NOT AT ALL?

18 **A** NOT AT ALL.

19 **Q** WERE YOU PRESENT LAST WEEK, TUESDAY, WHEN
20 MR. JUDKINS BEGAN HIS TESTIMONY?

21 **A** YES.

22 **Q** WERE YOU HERE FOR GENERAL BREWER'S
23 TESTIMONY AS WELL?

24 **A** YES, I WAS.

25 **Q** OKAY. DO YOU REMEMBER SOME DISCUSSION OF
26 THE -- IT'S BEEN VARIOUSLY REFERRED TO AS A PRESIDENTIAL
27 MANDATE AND AIR FORCE IMPLEMENTATION PLAN OF A STRATEGIC
28 SUSTAINABILITY PERFORMANCE PLAN. ARE YOU FAMILIAR WITH

1 THAT?

2 A YES, I AM.

3 Q AND WHEN I REFER TO THAT, DO YOU KNOW WHAT
4 I'M REFERRING TO?

5 A YES, I DO.

6 Q OKAY. THERE ARE CERTAIN WATER CONSERVATION
7 MEASURES THAT ARE -- SORRY -- CERTAIN WATER CONSERVATION
8 OBJECTIVES THAT ARE INCLUDED IN THAT. ARE YOU FAMILIAR
9 WITH THOSE?

10 A YES, I DO -- YES, I AM.

11 Q DO YOU KNOW THEM OFF THE TOP OF YOUR HEAD?

12 A YES. I BELIEVE IT'S A 26 PERCENT REDUCTION
13 BY 2020, BASED ON THE 2007 BASELINE FOR POTABLE WATER,
14 AND A 20 PERCENT REDUCTION BY 2020 FOR INDUSTRIAL WATER,
15 BASED ON, I BELIEVE, A 2010 BASELINE.

16 Q I'LL AGREE WITH YOU, THEN, THAT THAT'S
17 CORRECT.

18 IN TERMS OF APPLICABILITY, DID THOSE --
19 DOES THAT IMPLEMENTATION PLAN APPLY TO PLANT 42?

20 A IT HAS NOT BEEN DIRECTLY APPLIED TO
21 PLANT 42.

22 Q WHAT DOES THAT MEAN, IT'S NOT BEEN APPLIED
23 TO 42?

24 A AS -- I MEAN THE AIR FORCE IS A -- IS A
25 CORPORATE STRUCTURE. THE PRESIDENTIAL EXECUTIVE ORDER
26 FLOWED DOWN TO THE D.O.D., AND THE D.O.D. FLOAT IT DOWN
27 TO THE AIR FORCE, AND THEN THE AIR FORCE CORPORATELY
28 FLOAT IT DOWN TO ALL OF ITS INSTALLATIONS.

1 THE INDUSTRIAL USE OF WATER HAS NOT BEEN
2 FULLY DEFINED ON HOW THEY'RE GOING TO MEASURE THE
3 REDUCTION GOALS. SO WE HAVE NOT BEEN PROVIDED A -- WE
4 HAVE NOT BEEN PROVIDED OUR ALLOCATION OF WATER
5 CONSERVATION NUMBER.

6 Q WHO WOULD PROVIDE THAT NUMBER?

7 A I BELIEVE THE AIR FORCE STRATEGIC -- OR THE
8 AIR FORCE ENERGY AND ENVIRONMENTAL -- I CAN'T REMEMBER
9 THE EXACT TITLE. OUR LATEST AIR FORCE GUIDANCE ON THAT,
10 IT STATED THAT INDUSTRIAL WATER GOALS WOULD BE PROVIDED
11 IN LATE DECEMBER -- OR LATE 2013.

12 Q AND DID THAT TAKE PLACE?

13 A I HAVE NOT SEEN ANY GOALS FLOWED DOWN TO MY
14 OFFICE TO IMPLEMENT.

15 Q IS IT YOUR UNDERSTANDING THAT A GOAL WILL
16 BE FORTHCOMING?

17 A I DON'T -- I DON'T -- I'M NOT EXPECTING ONE
18 FOR THE AIR FORCE PLANT, BECAUSE WHEN THESE GOALS WERE
19 ORIGINALLY PROPOSED AND CORPORATE AIR FORCE WAS DOLING
20 OUT ALLOCATIONS OF HOW BASES WOULD APPLY -- WOULD PLAY
21 TO MEET THESE GOALS, THE AIR FORCE PLANTS MADE THE CASE
22 THAT IT IS EXTREMELY HARD TO NORMALIZE WATER INTENSITY
23 BASED ON OUR VARIABLE MISSION AND HOW WIDELY OUR NUMBERS
24 WOULD FLUCTUATE, DEPENDING ON THE NUMBERS OF PROGRAMS
25 AND TYPES OF PROGRAMS WE SUPPORT.

26 Q BUT YOU HAVEN'T SEEN A WIDE FLUCTUATION OF
27 WATER USE AT THE PLANT; HAVE YOU?

28 A SITE BY SITE, I HAVE SEEN A WIDE

1 FLUCTUATION OF WATER USE.

2 Q BUT NOT OVERALL?

3 A THE BOTTOM LINE NUMBER DOES NOT SHOW ONE.

4 Q AND ARE YOU -- OKAY. JUST A COUPLE
5 ADDITIONAL QUESTIONS ON THE NUMBERS THAT ARE SHOWN ON
6 EXHIBIT 151.

7 FOR THE SITES THAT USE GROUND WATER, YOU
8 INDICATED THAT THE PUMPING TOTALS THAT YOU WERE GIVEN
9 WERE FROM -- DIRECTLY FROM METERS THAT THE CONTRACTORS
10 HAVE ON THE WELLS THERE; IS THAT CORRECT?

11 A THAT'S CORRECT.

12 Q DID YOU VERIFY ANY OF THE METER READINGS
13 THAT YOU WERE GIVEN?

14 A WELL, THEY'RE ALL HISTORICAL VALUES; SO I
15 COULDN'T VERIFY THAT THE READING -- READINGS TOOK IN TEN
16 YEARS AGO WERE STILL -- I COULDN'T VALIDATE THAT.

17 Q BUT THE --

18 A DEFINE "VALIDATION."

19 Q VERIFY.

20 A VERIFICATION.

21 Q SO THE AIR FORCE STAFF, NONE OF YOUR FOLKS
22 READ THE METERS; IS THAT CORRECT?

23 A THAT'S CORRECT.

24 Q YOU'RE GIVEN A SHEET WITH METER READINGS?

25 A I'M -- EACH OPERATOR COLLECTS THEIR METER
26 DATA IN DIFFERENT WAYS. SOME DO IT ON SHEETS; SOME DO
27 IT IN LOG BOOKS; SOME DO IT IN A SPREADSHEET. BUT I
28 TOOK THAT RAW DATA -- WE OBTAIN THAT RAW DATA AND THEN

1 CALCULATE WATER USAGE FOR THE TIME PERIODS WE WERE ASKED
2 TO PROVIDE.

3 Q YOU TOOK IT AT FACE VALUE? YOU DIDN'T DO
4 ANY ADDITIONAL WORK TO VERIFY THAT THOSE NUMBERS WERE
5 CORRECT?

6 A THAT'S CORRECT.

7 Q DO YOU KNOW WHETHER THE WELLS ARE -- THE
8 METERS ON THOSE WELLS ARE CALIBRATED?

9 A NO, I DO NOT.

10 Q IN TERMS OF THE FIRE SUPPRESSION SYSTEM,
11 HOW MANY FIRE TANKS DO YOU HAVE?

12 A WE HAVE TWO FIRE WATER STORAGE TANKS.

13 Q OKAY. AND ARE THOSE FED BY WELL WATER OR
14 PROVIDED WATER THROUGH PALMDALE WATER DISTRICT?

15 A THE NORTH TANK IS FED BY WELL WATER, AND
16 THE SOUTH TANK IS FED BY PALMDALE WATER DISTRICT.

17 Q AND IS THE WELL THAT PUMPS INTO THAT TANK
18 METERED?

19 A NO, IT'S NOT.

20 Q AND IS THERE A METER ON THE TANK ITSELF FOR
21 DRAWS FROM THE TANK?

22 A NO, THERE'S NOT.

23 Q HOW ABOUT ON THE SOUTH TANK? DO YOU GET A
24 SPECIFIC BILL FROM PALMDALE WATER DISTRICT WITH WATER
25 THAT'S DELIVERED TO THE TANK?

26 A WE GET -- WELL, THE WATER THAT SUPPORTS THE
27 TANK -- WE HAVE TO DO SOME MATH. YOU TAKE THE
28 PALMDALE -- YOU HAVE TO SUBTRACT SITE 7 FROM -- IF I

1 SHOW THE LINE -- THE LINE SERVING SITE.

2 A SINGLE LINE SERVES THE FIRE WATER WELLS
3 AND SITE 7, AND THERE'S A METER ON THAT LINE. SO TO GET
4 THE WELL WATER, YOU HAVE TO SUBTRACT -- THE CITY OF
5 PALMDALE, WHEN WE -- OR THE WATER DISTRICT, WHEN WE GET
6 THE BILL, THEY ALREADY DO THE MATH.

7 BUT IF YOU SUBTRACT THE SITE 7 WATER USE
8 OFF OF -- YEP. THIS LINE HERE IS METERED (INDICATING),
9 AND IT RUNS UP HERE, SERVES SITE 7 AND ALSO FILLS THE
10 TANK, AND THERE'S A METER FARTHER IN SITE 7.

11 SO IF YOU SUBTRACT SITE 7 USE OFF OF THE
12 METER READING HERE, YOU'LL KNOW HOW MUCH WATER IS GOING
13 INTO THAT TANK. AND PALMDALE WATER DISTRICT, THAT'S HOW
14 THEY INVOICE US. WE DON'T GET THE INVOICE FOR SITE 7.

15 Q SO YOU DO GET AN INVOICE THAT IS
16 SPECIFICALLY FOR THE AMOUNT OF WATER DELIVERED TO THAT
17 TANK?

18 A YES.

19 Q OKAY. AND THEN COMING UP WITH YOUR
20 ESTIMATE OF THE FIRE SUPPRESSION WATER USE ON THE PLANT,
21 DID YOU FACTOR IN THAT NUMBER FROM PALMDALE IN COMING UP
22 WITH THAT -- PALMDALE WATER DISTRICT IN COMING UP WITH
23 THAT ESTIMATE?

24 A NO, I DIDN'T.

25 Q OKAY. AND HOW DID YOU DO THAT? WHAT WAS
26 YOUR METHOD FOR YOUR ESTIMATE, THEN?

27 A THE METHODOLOGY FOR THE ESTIMATE WAS -- THE
28 FIRE WATER WELLS HERE THAT SERVE THE TANK HERE, THEY'RE

1 MANIFOLDED AND DIRECTLY -- THEY ONLY -- THEY GO STRAIGHT
2 FROM THE WELL INTO THAT TANK.

3 SO I DISCUSSED THAT WITH THE LEAD ENGINEER
4 ON-SITE AT PLANT 42 AND THEIR LEAD WATER SYSTEM
5 OPERATOR. WE WORKED TOGETHER TO DEVELOP AN ESTIMATE FOR
6 THE FIRE WATER USE. THAT WAS BASED ON THE WATER SYSTEM
7 OPERATOR. YOU KNOW, HE HAS LONG EXPERIENCE WORKING AT
8 PLANT 42 IN DIRECTLY ENSURING THE CAPABILITY OF THIS
9 FIRE WATER SYSTEM.

10 HE HAD NOTED A CERTAIN DEGREE HOW FAR THAT
11 TANK DROPS EACH DAY; SO I USED THAT ESTIMATE OF TANK
12 DROP PER DAY. I KNEW THE DIMENSIONS OF THE
13 MILLION-GALLON STORAGE TANK; SO I WAS ABLE TO DETERMINE
14 THE WATER -- HOW MUCH THAT WATER DROP IN THAT TANK, HOW
15 MUCH THAT CORRELATED PER GALLONS PER DAY, AND THEN I
16 CALCULATED THAT OUT TO GALLONS PER YEAR AND ACRE-FEET
17 PER YEAR.

18 Q ARE THOSE -- THE TANK ELEVATIONS RECORDED
19 SOMEWHERE?

20 A NO, THEY'RE NOT.

21 Q AND WHAT WAS THE NAME OF THE WATER SYSTEM
22 OPERATOR THAT YOU TALKED TO ABOUT THE TANK ELEVATION
23 DROP?

24 A IT'S JERRY BARTLEBY.

25 Q SO HOW DOES MR. BARTLEBY KNOW WHAT THE
26 ELEVATION CHANGES ARE IN THE TANK?

27 A PERSONAL OBSERVATION.

28 Q DOES HE HAVE A PHOTOGRAPHIC MEMORY OF HOW

1 MUCH IT CHANGES EVERY DAY?

2 A NO.

3 Q SO HE ESTIMATED HOW MUCH THE TANK DROPS
4 FROM SET LEVEL ON A DAILY BASIS?

5 A THAT'S CORRECT. HIS PERSONAL OBSERVATIONS
6 OF INTERPRETING THAT TANK IN THAT SYSTEM FOR EXTENDED
7 PERIOD OF TIME.

8 Q AND THAT'S JUST THE NORTH TANK, WHICH IS
9 FED BY WELL WATER?

10 A CORRECT.

11 Q DID YOU DO ANY COMPARISON OF THAT -- THE
12 CALCULATED NUMBER FROM THE NORTH TANK TO THE AMOUNT OF
13 WATER DELIVERED TO THE SOUTH TANK?

14 A NO, I DIDN'T.

15 Q WAS THE TOTAL NUMBER FOR BOTH TANKS --
16 STRIKE THAT.

17

18 (PAUSE IN THE PROCEEDINGS.)

19

20 BY MR. HERREMA:

21 Q JUST GOING BACK TO 161, A FEW FINAL
22 QUESTIONS. THE TOTAL NUMBER FOR 2033 -- I'M SORRY.
23 161? I'M SORRY. 164. I APOLOGIZE.

24 TOTAL NUMBER FOR THE 2033 PROJECTION AS
25 COMPARED TO 2013, IT LOOKS LIKE IT'S ABOUT 100 PERCENT
26 INCREASE; IS THAT CORRECT?

27 A I COULD CALCULATE OUT THE PRECISE NUMBER,
28 BUT THAT'S ROUGH.

1 **Q** JUST UNDER 100 PERCENT, I WOULD SAY.

2 AND TO YOU THAT IS A REASONABLE ESTIMATE OF
3 THE TOTAL WATER NEED OR TOTAL POTENTIAL WATER USE?

4 **A** THAT IS THE ESTIMATE OF THE POTENTIAL NEED
5 BY 2033.

6 **Q** OKAY. AND GIVEN WHAT WE SAW ON
7 EXHIBIT 151, WITH THAT RELATIVELY NARROW BAND OF WATER
8 USAGE WITHIN A 13-YEAR PERIOD, YOU BELIEVE IT'S
9 REASONABLE TO ASSUME THAT THE WATER USE WILL INCREASE
10 100 PERCENT OVER THE NEXT 20 YEARS?

11 **A** YES, I DO.

12 **Q** OKAY. AND DOES THAT 100 PERCENT INCREASE
13 TAKE INTO ACCOUNT ANY CONSERVATION MEASURES ON THE
14 PLANT?

15 **A** YES, IT DOES.

16 **Q** THOSE ARE FACTORED INTO THIS PROJECTED
17 100 PERCENT INCREASE?

18 **A** THAT'S CORRECT.

19 **Q** ALL RIGHT. I HAVE NO FURTHER QUESTIONS.

20 **THE COURT:** ANYBODY ELSE?

21

22 **FURTHER CROSS-EXAMINATION**

23 **BY MR. KUHS:**

24 **Q** GOOD AFTERNOON, MR. SCOTT.

25 **A** GOOD AFTERNOON.

26 **Q** AS I UNDERSTAND IT, THREE AEROSPACE
27 CONTRACTORS MANUFACTURE AIRCRAFT AT PLANT 42. IS THAT
28 ACCURATE?

1 **A** THAT'S ACCURATE.

2 **Q** AND IS EVERY SINGLE ONE OF THOSE PLANES
3 THAT THEY MANUFACTURE SOLD TO THE U.S. GOVERNMENT?

4 **A** NO.

5 **Q** WHO ARE SOME OF THE OTHER BUYERS OF THESE
6 PLANES?

7 **A** WE HAVE A CERTAIN AMOUNT OF FOREIGN
8 MILITARY SALES.

9 **Q** FOR EXAMPLE, THE ISRAELIS MAY BUY SOME OF
10 OUR BOEING OR LOCKHEED AIRCRAFT?

11 **A** POTENTIAL, YES.

12 **Q** WHAT ARE THE OTHER SALES, NON-U.S.
13 MILITARY?

14 **A** THERE'S SAUDI ARABIA. THERE'S GERMANY.

15 **Q** SOME OF THE AIRCRAFT BEING CONSTRUCTED
16 THROUGH NASA?

17 **A** WE -- THERE WAS TWO AIR FORCE GLOBAL HAWKS.
18 THE RQ-4 WITH GLOBAL HAWK IS THE UNMANNED AIR VEHICLE
19 THAT WERE PRODUCED FOR THE AIR FORCE. THE AIR FORCE
20 FLEW THEM IN MISSIONS. THEY WERE BLOCK 10. THEY WERE
21 EARLY GLOBAL HAWKS.

22 THE AIR FORCE BOUGHT FOLLOW-ON BLOCK 20,
23 BLOCK 30, AND BLOCK 40 GLOBAL HAWKS, RETIRED THE
24 BLOCK 10'S, AND TRANSFERRED THEM TO NASA. SO NASA CAN
25 END UP WITH SOME OF THESE PRODUCTS, BUT I'M NOT AWARE AT
26 THIS TIME OF ANY CURRENT DIRECT SALES TO NASA.

27 **Q** DOES NASA HAVE ANY PRESENCE AT PLANT 42?

28 **A** THEY ARE EXTERNAL TO AIR FORCE PLANT 42.

1 THEY ARE ON PROPERTY LEASED FROM L.A. WORLD AIRPORTS,
2 AND THEY ENTER AIR FORCE PLANT 42 VIA A TAXIWAY.

3 Q AND USE PLANT 42'S FACILITIES?

4 A THEY USE OUR AIRFIELD TO TAKE OFF AND LAND.

5 Q IF NECESSARY, THEY WOULD USE YOUR FIRE
6 SUPPRESSION SYSTEMS?

7 A THEY DO NOT USE OUR FIRE SUPPRESSION
8 SYSTEMS.

9 Q YOU WOULDN'T USE YOUR FIRE SUPPRESSION
10 SYSTEMS TO PUT OUT A NASA FIRE?

11 A IF THEY CRASHED ON OUR FLIGHT LINE, WE
12 WOULD RESPOND. IF THERE WAS A FIRE IN THE L.A. WORLD
13 AIRPORTS' OWN PROPERTY, WHICH IS NOT AIR FORCE OWNED
14 PROPERTY, WE MIGHT SUPPORT AS MUTUAL ASSISTANCE, BUT WE
15 WOULD NOT -- IT'S NOT OUR PRIMARY RESPONSE.

16 Q HOW MANY AIRCRAFT ON AN ANNUAL BASIS ARE
17 MANUFACTURED AT PLANT 42?

18 A I DON'T HAVE THAT NUMBER.

19 Q WHAT PERCENTAGE OF AIRCRAFT MANUFACTURED AT
20 PLANT 42 WERE MANUFACTURED FOR SALE TO SOMEBODY OTHER
21 THAN THE U.S. MILITARY?

22 A I DON'T HAVE THAT NUMBER.

23 Q GREATER THAN 75 PERCENT?

24 A WELL, I DON'T HAVE THAT NUMBER; SO I CAN'T
25 TALK TO PERCENTAGE OF -- THAT 75 PERCENT, THAT'S
26 EXTRAORDINARILY HIGH.

27 Q WHAT DO YOU THINK WOULD BE A REASONABLE
28 ESTIMATE?

1 **MR. LEININGER:** OBJECTION. IT'S BEEN ASKED AND
2 ANSWERED.

3 **THE COURT:** SUSTAINED. CALLS FOR SPECULATION.

4 **MR. KUHS:** YOUR HONOR, I HAVEN'T ASKED HIM FOR AN
5 ESTIMATE. SIMPLY ASKED HIM FOR A PRECISE NUMBER.

6 **THE COURT:** I UNDERSTAND.

7 **MR. KUHS:** TRYING TO LAY THE FOUNDATION TO SEE
8 WHETHER --

9 **THE COURT:** STILL CALLS FOR SPECULATION.

10 **BY MR. KUHS:**

11 **Q** PLANT 42 BUYS WATER FROM PALMDALE?

12 **A** YES.

13 **Q** FOR WHAT PURPOSE?

14 **A** IT IS -- PALMDALE WATER DISTRICT SUPPLIES
15 WATER TO THE FACILITIES AT SITES 5 AND 6 AND SITE 7.

16 **Q** FOR WHAT PURPOSE?

17 **A** SITE 5 AND 6 IS THE COMMON -- OR SITE 5 IS
18 THE COMMON AREA. THAT'S WHERE THE AIRFIELD MANAGEMENT,
19 THE SECURITY GUARDS, THE FIRE DEPARTMENT IS HOUSED. SO
20 THAT WATER SUPPORTS THE COMMON SERVICES PROVIDED AT THE
21 PLANT.

22 **Q** OKAY. AND 6? WHAT PURPOSE DO YOU USE
23 PALMDALE WATER, SITE 6?

24 **A** THAT'S JUST DOMESTIC.

25 **Q** FOR DOMESTIC USES?

26 **A** WELL, I CAN'T TALK A LOT ABOUT SITE 6.

27 **Q** JUST WANT TO KNOW WHAT THE WATER IS USED
28 FOR.

1 **A** BASED ON MY KNOWLEDGE, FLUSHING TOILETS --

2 **Q** HOW ABOUT SITE 7?

3 **A** -- HVAC PURPOSES.

4 **Q** HVAC PURPOSES?

5 **A** YEAH.

6 **Q** AND SITE 7?

7 **A** SITE 7 IS LEASED TO LOCKHEED MARTIN.

8 THAT'S WHERE THE F-117 STEALTH FIGHTER WAS -- YOU KNOW,
9 ALL OF THEIR MODIFICATIONS, SUSTAIN OF PROGRAMS HAPPENED
10 AT SITE 7. THAT PROGRAM'S ENDED. WE ARE BEDDING DOWN
11 SOME NEW OPERATORS THERE. SO IT'S TO SUPPORT THE
12 MODIFICATION AND DEVELOPMENT OF WEAPON SYSTEMS.

13 **Q** WHAT I'M GETTING AT IS ARE YOU USING THE
14 PALMDALE WATER DISTRICT WATER AS POTABLE WATER?

15 **A** YES.

16 **Q** ARE YOU USING ANY WELL WATER AS POTABLE
17 WATER?

18 **A** YES.

19 **Q** WHY DO YOU HAVE -- WHY DO YOU NEED TO BUY
20 PALMDALE WATER?

21 **A** WELL, THE AIR FORCE -- THIS WAS BEFORE MY
22 TIME WHEN THEY BROUGHT PALMDALE WATER ONTO THE PLANT.
23 BUT AN OVERALL GOAL OF THE AIR FORCE IS TO HAVE
24 REDUNDANCY OF SUPPLY. THAT'S ALWAYS A GOOD THING TO DO.

25 **Q** WHEN YOU DID YOUR CALCULATIONS OF PROJECTED
26 FUTURE WATER USE, DID YOU HAVE A BREAKDOWN AS TO WHAT
27 PERCENTAGE OF THAT USE IS DOMESTIC WATER USE?

28 **A** YES.

1 Q AND WHAT PERCENTAGE?

2 A I'D HAVE TO CALCULATE IT.

3 Q YOU HAVEN'T CALCULATED IT?

4 A I CAN'T RECALL IF I CALCULATED IT AT THE
5 TIME I CREATED THAT TABLE. BUT IT'S A SIMPLE
6 CALCULATION BASED ON THE DATA ON THAT TABLE.

7 Q DID YOU ANTICIPATE IN YOUR PROJECTIONS THAT
8 YOUR USE OF PALMDALE WATER DISTRICT WATER WOULD ALSO GO
9 UP 2 PERCENT PER YEAR?

10 A YES. WE HAD SOME ADDITIONAL -- BEYOND JUST
11 A 2 PERCENT PER YEAR. FOR SITES 5, 6 WE SHOWED A LITTLE
12 BIT HIGH -- WE SHOWED EVEN HIGHER USE, NEED TO PULL IN
13 PALMDALE WATER, SEEING THAT WE HAVE IDENTIFIED
14 SEVERAL -- I ALLUDED TO -- I BROUGHT UP ONE EXAMPLE OF
15 HOW WE HAVE A MAJOR RUNWAY GRADING, YOU KNOW, ALL THE
16 SHOULDERS WE'RE GRADING AND RECONTOURING, PUTTING IN
17 DITCHES IN OUR AIRFIELD TO MAKE IT A MORE LEVEL, SAFER
18 PLACE. I PLUSSED UP BECAUSE WE HAVE THAT ACTIVITY GOING
19 ON.

20 WE HAVE IDENTIFIED THE NEED TO DO SOME
21 MAJOR RENOVATIONS TO OUR AIRFIELD. WE HAVE TWO
22 12,000-FOOT RUNWAYS, YOU KNOW, APPROACHING -- OR OVER
23 50 YEARS OLD. WE HAVE PROJECTED THE NEED TO DO SOME
24 MAJOR RENOVATIONS OF THOSE.

25 SO I -- I -- THERE'S HIGHER THAN
26 2 PERCENT -- IN MY FIGURES I SHOW HIGHER THAN 2 PERCENT
27 FOR PALMDALE WATER TO SUPPORT THOSE TYPES OF
28 CONSTRUCTION ACTIVITIES.

1 **Q** SO OF YOUR TOTAL OPINION OF WATER DEMAND, I
2 THINK -- DID YOU SAY 977?

3 **A** 966. 965.99.

4 **Q** AND OUT OF THAT 966, HOW MUCH DID YOU
5 ASSUME IS PALMDALE WATER?

6 **A** IF MY EYES AREN'T DECEIVING ME, LOOKS LIKE
7 172.96.

8 **Q** I WASN'T CLEAR WHEN YOU TESTIFIED EARLIER
9 AS TO THE BASIS FOR YOUR INCREASES AS SHOWN IN -- I
10 THINK IT'S EXHIBIT 164. CAN YOU TELL ME THE ASSUMPTIONS
11 THAT YOU MADE, IN VERY GENERAL TERMS, TO SUPPORT THOSE
12 INCREASES?

13 **A** YES. I LOOKED AT -- FIRST I STARTED WITH,
14 IN 2013, THAT THIS WAS A BUILDUP. IT WAS A SITE-BY-SITE
15 ANALYSIS. I LOOKED AT EACH SITE, WHERE THEY CURRENTLY
16 ARE, WHAT WE KNEW WAS GOING TO BE HAPPENING. THIS WAS
17 DONE IN 2012. WE LOOKED AT WHERE THEY CURRENTLY WERE IN
18 2012, WHAT WE KNEW WAS GOING TO BE HAPPENING IN THE NEXT
19 YEAR AT THAT SITE, TO COME UP WITH THE INITIAL NUMBER
20 FOR 2013.

21 **Q** OKAY. AND I REMEMBER YOU TESTIFYING
22 SOMETHING ABOUT A 10 PERCENT INCREASE. HOW DID YOU USE
23 THAT?

24 **A** OKAY. THE 10 PERCENT INCREASE OR 2 PERCENT
25 PER YEAR IS WHAT I SHOWED AS 10 PERCENT FOR EACH
26 FIVE-YEAR INCREMENT, WHICH IS 2 PERCENT PER YEAR.

27 **Q** YES. HOW DID YOU USE THAT IN ARRIVING AT
28 THE NUMBERS SHOWN ON EXHIBIT 164?

1 **A** WELL, IF I UNDERSTAND YOUR QUESTION, THAT
2 WAS JUST A MATHEMATICAL CALCULATION WITHIN THE
3 SPREADSHEET. I TIME -- IT WAS JUST A MULTIPLICATION OF
4 THE 2013 VALUE BY 2 PERCENT.

5 **Q** PER YEAR OR 10 PERCENT EVERY FIVE YEARS?

6 **A** WELL, 10 PERCENT EVERY FIVE YEARS IS
7 2 PERCENT PER YEAR.

8 **Q** UNLESS YOU'RE COMPOUNDING THE 2 PERCENT,
9 CORRECT?

10 **A** CORRECT.

11 **Q** SO DID YOU COMPOUND THE 2 PERCENT?

12 **A** NO. NO.

13 **Q** SO IF YOU INCREASED IT, THEN, BY 5 PERCENT
14 EVERY 5 YEARS, IN 20 YEARS YOU'D HAVE HOW MUCH OF AN
15 INCREASE, ASSUMING NO COMPOUNDING?

16 **A** WELL, WHAT I DID WAS 10 PERCENT EVERY FIVE
17 YEARS.

18 **Q** OKAY. AND IF YOU DID HAVE 10 PERCENT EVERY
19 FIVE YEARS -- DID YOU COMPOUND AFTER FIVE YEARS?

20 **A** YOU CAN SEE -- LET'S JUST PICK ONE THAT'S
21 STABLE. SITE 3, 2013, 30 MILLION GALLONS. TEN PERCENT
22 IN FIVE YEARS WOULD BE 33. THAT'S JUST A STRAIGHT
23 10 PERCENT INCREASE.

24 **Q** OKAY. HOW ABOUT THE NEXT FIVE-YEAR PERIOD?

25 **A** THE NEXT FIVE-YEAR PERIOD, 36.3, I BELIEVE
26 IF THAT -- IF YOU WOULD PUT THAT IN YOUR CALCULATOR, YOU
27 KNOW, A 10 PERCENT INCREASE OF 33 WOULD BE 3.3. 3.3
28 PLUS 33 GIVES YOU 36.3.

1 Q OKAY. SO YOU COMPOUNDED EVERY FIVE YEARS?

2 A YES.

3 Q YOU DIDN'T USE A STRAIGHT LINE ASSUMPTION.
4 WHY DID YOU DO THAT?

5 A I BELIEVED IT WAS A SIMPLE WAY TO SHOW THE
6 INCREASE OVER TIME.

7 Q IF YOU'D USED A STRAIGHT LINE ASSUMPTION,
8 THEN AT THE END OF 20 YEARS YOU'D HAVE AN INCREASE OF
9 40 PERCENT; CORRECT?

10 A I'D HAVE TO PLAY WITH THE NUMBERS BUT --

11 Q WELL, ISN'T IT SIMPLE 2 PERCENT PER YEAR
12 TIMES 20, 40 PERCENT?

13 A YEAH.

14 Q OKAY. BUT IF YOU LOOK AT YOUR TOTAL, YOUR
15 TOTAL APPROACHES 100 PERCENT, DOESN'T IT?

16 A THERE'S OTHER THINGS HAPPENING WITHIN THIS
17 TABLE. I ALSO SHOW HIGHER UTILIZATION OF EACH SITE --

18 Q OKAY. BUT --

19 A -- PARTICULAR SITES.

20 Q THAT WAS THE REASON FOR MY QUESTION. SO I
21 WAS TRYING TO UNDERSTAND WHETHER THIS TABLE WAS CREATED
22 SIMPLY BY MATHEMATICS OR WHETHER YOU HAD EMBEDDED OTHER
23 ASSUMPTIONS IN HERE.

24 A THERE ARE OTHER EMBEDDED ASSUMPTIONS.

25 Q WHAT ARE THOSE OTHER EMBEDDED ASSUMPTIONS?

26 A MY EXPEC -- MY KNOWLEDGE OF CURRENT PLANS
27 ON WHEN THESE SITES WOULD ATTAIN HIGHER UTILIZATION. I
28 CAN GIVE YOU EXAMPLES IF YOU LIKE OR ...

1 **Q** ONE OF THEM YOU SAID WAS INCREASED
2 PERSONNEL; CORRECT?

3 **A** YES.

4 **Q** ANOTHER ONE WAS HVAC USE?

5 **A** CORRECT.

6 **Q** AND WHICH SITE DID YOU SAY WAS GETTING THE
7 HVAC SYSTEM?

8 **A** WELL, WE SEE A CONTINUOUS NEED TO UPGRADE
9 HVAC UNITS AT ALL THE SITES.

10 **Q** IS THAT --

11 **A** I SEE THAT AS A CONTINUING EVOLUTION OF
12 AIRCRAFT MANUFACTURING. WE ARE CONSTANTLY REQUIRING TO
13 INSTALL MORE CLEAN ROOMS, INSTALL SYSTEMS THAT CAN
14 MAINTAIN A HIGHER DEGREE OF CLIMATE AND TEMPERATURE AND
15 HUMIDITY CONTROL. THAT'S A CONTINUUM WITHIN THE
16 AEROSPACE MANUFACTURING BUSINESS.

17 **Q** OKAY. WHEN'S THE LAST TIME A NEW HVAC
18 SYSTEM WAS INSTALLED?

19 **A** WELL, RIGHT NOW, I MEAN, I COULD GO PULL
20 SEVERAL EXAMPLES. WE HAVE HUNDREDS OF HVAC SYSTEMS
21 ACROSS ALL THE SITES.

22 **Q** AND ARE THOSE CLOSED LOOP SYSTEMS OR OPEN
23 LOOP SYSTEMS?

24 **A** WE HAVE A WHOLE VARIETY. WE HAVE SOME
25 EVAPORATIVE SYSTEMS. WE HAVE SOME DE -- EXTRACT
26 EXCHANGE SYSTEMS. BUT THE PRIMARILY -- THE PRIMARY
27 SOURCE -- HVAC SOURCE WE USE IS CLOSED LOOP.

28 **Q** AND THOSE WOULDN'T REQUIRE ANY MORE WATER;

1 CORRECT?

2 A ANY MORE WATER?

3 Q A CLOSED LOOP SYSTEM IS DESIGNED TO KEEP
4 THE WATER FROM GOING OUTSIDE THE SYSTEM; CORRECT?

5 A YES, IT IS, BUT EVENTUALLY THAT WATER HAS
6 TO BE PURGED. WE HAVE INSTALLED -- WE HAVE BEEN VERY
7 AGGRESSIVE IN INSTALLING WATER MONITORING AND
8 CONDITIONING EQUIPMENT TO EXTEND THE LIFE OF THE WATER
9 IN THOSE SYSTEMS. BUT THAT WATER IN THAT SYSTEM IS BY
10 NO MEANS IN THERE FOREVER. THERE IS --

11 Q OKAY.

12 A BOILERS THE SAME WAY. THEY REQUIRE PURGES
13 AND BLOW-DOWNS.

14 Q SO GIVE ME A QUANTIFICATION, A REAL WORLD
15 EXAMPLE OF THE DIFFERENCE IN ANNUAL WATER USE BETWEEN
16 ONE OF YOUR NEW CLOSED LOOP HVAC SYSTEMS AND ONE OF THE
17 OLD ONES THAT'S BEING REPLACED. WHAT'S THE DIFFERENCE
18 IN WATER REQUIREMENTS?

19 A I CAN GIVE YOU AN EXAMPLE IF WE LOOK AT --
20 LET'S SEE. LET'S LOOK AT SITE 7. CURRENTLY, THE
21 PRODUCTION HANGAR SPACES AT SITE 7 HAVE ZERO COOLING
22 CAPACITY.

23 Q I DON'T WANT AN EXAMPLE OF ZERO COOLING
24 CAPACITY. WE'RE TALKING ABOUT REPLACEMENT OF EXISTING
25 SYSTEMS.

26 A WELL, WHAT I'M --

27 Q I DON'T WANT TO GO TO ZERO TO SOMETHING. I
28 WANT TO GO FROM AN EXAMPLE SHOWING ME REPLACEMENT OF AN

1 EXISTING SYSTEM. THAT'S WHAT WE'RE TALKING ABOUT;
2 RIGHT?

3 A YEAH. I --

4 Q OKAY. SO TELL ME WHAT THE DIFFERENCE IN
5 WATER REQUIREMENTS ARE BETWEEN AN OLD AND A NEW CLOSED
6 LOOP HVAC SYSTEM.

7 A I DON'T HAVE THAT DATA.

8 Q AND YOU NEVER HAD THAT DATA WHEN YOU
9 PREPARED THIS EXHIBIT, DID YOU?

10 A STATE THAT -- ASK THAT QUESTION AGAIN,
11 PLEASE.

12 Q YOU DIDN'T HAVE THAT HVAC DATA WHEN YOU
13 PREPARED EXHIBIT 164, DID YOU?

14 A I HAD MY HVAC SYSTEM EXPERT HELP ME PREPARE
15 THIS, AS BASED ON HIS KNOWLEDGE OF -- OF RECENT HVAC
16 REPLACEMENT JOBS THAT HAD BEEN ACCOMPLISHED AT PLANT 42.

17 Q IF YOU'LL RECALL, I TOOK YOUR DEPOSITION --

18 A RIGHT.

19 Q -- AND ASKED YOU TO PRODUCE ALL OF THE
20 DOCUMENTS UPON WHICH YOU RELIED TO SUPPORT THESE
21 FIGURES. I DON'T RECALL SEEING SUCH DATA IN YOUR FILE.
22 DID YOU EVER RECEIVE SUCH DATA IN WRITTEN FORM?

23 A NO. THIS TABLE WAS BUILT WITH MY SUBJECT
24 MATTER EXPERT SITTING IN MY OFFICE.

25 Q WELL, WHAT DID YOUR SUBJECT MATTER EXPERT
26 TELL YOU THE DIFFERENCE IN WATER REQUIREMENTS WERE FOR
27 AN HVAC SYSTEM, CLOSED LOOP, OLD VERSUS NEW?

28 A I CAN'T RECALL. BUT I KNOW AT THE TIME WE

1 PREPARED THIS, DECEMBER 2012, WE JUST DID, AT SITE 4,
2 SOME MAJOR HVAC UPGRADES ON THE ROOF OF BUILDING 401,
3 THE MAIN PRODUCTION BUILDING THERE.

4

5 (PAUSE IN THE PROCEEDINGS.)

6

7 **BY MR. KUHS:**

8 **Q** HOW DID YOU ARRIVE AT THE 10 PERCENT
9 ESTIMATE?

10 **A** THAT IS BASED ON THE TREND THAT WE'RE
11 SEEING IN AEROSPACE MANUFACTURING.

12 **Q** THE TREND AT PLANT 42 OR --

13

14 (INDISCERNIBLE: SPEAKING SIMULTANEOUSLY.)

15

16 **THE WITNESS:** I'M SEEING THIS AT ALL MY AIR FORCE
17 PLANTS. WE HAVE CONTINUOUS -- WE HAVE BEEN INVESTING A
18 LOT IN HVAC IMPROVEMENT PROJECTS TO MAINTAIN A
19 TIGHTER -- TIGHTER WINDOW OF HVAC CONTROL WITHIN OUR
20 PRODUCTION FACILITIES. WE'VE BEEN INSTALLING MORE,
21 ADDITIONAL BACK SHOP CLEAN ROOMS IN OUR PRODUCTION
22 FACILITIES TO SUPPORT MODERN AERO -- AIRCRAFT
23 PRODUCTION --

24 **Q** SO YOU'RE TELLING ME --

25 **A** -- PROCESS.

26 **Q** -- THAT THE 10 PERCENT ESCALATOR THAT YOU
27 USED WAS BASED IN PART ON THESE NEW HVAC SYSTEMS?

28 **A** THE GENERAL TREND WE'RE SEEING IN THE

1 CHANGING AEROSPACE PRODUCTION BUSINESS.

2 Q IS THAT A YES?

3 A YES.

4 Q WELL, DIDN'T YOU JUST TELL ME A MINUTE AGO
5 THAT IN ADDITION TO THE 10 PERCENT, YOU ADDED ADDITIONAL
6 WATER DEMAND DUE TO HVAC CHANGE OUT?

7 A WHAT I WAS TRYING TO SHOW YOU WAS AN
8 EXAMPLE OF US AT SITE 7 GOING FROM NO -- NO COOLING
9 CAPACITY WITHIN OUR PRODUCTION HANGARS TO OUR NEW -- THE
10 NEW PROGRAM WE'RE TALKING WITH REQUIRES HVAC.

11 SO THIS JUMP FROM 2013 TO 2018 SHOWS THE
12 SITE, MORE HIGHLY UTILIZED, SUPPORTING THIS NEW PROGRAM
13 AND SUPPORTING THAT PROGRAM BY HAVING HVAC SYSTEMS ON
14 THE ROOF OF THOSE HANGARS, MEETING THEIR WEAPON SYSTEM
15 CLIMATE CONTROL REQUIREMENTS.

16 Q OKAY. SO LET'S TAKE A LOOK AT SITE
17 NUMBER 7. IN ORDER TO GET TO THE 20-YEAR DEMAND
18 FORECAST, IN ADDITION TO THE 10 PERCENT MULTIPLIER, WHAT
19 ELSE DID YOU ASSUME?

20 A I ASSUMED, BASED ON MY KNOWLEDGE AND
21 WORKING WITH THE LEASE OPERATORS AND WEAPON SYSTEM
22 PROGRAMS, WHAT -- YOU KNOW, WHAT PROGRAM -- HAVING NEW
23 FUTURE PROGRAMS IN THOSE SITES.

24 Q IS THERE A COMPONENT -- OTHER THAN THE
25 10 PERCENT, DO YOU HAVE A COMPONENT IN SITE 7 FOR HVAC?
26 YES OR NO?

27 A YES.

28 Q SO YOU'VE DOUBLE COUNTED HVAC?

1 **A** NO.

2 **Q** YOU HAD IT EMBEDDED IN YOUR 10 PERCENT
3 CALCULATION, DIDN'T YOU?

4 **A** YEAH.

5 **Q** OKAY.

6 **A** TEN PERCENT -- WE EXPECT, YOU KNOW, WITHIN
7 THE NEXT 20 YEARS, THAT -- THIS REQUIREMENT FOR TIGHTER
8 AND TIGHTER PRODUCTION CONTROL TO CONTINUE.

9 **MR. KUHS:** CAN I HAVE YOU SCAN BACK ON 164?

10 **THE COURT:** WHY DON'T WE TAKE OUR MIDAFTERNOON
11 BREAK HERE AT THIS TIME, ABOUT 15 MINUTES.

12

13 (RECESS.)

14

15 **THE COURT:** ALL RIGHT, MR. KUHS. GO AHEAD.

16 **MR. KUHS:** THANK YOU, YOUR HONOR.

17 **BY MR. KUHS:**

18 **Q** MR. SCOTT, WHAT'S THE LAST YEAR THAT
19 PLANT 42 OPERATED AT FULL CAPACITY?

20 **A** I DON'T HAVE THAT DATA.

21 **Q** TO YOUR KNOWLEDGE, HAS PLANT 42 EVER
22 OPERATED AT FULL CAPACITY?

23 **A** BASED ON HISTORICAL PHOTOS I'VE SEEN IN THE
24 KOREAN WAR TIME PERIOD, THE PLACE LOOKED EXTREMELY BUSY.

25 **Q** AND WHAT WAS THE WATER DEMAND DURING THAT
26 TIME PERIOD?

27 **A** I DON'T HAVE THAT DATA.

28 **Q** DID YOU LOOK FOR IT?

1 **A** DID I LOOK FOR IT?

2 **Q** YES.

3 **A** NO, I DIDN'T.

4 **Q** HOW FAR BACK HAVE YOU LOOKED FOR WATER USE
5 DATA AT PLANT 42?

6 **A** I WAS JUST ASKED TO SUPPLY THE PERIOD 2000
7 THROUGH 2004 AND THEN 2011 TO 2012.

8 **Q** THAT'S THE ONLY DATA YOU LOOKED AT?

9 **A** I -- WHEN I WENT BACK TO 2000, I ALSO
10 CAPTURED 2005, '6, '7, '8, '9, AND '10 TO ROUND OUT THE
11 SET. SO I WENT BACK TO YEAR 2000.

12 **Q** DO YOU HAVE THAT DATA BEFORE YOU FOR YEARS
13 2005 THROUGH '9?

14 **A** NO.

15 **MR. KUHS:** COULD I HAVE THE 164 ON THE PROJECTOR?

16 **TECHNICAL ASSISTANT:** (INDICATING.)

17 **BY MR. KUHS:**

18 **Q** THERE'S A NOTE RIGHT UNDERNEATH THE TABLE.
19 DO YOU SEE THAT NOTE, SIR? IT SAYS, "BASED ON PAST
20 USAGE, A 10 PERCENT INCREASE WAS ADDED FOR EVERY
21 FIVE-YEAR PERIOD."

22 THAT'S YOUR NOTE?

23 **A** YES.

24 **Q** WHAT PAST USAGE DID YOU RELY ON TO
25 CALCULATE YOUR 10 PERCENT?

26 **A** THE 10 PERCENT WAS BASED ON THE TRENDS
27 WE'VE SEEN IN AEROSPACE PRODUCTION.

28 **Q** BASED ON MANUFACTURING TRENDS?

1 **A** BASED ON MANUFACTURING TRENDS, RIGHT.

2 **Q** NOT WATER USE TRENDS?

3 **A** CORRECT.

4 **Q** SO YOUR 10 PERCENT IS NOT BASED ON A WATER
5 USE TREND AT PLANT 42, IS IT?

6 **A** NO, IT'S NOT.

7 **Q** NO FURTHER QUESTIONS.

8 **THE COURT:** ANY OTHER EXAMINATION ON CROSS?
9 MR. ZIMMER, DO YOU HAVE ANY QUESTIONS FOR THIS WITNESS?

10 **MR. ZIMMER:** NO, YOUR HONOR. THANK YOU, THOUGH.

11 **THE COURT:** ALL RIGHT. REDIRECT.

12 **MR. LEININGER:** YOUR HONOR, I HAVE NO QUESTIONS ON
13 REDIRECT. WE'LL JUST MOVE FOR ENTERING OF THE EXHIBITS
14 THAT WE PRESENTED TODAY.

15 **THE COURT:** 6, 151, 164?

16 **MR. LEININGER:** YES. AND THEN ALSO HIS RESUME.

17 **THE COURT:** THEY'LL BE ADMITTED.

18 **MR. LEININGER:** 5.

19

20 (EXHIBIT NUMBERS 5, 151, AND

21 164, RECEIVED.)

22

23 **THE COURT:** YOU MAY STEP DOWN, SIR.

24 **THE WITNESS:** THANK YOU, SIR.

25 **THE COURT:** THANK YOU VERY MUCH.

26 **MR. LEININGER:** AND, YOUR HONOR, I'VE BEEN ASKED
27 TO -- BY THE COLLECTIVE BODY OF ATTORNEYS HERE, I GUESS
28 THE MAJORITY AT LEAST, TO AT LEAST MAKE AN ANNOUNCEMENT

1 WITH REGARD TO SOME RECENT DEVELOPMENTS IN OUR
2 SETTLEMENT DISCUSSIONS -- ONGOING SETTLEMENT
3 DISCUSSIONS. AND I'LL TURN IT OVER NOW TO MR. DUNN.

4 **THE COURT:** ALL RIGHT.

5 **MR. DUNN:** GOOD AFTERNOON, YOUR HONOR, AND THANK
6 YOU. MR. BRUNICK IS APPROACHING AS WELL.

7 **THE COURT:** ALL RIGHT. THANK YOU, MR. BRUNICK.

8 **MR. DUNN:** AVEK AND LOS ANGELES COUNTY WATERWORKS
9 DISTRICT NUMBER 40 HAVE HAD EXTENSIVE DISCUSSIONS AND
10 THROUGH THOSE DISCUSSIONS HAVE REACHED CERTAIN
11 UNDERSTANDINGS THAT WE WOULD LIKE TO DISCUSS WITH OTHER
12 PARTIES IN THE HOPES OF REACHING A GLOBAL RESOLUTION.

13 **THE COURT:** OF WHAT ISSUES?

14 **MR. DUNN:** IT WOULD BE ALL OUTSTANDING ISSUES IN
15 THE CASE, INCLUDING THE PHASE FIVE ISSUES.

16 **THE COURT:** INCLUDING PHASE FIVE AND SIX?

17 **MR. DUNN:** YES, YOUR HONOR.

18 **THE COURT:** PHASE SIX?

19 **MR. DUNN:** YES. YES, YOUR HONOR. AND WE WOULD
20 REQUEST THAT IF THE COURT WOULD ALLOW US THE TIME THIS
21 AFTERNOON TO HAVE THOSE DISCUSSIONS WHILE THERE IS -- MY
22 LOS ANGELES OFFICE IS JUST A BLOCK AWAY. AND WE HAD
23 DISCUSSED WITH SOME PARTIES RECONVENING NOW, IF THE
24 COURT WOULD PERMIT US, AND INVITING ALL PARTIES PRESENT
25 TO JOIN US.

26 **THE COURT:** SO THIS IS A DEMOCRATIC MAJORITY, IS
27 IT?

28 **MR. DUNN:** IT APPEARS TO ME THAT IT DOES

1 CONSTITUTE A MAJORITY OF THE PARTIES THAT ARE HERE
2 REPRESENTED TODAY.

3 **THE COURT:** I DIDN'T MEAN THAT IN A PARTISAN WAY.

4 ALL RIGHT. SO YOU WANT TO RECESS THIS
5 AFTERNOON, YOU WANT TO HAVE CONVERSATIONS, AND YOU WANT
6 TO RESUME TOMORROW MORNING, I ASSUME, AT 9:00 O'CLOCK.

7 **MR. DUNN:** YES, YOUR HONOR, IF THE COURT WOULD
8 ALLOW THAT.

9 **MR. FIFE:** YOUR HONOR.

10 **THE COURT:** WELL, I ALWAYS ENCOURAGE SETTLEMENT.

11 MR. FIFE.

12 **MR. FIFE:** I ALSO WOULD LIKE TO ENCOURAGE
13 SETTLEMENT, YOUR HONOR. I BELIEVE THAT AS WE HAD
14 DISCUSSED HOW THE ORDER OF THE RETURN FLOW PORTION OF
15 THIS TRIAL WAS GOING TO GO, I WAS GOING TO BE UP FIRST
16 WITH MY WITNESS. MY WITNESS IS HERE. HE'S BEEN HERE
17 ALL DAY. HE'S TRAVELED HERE FROM NEW MEXICO. HE HAD TO
18 RESCHEDULE HIS CLASSES TO BE HERE.

19 AND SO I THINK WE SHOULD HAVE DISCUSSIONS.
20 I JUST DON'T KNOW WHY WE CAN'T FINISH OUT THE DAY WHILE
21 WE'RE ALL HERE AT LEAST AND USE THE COURT'S TIME
22 EFFICIENTLY IN THAT MANNER. WE CAN -- I'M HERE ALL
23 NIGHT. WE CAN HAVE DISCUSSIONS AFTER COURT ENDS.
24 THERE'S NO REASON TO PUT OFF THE TESTIMONY.

25 **THE COURT:** WELL, YOUR WITNESS IS HERE?

26 **MR. FIFE:** HE IS.

27 **THE COURT:** AND HE WILL BE HERE TOMORROW MORNING?

28 **MR. FIFE:** IF NECESSARY.

1 **THE COURT:** YEAH. WELL, I FIRMLY BELIEVE IN
2 STRIKING WHILE THE IRON'S HOT, AND IT SEEMS TO ME THAT
3 THIS MAY BE A GOOD TIME TO DO THAT.

4 BUT LET ME ASK MR. LEININGER, ARE YOU DONE
5 WITH YOUR PRESENTATION?

6 **MR. LEININGER:** YES, YOUR HONOR.

7 **THE COURT:** SO YOU HAVE NO FURTHER WITNESSES?

8 **MR. LEININGER:** NO.

9 **THE COURT:** AND YOU'RE GOING TO ESSENTIALLY REST
10 ON THE ISSUES NOW.

11 OKAY. MR. KUHS.

12 **MR. KUHS:** YES, YOUR HONOR. WE HAVE A REQUEST FOR
13 JUDICIAL NOTICE OF SOME OF TEJON'S TITLE DOCUMENTS THAT
14 I'D LIKE TO MOVE INTO EVIDENCE, AND THEN I'M RESTING AS
15 WELL.

16 **THE COURT:** OKAY. WELL, WHY DON'T WE DO THAT IN
17 THE MORNING FIRST THING, AND THEN WE'LL GO WITH THE
18 RETURN FLOWS.

19 I THINK -- I HOPE IT'S NOT WASTED. WE HAVE
20 HAD I KNOW, AMONG THE PARTIES, HOURS, DAYS AND WEEKS AND
21 SOMETIMES MONTHS OF SETTLEMENT DISCUSSIONS THAT HAVE NOT
22 BEEN FRUITFUL. BUT I LIKE THE SPARK IN YOUR VOICE,
23 MR. DUNN. SO I'M GOING TO GO AHEAD AND RECESS THIS
24 AFTERNOON UNTIL TOMORROW MORNING AT 9:00 O'CLOCK.

25 AND THE PLAN FOR TOMORROW MORNING IS WE'LL
26 DEAL WITH MR. KUHS'S OFFER OF EXHIBITS, AND THEN,
27 MR. FIFE, YOU CAN BEGIN YOUR PRESENTATION.

28 **MR. FIFE:** THANK YOU, YOUR HONOR. WHILE WE'RE

1 STILL ON THE FEDERAL RIGHTS, COULD WE ASK FOR CLOSING
2 BRIEFS TO ADDRESS THE FEDERAL ISSUES? GIVEN THE AMOUNT
3 OF DETAIL, THE LAW THAT NEEDS TO BE ARGUED, WE --

4 **THE COURT:** MAYBE. MAYBE. WE'LL SEE AFTER WE GET
5 THROUGH HERE TOMORROW MORNING. TALK ABOUT IT IN THE
6 MORNING. SEE WHAT WE NEED.

7 **MR. ZIMMER:** THE OTHER THING, YOUR HONOR, IS IN
8 ADDITION TO THAT, THERE'D NEED TO BE THE OPPORTUNITY TO
9 BRIEF A NONSUIT MOTION.

10 **THE COURT:** ALL RIGHT.

11 **MR. ZIMMER:** THANK YOU.

12 **THE COURT:** OKAY. SEE YOU TOMORROW MORNING. GOOD
13 LUCK.

14 **MR. BRUNICK:** WE'RE CLOSE, YOUR HONOR.

15 **THE COURT:** I HOPE THAT ALL OF YOU WILL ATTEND THE
16 CONFERENCE. MR. DUNN'S GOING TO PAY FOR IT.

17 **MR. KUHS:** MR. DUNN, DO YOU THINK YOU SHOULD
18 ANNOUNCE TO THOSE THAT DON'T KNOW WHERE WE'RE GOING?

19 **MR. DUNN:** WITH THE COURT'S PERMISSION. WE'LL
20 MEET AT THE LOBBY ON 300 SOUTH GRAND. IT'S THE --
21 WHAT'S THE BANK BUILDING HERE? IS IT EAST WEST BANK?

22 **MS. WANG:** NO, UNION BANK.

23 **MR. DUNN:** UNION. UNION. BANK OF THE WEST
24 BUILDING. I'M SORRY. IT'S THE CLOSEST HIGH-RISE ON
25 THIS SIDE OF THE STREET, ON GRAND. IT'S ACROSS THE
26 STREET FROM THE WELLS FARGO BUILDING.

27 IF YOU MEET IN THE LOBBY, I'LL BE ABLE TO
28 PROVIDE SECURITY CLEARANCE TO EVERYONE. AND WE HAVE

1 ENOUGH CONFERENCE ROOMS, INCLUDING A LARGE CONFERENCE
2 ROOM TO MEET, AND WE'LL JUST TAKE CARE OF THAT NOW. SO
3 WHEN YOU GET TO THE LOBBY, PLEASE SEE ME OR MY
4 COLLEAGUE, MS. WANG, AND WE'LL GET YOU THROUGH SECURITY
5 AND UP TO THE 25TH FLOOR.

6 **THE COURT:** ALL RIGHT. THANK YOU.

7
8 (THE PROCEEDINGS WERE ADJOURNED
9 UNTIL FEBRUARY 19, 2014, AT 9:00
10 A.M.)
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 3

HON. JACK KOMAR, JUDGE

IN RE

ANTELOPE VALLEY GROUNDWATER CASES.

CASE NO. JCCP4408

REPORTER'S
CERTIFICATE

I, RHONA S. REDDIX, OFFICIAL REPORTER OF
THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE
COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE
FOREGOING PAGES, 1 THROUGH 162, COMPRISE A FULL, TRUE
AND CORRECT TRANSCRIPT OF THE PROCEEDINGS TAKEN IN THE
ABOVE ENTITLED CAUSE ON FEBRUARY 18, 2014.

DATED THIS 1ST OF MARCH, 2014.

Rhona S. Reddix, CSR, RPR, RMR, CRR #10807
OFFICIAL REPORTER

\$	162 [1] 163/14 163 [1] 10/15	131/20 131/22 131/22 132/19 133/7 133/15 135/11 140/25 147/14 147/20 148/4 148/21 154/11
\$17.2 [1] 105/28	164 [19] 4/4 120/10 120/26 129/16 129/20	2013-2033 [1] 120/27
\$17.2 BILLION [1] 105/28	130/23 132/18 132/25 132/26 133/6 133/14	2014 [6] 1/12 1/3 102/3 162/9 163/16 163/17
'	140/23 147/10 147/28 152/13 155/9 156/15 157/15 157/21	2018 [1] 154/11
'07 [1] 54/14	17 [3] 104/17 104/20 104/27	2020 [3] 54/15 134/13 134/14
'10 [2] 20/26 156/10	172.96 [1] 147/7	2033 [7] 120/23 120/27 122/1 124/9 140/22 140/24 141/5
'11 [1] 20/26	178 [14] 9/9 9/12 15/24 20/22 21/11 46/5	22 [1] 28/3
'12 [3] 20/26 130/15 130/16	47/8 47/9 48/9 48/9 52/15 62/15 62/17 62/18	23 [1] 3/19
'6 [1] 156/10	18 [5] 1/12 1/3 74/16 102/3 163/16	231 [1] 118/17
'60 [1] 52/12	18-HOLE [1] 11/13	25TH [1] 162/5
'60S [2] 32/12 53/22	18.26 [1] 118/16	26 [1] 54/18
'65 [1] 48/1	1801 10TH [1] 103/3	26 PERCENT [11] 54/13 54/19 54/28 56/7 56/9 56/10 56/20 56/28 57/2 57/9 134/12
'66 [1] 48/1	19 [3] 48/24 51/19 162/9	262 [5] 4/7 65/13 65/18 66/10 66/22
'7 [1] 156/10	190 [3] 71/10 71/20 92/3	
'8 [1] 156/10	190 PERSONNEL [1] 76/5	3
'9 [3] 20/26 156/10 156/13	1941 [1] 8/28	3'S [1] 118/16
'90S [1] 63/6	1947 [4] 9/1 47/4 48/11 61/5	3-7 [1] 34/7
'92 [1] 104/1	1953 [4] 2/11 2/17 3/17 66/13	3.3 [2] 148/27 148/27
'97 [4] 15/8 15/10 47/13 48/17	196 [6] 4/5 68/16 68/19 68/25 69/2 69/5	3.7 MILLION [1] 108/20
0	1960S [1] 32/11	30 [2] 3/4 142/23
001669 [1] 2/6	197 [4] 4/6 68/16 69/8 69/12	30 MILES [1] 95/16
023766 [1] 67/22	1990 [2] 51/9 55/4	30 MILLION GALLONS [1] 148/21
1	1997 [15] 14/4 14/7 15/20 16/20 19/9 46/5 46/8 46/25 47/28 48/13 51/1 52/8 52/10 62/16 62/25	30 PERCENT [21] 19/16 25/10 25/13 26/6 26/13 26/16 26/19 26/27 27/9 27/14 44/24 45/22 45/23 49/18 49/22 49/27 50/3 50/3 50/5 50/6 53/6
1,059 [1] 10/17	1998 [4] 6/22 24/16 24/25 25/2	300 [2] 12/12 161/20
1,100 [1] 25/1	1:30 [4] 100/26 101/1 101/5 101/8	308 [1] 109/21
1,289 [1] 11/1	1ST [1] 163/17	33 [3] 148/22 148/27 148/28
1,581 [1] 24/16	2	339TH [1] 73/9
1,851 [1] 24/25	2 PERCENT [15] 121/21 121/23 121/27 121/28 146/9 146/11 146/26 146/26 147/24 147/26 148/4 148/7 148/8 148/11 149/11	35 [2] 81/8 84/8
1-8 [1] 115/16	2'S [1] 118/15	350 [1] 11/8
10 [2] 31/22 142/20	20 [7] 124/9 141/10 142/22 148/14 149/8 149/12 155/7	36 [1] 3/3
10 PERCENT [20] 121/28 147/22 147/24	20 PERCENT [1] 134/14	36.3 [2] 148/25 148/28
147/25 148/5 148/6 148/16 148/18 148/23	20-YEAR [1] 154/17	375 [1] 11/8
148/27 153/8 153/26 154/5 154/18 154/25	200 [2] 126/8 126/16	4
155/2 156/20 156/25 156/26 157/4	2000 [10] 6/16 6/19 51/23 114/24 115/7 117/1 131/18 156/6 156/9 156/11	4,284 [2] 45/19 53/4
10'S [1] 142/24	2000-2004 [1] 115/16	4,284-ACRE [1] 44/22
10,000 [4] 59/16 59/17 59/22 59/27	2000S [1] 117/13	4,286 [1] 44/28
100 [3] 88/15 117/19 141/12	2001 [4] 51/23 118/15 118/16 126/13	4,870 ACRES [1] 3/4
100 PERCENT [5] 140/25 141/1 141/10	2002 [1] 20/4	4,900 FEET [1] 33/7
141/17 149/15	2003 [7] 16/7 16/9 16/26 17/1 18/10 18/15 108/12	4,997 [2] 16/9 18/15
103 [2] 3/8 3/15	2004 [7] 17/6 20/1 114/24 115/7 115/16 131/19 156/7	40 [5] 1/27 77/7 117/14 142/23 158/9
107 [1] 3/24	2005 [4] 17/10 126/22 156/10 156/13	40 PERCENT [2] 149/9 149/12
10807 [4] 2/28 1/5 102/5 163/23	2006 [1] 17/14	401 [1] 153/2
10TH [1] 103/3	2007 [9] 54/1 55/5 55/6 55/25 55/28 56/2 56/19 104/2 134/13	41 [1] 88/3
110 [1] 3/25	2008 [8] 10/23 17/18 20/1 20/2 20/3 20/14 20/22 20/26	412TH [1] 7/28
115 [1] 3/28	2009 [9] 19/12 22/10 23/3 24/16 24/26 26/6 44/6 44/21 127/14	42 [104] 2/8 2/24 3/1 5/7 6/8 6/12 6/13 67/2 67/19 71/6 71/8 71/19 71/20 74/13 74/15 74/24 75/3 75/4 75/18 76/9 76/25 76/26 76/27 77/4 77/8 78/9 78/14 78/17 78/21 78/24 79/1 79/4 79/13 80/6 80/8 80/13 80/23 83/8 83/10 83/16 83/19 83/21 83/26 83/28 84/23 84/27 85/6 85/18 85/25 85/26 86/11 86/19 87/6 88/2 89/4 89/12 89/20 90/2 90/4 90/14 91/24 93/27 95/10 95/18 95/21 95/28 97/13 97/23 98/26 106/3 106/26 106/27 107/12 107/13 107/19 107/22 108/20 111/4 111/28 113/24 116/1 121/7 124/14 125/1 125/11 126/23 134/19 134/21 134/23 139/4 139/8 141/27 142/27 142/28 143/2 143/17 143/20 144/11 152/16 153/12 155/19 155/21 156/5 157/5
117 [1] 145/8	2010 [5] 17/22 91/26 91/28 126/22 134/15	42'S [2] 96/4 143/3
12,000-FOOT [1] 146/22	2011 [21] 9/13 10/3 10/5 12/8 13/7 17/26 91/27 114/24 115/7 117/17 118/17 129/19 129/22 129/26 131/19 132/17 132/21 132/24 133/1 133/14 156/7	420 [1] 5/27
12-MONTH [1] 130/8	2011-2012 [1] 115/17	425 [1] 117/3
120 [1] 118/15	2012 [36] 10/12 10/13 10/19 10/23 12/8 13/7 14/4 14/8 15/10 15/21 16/20 18/3 19/9 20/14 20/22 114/24 115/8 115/17 117/17 117/19 118/17 130/6 130/7 130/14 131/19 132/5 132/17 132/21 132/24 133/1 133/10 133/14 147/17 147/18 153/1 156/7	446 [1] 130/17
120,000 [1] 109/10	2013 [23] 120/22 121/26 122/28 123/2 124/10 131/1 131/2 131/3 131/6 131/18	458 [2] 117/3 126/11
124 [1] 3/8		
13 [1] 126/21		
13-YEAR [2] 125/22 141/8		
130 [1] 73/11		
13TH [1] 2/11		
14 [3] 3/21 82/6 82/6		
141 [2] 3/9 73/12		
144 [3] 3/24 107/15 107/21		
146 [3] 3/25 110/11 110/22		
148 [9] 3/26 3/27 77/12 77/13 77/22 78/13 79/22 87/12 87/18		
15 [4] 73/12 80/28 84/8 155/11		
15 MINUTES [1] 60/7		
151 [20] 3/28 114/17 115/15 125/14 129/15		
130/2 130/8 130/19 130/24 131/19 132/8		
132/17 132/25 133/2 133/7 133/12 136/6		
141/7 157/15 157/20		
157 [3] 3/15 3/28 4/4		
16 [1] 105/26		
161 [3] 10/6 140/21 140/23		

4	9:00 O'CLOCK [2] 159/6 160/24 9:20 [1] 1/13	114/13 114/14 114/15 ACTIVELY [1] 108/12 ACTIVITIES [11] 42/25 91/19 94/15 111/23 111/25 111/28 114/23 117/23 117/28 120/8 146/28 ACTIVITY [10] 43/12 83/28 98/10 112/22 113/16 113/24 125/3 128/14 129/10 146/18 ACTUAL [4] 5/8 16/23 67/8 67/11 ACTUALLY [16] 3/23 4/20 23/24 24/3 34/2 39/22 40/8 44/27 54/21 63/16 75/11 75/12 80/20 87/13 104/12 110/27 ADAMS [1] 2/8 ADD [3] 9/6 45/21 109/9 ADDED [4] 44/24 126/3 154/5 156/20 ADDING [1] 10/23 ADDITION [8] 59/14 65/5 65/12 81/25 83/20 154/5 154/18 161/8 ADDITIONAL [15] 28/9 29/28 34/6 34/8 51/24 51/27 109/11 109/26 110/9 128/3 136/5 137/4 146/10 153/21 154/5 ADDITIONALLY [1] 72/23 ADDITIONS [1] 117/20 ADDRESS [4] 58/28 103/2 103/3 161/2 ADDRESSED [2] 2/11 68/8 ADDRESSING [1] 28/8 ADJACENT [1] 81/20 ADJOURNED [1] 162/8 ADJUDICATION [1] 62/14 ADMIT [4] 46/16 66/22 87/12 87/14 ADMITTED [8] 4/6 66/8 67/23 68/10 69/2 70/4 87/16 157/17 ADVANCE [2] 47/21 47/24 AEGIS [1] 99/25 AERIAL [2] 79/23 107/18 AERO [2] 82/2 153/22 AEROSPACE [12] 72/16 85/10 86/12 89/25 90/12 90/13 121/16 141/26 150/16 153/11 154/1 156/27 AFIELD [1] 7/19 AFRAID [1] 52/27 AFTER [8] 35/14 36/1 104/21 121/25 126/1 148/19 159/23 161/4 AFTERNOON [8] 124/21 124/24 141/24 141/25 158/5 158/21 159/5 160/24 AGAIN [32] 8/10 14/26 16/25 24/23 32/9 36/26 36/27 40/2 40/14 41/15 48/11 51/22 57/10 59/5 62/22 74/2 74/5 76/16 77/6 81/6 81/13 83/12 84/17 85/13 85/14 89/22 89/26 89/28 90/9 114/18 120/11 152/10 AGAINST [1] 15/24 AGGRESSIVE [1] 151/7 AGING [1] 106/17 AGO [5] 32/7 35/11 123/14 136/16 154/4 AGREE [5] 29/21 59/4 125/24 132/24 134/16 AGREED [1] 29/16 AGREEMENT [4] 1/23 46/6 87/28 124/23 AGREEMENTS [1] 97/28 AGRICULTURAL [3] 3/6 80/16 80/18 AH [1] 1/17 AHEAD [7] 37/6 50/15 53/19 60/20 70/28 155/15 160/23 AIR [176] AIRCRAFT [33] 8/3 9/4 73/4 73/11 76/19 77/1 77/2 79/2 79/3 79/5 79/16 79/17 80/28 82/3 82/7 84/7 84/17 89/14 93/28 96/24 100/6 104/27 106/19 122/11 122/15 141/27 142/10 142/15 143/16 143/19 150/12 153/22 AIRCRAFTS [1] 84/19 AIRFIELD [5] 76/2 143/4 144/18 146/17 146/21 AIRLINES [1] 1/12 AIRPLANE [4] 28/13 29/12 94/14 111/24
458.39 [2] 129/19 130/2 461.87 [1] 130/7 473 [2] 117/4 126/13 487.95 [1] 131/3	A A.F.R [2] 10/6 10/16 A.F.R.L [5] 9/7 10/16 10/25 50/17 51/9 A.F.R.L'S [1] 51/1 A.M [2] 1/6 162/10 A.V [1] 2/8 ABATEMENT [1] 120/8 ABBEY [1] 2/10 ABIDE [2] 112/12 112/14 ABILITY [7] 11/25 12/4 12/21 13/3 113/17 113/18 125/11 ABLE [6] 4/11 4/17 15/8 124/8 139/13 161/27 ABOUT [78] 3/16 6/16 6/19 6/22 8/25 8/28 10/2 10/12 10/28 22/10 30/27 32/4 32/12 32/17 32/22 36/5 36/12 37/19 41/8 44/10 44/11 45/24 45/26 46/26 49/21 51/6 53/6 56/3 56/10 56/11 58/2 66/24 72/27 76/4 76/24 80/20 81/16 83/27 85/20 85/24 86/2 88/18 89/19 90/19 91/14 95/19 97/22 97/24 97/28 104/8 105/26 105/28 109/10 109/25 111/11 111/11 111/20 115/6 115/20 117/10 119/5 121/9 125/16 126/1 126/26 126/27 129/25 137/23 139/22 140/25 144/26 145/2 147/22 148/24 151/24 152/1 155/11 161/5 ABOVE [4] 18/14 45/28 46/2 163/16 ABSOLUTELY [3] 31/14 35/16 43/5 ACCEPT [1] 39/4 ACCOMMODATE [2] 28/16 37/27 ACCOMPLISH [4] 80/26 89/13 92/19 92/26 ACCOMPLISHED [4] 79/3 79/6 79/20 152/16 ACCOMPLISHING [2] 92/16 94/5 ACCORDING [3] 7/9 10/4 10/14 ACCOUNT [3] 26/1 99/16 141/13 ACCOUNTED [1] 27/3 ACCURACY [2] 18/23 48/23 ACCURATE [11] 9/13 10/9 10/18 15/25 16/19 18/20 19/12 32/10 123/25 141/28 142/1 ACCURATELY [4] 19/8 48/26 72/8 78/20 ACHIEVE [2] 54/15 57/22 ACHIEVEMENT [2] 105/3 105/4 ACKNOWLEDGED [1] 3/9 ACQUIRED [1] 3/5 ACQUISITION [5] 2/8 3/1 73/20 74/5 105/8 ACQUISITIONS [1] 73/1 ACRE [42] 9/14 10/5 10/6 10/7 10/14 10/15 10/17 11/1 11/8 12/13 18/12 18/14 18/15 44/22 45/19 46/2 53/5 53/15 54/24 59/16 59/17 59/22 59/27 117/14 117/19 118/15 119/2 119/3 119/15 123/18 124/10 124/11 125/17 126/6 126/9 126/16 126/23 129/19 129/23 130/7 131/1 139/16 ACRE-FEET [34] 9/14 10/5 10/6 10/7 10/14 10/15 10/17 11/1 11/8 12/13 18/15 45/19 53/5 54/24 59/16 59/17 59/22 59/27 117/14 117/19 118/15 119/2 119/3 119/15 123/18 124/10 124/11 126/6 126/9 126/16 129/19 130/7 131/1 139/16 ACRE-FOOT [3] 18/12 18/14 53/15 ACRES [2] 3/4 80/21 ACRONYM [2] 36/7 36/10 ACROSS [15] 40/26 45/1 46/19 53/13 53/13 80/11 82/5 94/1 105/25 109/25 115/4 121/10 123/20 150/21 161/25 ACTING [1] 2/12 ACTIVE [13] 94/11 108/3 108/6 108/7 109/1 109/6 110/28 114/10 114/12 114/12	
5		
5 PERCENT [1] 148/13 5,000 [4] 16/10 18/12 18/14 53/7 5,572 [6] 45/24 46/2 53/7 53/14 60/25 61/5 5,574 [2] 54/24 55/1 5,600 [1] 59/17 5-5 [1] 66/23 5-TEJON-3 [3] 3/19 22/26 23/1 5-TEJON-5 [2] 3/20 2/16 5-TEJON-6 [4] 3/21 14/3 14/6 15/19 50 [2] 31/21 117/14 50 YEARS [1] 146/23 50623 [5] 3/27 79/22 79/27 87/14 87/19 50627 [4] 3/27 77/13 87/14 87/19 51 [1] 80/26 52 [1] 76/22 52'S [1] 76/22 532 [2] 6/1 130/4 532.94 [1] 130/2 532.94-ACRE [1] 129/23		
6		
6,000 ACRES [1] 80/21 600 [1] 109/11 61 [1] 3/3 627 [1] 77/23 63 [3] 3/22 64/4 64/16 64 [1] 3/22 64.45 [1] 119/14 65 [1] 4/7 66 [2] 4/7 61/8 660 [1] 126/23 67 [2] 3/23 3/23 677 [5] 119/1 119/3 123/18 126/6 126/10 679 [1] 10/5 69 [2] 4/5 4/6 6:00 O'CLOCK [1] 1/12		
7		
7 YEARS [1] 125/22 7/13/1953 [1] 2/17 70 [2] 3/17 3/18 71 [1] 3/5 72 [8] 3/16 28/15 37/10 37/13 37/23 37/27 53/7 55/1 72-AIRPLANE [1] 28/13 75 PERCENT [2] 143/23 143/25 78 [1] 3/26 797 [1] 24/16 797 HOUSES [1] 24/26		
8		
80 [1] 67/3 840 [2] 9/14 10/7 87 [6] 3/5 3/16 3/23 3/27 67/7 67/26 896 [1] 10/14		
9		
9.21 [1] 131/13 9.71 [1] 131/10 93 [1] 3/6 95 [1] 3/7 965.99 [1] 147/3 966 [4] 124/10 124/11 147/3 147/4 97 [1] 3/5 977 [1] 147/2 9:00 [1] 162/9		

A	151/15	119/7 119/8 122/20 122/25 125/21 128/18
AIRPLANE-RELATED [1] 111/24	ANOTHER [8] 5/13 28/2 31/26 59/25 63/4	128/24 128/27 129/1 129/2 129/2 129/14
AIRPLANES [2] 93/25 104/24	109/20 127/2 150/4	130/9 132/28 133/13 133/14 133/28 134/6
AIRPORT [1] 106/5	ANSWER [16] 7/21 21/28 29/23 32/10 37/5	134/7 134/8 134/8 136/4 136/5 137/7 137/8
AIRPORTS [2] 81/23 143/1	40/17 47/13 50/19 51/2 51/10 52/21 63/5	137/13 139/18 139/26 141/16 142/5 142/12
AIRPORTS' [1] 143/13	96/27 98/16 99/22 130/13	142/28 143/1 143/16 145/10 145/13 145/16
ALESHIRE [1] 1/19	ANSWERED [7] 28/28 38/18 59/10 59/18	147/16 149/24 149/25 150/12 150/22 152/5
ALL [137] 1/10 1/11 1/11 2/14 4/5 4/8 4/19	59/24 60/3 144/2	159/1 160/4
4/25 4/27 5/19 9/12 10/12 12/10 15/12 18/5	ANTELOPE [10] 1/6 1/22 1/2 83/23 87/27	AREA [12] 75/24 80/13 81/13 82/5 91/3
22/7 26/5 31/26 34/12 35/4 36/18 37/16	89/23 89/25 102/2 124/22 163/6	91/8 91/10 91/12 92/2 98/2 108/8 144/18
43/16 44/20 47/3 49/6 50/24 53/11 55/13	ANTICIPATE [2] 128/21 146/7	AREAS [5] 34/23 77/6 91/24 111/5 113/26
60/5 60/20 61/11 64/23 65/21 66/23 67/23	ANTONIO [1] 104/21	AREN'T [2] 131/8 147/6
68/12 68/27 70/3 70/9 72/13 74/25 75/16	ANY [91] 2/23 3/16 6/8 8/26 12/10 15/3	ARGUED [1] 161/3
75/25 76/1 76/2 76/18 77/11 77/28 78/20	27/13 30/11 30/21 30/26 30/26 31/4 31/7	ARGUMENT [1] 58/13
78/24 79/26 82/16 82/22 83/6 86/23 86/23	31/9 31/9 31/12 32/3 32/14 33/19 34/1 34/2	ARGUMENTATIVE [1] 58/24
86/24 87/10 87/15 87/22 90/24 90/26 91/4	34/26 36/18 36/19 46/8 46/24 47/12 47/27	AROUND [3] 31/5 55/4 126/16
92/28 93/13 93/27 94/13 94/14 94/27 95/2	50/23 50/28 51/5 62/2 62/10 63/10 64/23	ARRANGEMENT [2] 97/3 97/3
98/28 99/24 100/10 100/16 101/4 102/10	67/15 68/6 68/13 74/25 77/7 77/9 82/27	ARRANGEMENTS [2] 97/10 99/9
102/13 103/5 103/10 103/15 104/19 104/25	87/15 88/4 88/24 91/7 91/9 91/11 91/13	ARRIVE [2] 27/13 153/8
105/23 106/5 107/4 108/1 108/8 108/16	91/18 93/9 93/13 95/20 95/21 95/23 95/25	ARRIVED [1] 49/18
109/7 110/19 110/20 111/17 112/9 112/18	96/1 96/2 96/3 96/4 97/12 97/16 100/12	ARRIVING [2] 27/19 147/27
113/2 113/3 114/9 114/18 116/21 118/13	100/13 100/14 105/1 107/4 107/28 108/28	ARSENIC [8] 6/16 6/20 6/23 31/8 31/9
118/19 119/20 119/23 120/24 122/18 124/17	109/1 111/12 111/15 111/17 112/11 112/13	31/13 31/16 32/4
126/3 128/24 128/27 129/1 129/4 131/20	127/5 128/5 130/1 131/25 135/13 136/12	ARTICLES [1] 73/3
133/17 133/18 134/28 136/14 141/19 145/9	137/4 140/11 141/13 142/26 142/27 145/16	ARTS [1] 103/27
146/15 150/9 150/21 152/19 153/16 155/15	150/28 151/2 157/8 157/9	AS [178]
157/11 158/4 158/7 158/14 158/24 159/4	ANYBODY [2] 62/11 141/20	ASCRIBED [1] 82/27
159/17 159/21 159/22 161/10 161/15 162/6	ANYONE [2] 30/27 83/7	ASIDE [3] 82/22 83/6 83/7
ALLEY [1] 35/24	ANYTHING [5] 32/13 34/1 61/11 92/11	ASK [18] 3/15 7/13 10/2 21/23 22/27 43/20
ALLOCATION [1] 135/4	99/3	44/26 46/26 59/5 59/25 63/23 63/27 65/5
ALLOCATIONS [1] 135/20	APOLOGIES [1] 1/11	68/5 86/7 152/10 160/4 161/1
ALLOW [6] 14/22 75/14 112/3 112/22	APOLOGIZE [1] 140/23	ASKED [29] 29/20 29/21 33/4 39/17 40/15
158/20 159/8	APPEAR [3] 16/23 18/10 19/7	41/23 47/11 48/6 48/22 49/17 54/8 59/10
ALLOWED [6] 9/15 9/18 16/1 49/25 65/5	APPEARANCES [4] 1/13 2/1 1/7 102/7	59/18 59/24 60/3 63/1 63/1 63/3 91/14 107/8
68/26	APPEARS [11] 2/10 5/5 16/7 16/8 16/9	107/10 126/2 137/1 144/1 144/4 144/5
ALLUDED [1] 146/14	16/22 18/13 18/19 19/10 45/7 158/28	152/19 156/6 157/26
ALMOST [1] 126/8	APPLICABILITY [1] 134/18	ASKING [6] 2/27 3/25 34/19 34/20 63/2
ALONG [7] 32/27 75/26 75/26 76/4 84/9	APPLIED [3] 121/20 134/20 134/22	125/15
107/28 110/3	APPLY [3] 26/14 134/19 135/20	ASPECT [1] 86/28
ALREADY [6] 14/18 21/6 58/26 67/4 77/17	APPLYING [1] 122/16	ASPECTS [1] 87/1
138/6	APPRECIATE [1] 35/20	ASSESSMENT [1] 131/24
ALSO [37] 2/18 8/6 8/14 13/9 15/21 23/6	APPROACH [7] 2/1 15/14 43/22 57/14	ASSET [2] 73/26 74/1
24/15 25/26 27/24 28/18 28/20 28/20 28/22	71/25 78/5 103/6	ASSETS [7] 73/3 75/21 76/17 84/3 85/4
34/15 36/5 40/25 40/26 42/9 42/17 53/27	APPROACHED [1] 126/23	96/14 96/15
66/25 67/14 83/24 87/11 94/15 105/5 106/15	APPROACHES [1] 149/15	ASSIGNED [2] 26/10 79/7
109/3 111/21 126/26 126/27 138/9 146/8	APPROACHING [2] 146/22 158/6	ASSIGNMENT [1] 74/4
149/17 156/9 157/16 159/12	APPROPRIATE [3] 3/27 21/20 21/21	ASSIST [1] 41/20
ALTER [1] 45/10	APPROVED [1] 3/5	ASSISTANCE [1] 143/14
ALTERATION [1] 45/9	APPROXIMATE [1] 123/1	ASSISTANT [1] 2/12
ALTERATIONS [1] 112/14	APPROXIMATELY [12] 42/15 54/28 56/9	ASSISTED [2] 52/6 116/5
ALTERED [1] 45/10	56/20 60/28 71/10 71/20 74/16 80/10 80/17	ASSOC [1] 1/23
ALTERNATE [1] 80/9	95/16 108/20	ASSOCIATED [2] 76/2 128/19
ALTHOUGH [2] 34/22 127/26	APRIL [4] 19/12 22/10 23/2 26/6	ASSOCIATION [2] 87/28 124/23
ALWAYS [6] 24/1 41/1 91/25 109/4 145/24	APRIL 2009 [1] 22/10	ASSUME [9] 24/10 24/12 28/9 28/16 58/10
159/10	APRIL OF [1] 19/12	141/9 147/5 154/19 159/6
AM [11] 9/15 9/18 16/2 56/16 68/5 77/27	AQUIFER [2] 6/26 7/14	ASSUMED [1] 154/20
94/26 95/28 106/24 134/2 134/10	ARABIA [1] 142/14	ASSUMES [1] 88/3
AMERICA [1] 1/14	ARE [154] 1/14 4/3 7/7 12/20 12/26 15/10	ASSUMING [1] 148/15
AMONG [2] 23/20 160/20	16/25 19/21 23/22 27/16 28/20 29/12 31/2	ASSUMPTION [7] 19/17 28/24 29/28 30/3
AMOUNT [18] 32/27 33/22 37/24 38/1	34/7 34/9 42/15 43/5 48/1 48/16 49/11 51/4	41/6 149/3 149/7
38/28 55/23 58/21 58/23 59/27 98/10 111/18	52/15 53/3 53/10 53/11 57/14 65/22 65/24	ASSUMPTIONS [12] 19/20 22/10 23/18
113/23 124/12 126/24 138/16 140/12 142/7	66/6 68/9 76/11 77/14 77/25 79/3 79/23	23/21 23/26 24/8 40/15 61/17 147/10 149/23
161/2	80/12 80/12 80/16 80/23 81/5 81/6 81/7 81/9	149/24 149/25
ANALYSIS [9] 19/22 20/11 20/17 35/1 35/2	82/25 82/28 84/11 84/15 85/9 85/19 85/23	ASTRONAUTS [1] 94/10
35/6 104/19 119/12 147/15	86/24 87/1 88/5 88/8 88/21 88/28 90/14	ATMOSPHERIC [2] 8/21 8/22
ANDREW [1] 2/5	90/14 90/24 90/26 90/28 91/1 91/4 91/12	ATTAIN [1] 149/27
ANDREWS [1] 2/10	91/19 92/8 92/10 92/13 92/16 92/20 92/21	ATTEND [1] 161/15
ANGELES [11] 1/2 1/3 3/4 62/7 73/24 85/10	92/21 93/20 94/5 94/10 94/14 94/16 95/20	ATTENDED [2] 72/19 72/23
102/3 158/8 158/22 163/2 163/13	95/21 95/25 96/22 97/9 99/7 99/15 99/17	ATTENTION [3] 3/2 14/21 45/4
ANNOUNCE [1] 161/18	99/25 99/25 99/28 100/14 100/27 103/10	ATTORNEY [5] 2/12 2/13 2/12 87/27
ANNOUNCEMENT [1] 157/28	106/6 106/17 107/12 108/6 108/28 109/2	124/22
ANNUAL [6] 11/6 32/19 33/5 119/17 143/16	109/12 110/25 112/11 112/21 112/22 113/22	ATTORNEYS [1] 157/27
	114/7 116/14 116/21 118/3 118/4 118/19	AUDITORIUM [2] 98/4 98/21

A	147/9 BATES [7] 3/27 23/6 67/20 77/13 77/22 79/22 87/18 BATHROOMS [1] 112/17 BATTERIES [2] 55/8 78/6 BE [90] 2/10 3/4 3/8 5/5 5/16 10/9 10/18 16/7 16/8 16/22 16/23 16/26 17/1 18/19 20/28 21/8 23/15 29/19 31/20 33/24 33/26 34/2 35/21 37/25 43/23 45/7 49/25 54/5 54/28 60/15 65/5 65/13 66/8 67/23 68/10 70/3 70/18 73/21 79/6 79/19 80/14 82/8 83/13 85/20 87/4 87/14 88/15 89/7 89/17 94/3 94/6 97/8 97/10 98/13 102/14 102/15 102/19 110/6 112/28 113/27 114/2 114/3 116/10 117/4 117/12 121/25 124/8 126/11 127/1 127/3 127/6 127/25 131/25 135/10 135/16 143/27 147/16 147/18 148/22 148/27 151/6 157/17 158/14 159/15 159/18 159/27 160/3 161/3 161/8 161/27 BE EXPANSION [1] 98/13 BEARS [1] 23/10 BEAU [1] 2/5 BECAME [3] 35/8 73/13 74/8 BECAUSE [19] 6/5 25/19 25/22 28/20 31/15 36/8 47/21 48/4 48/19 50/3 52/27 75/8 110/14 116/28 119/6 120/3 128/13 135/18 146/18 BECOMES [1] 3/23 BED [2] 34/25 109/11 BEDDING [2] 123/4 145/10 BEDS [1] 34/23 BEEN [51] 4/21 6/4 7/13 14/15 14/18 25/1 26/10 29/20 31/21 34/1 45/10 46/15 46/15 47/26 48/10 49/17 49/21 57/13 61/24 62/2 65/4 66/1 74/14 74/18 77/19 77/19 79/13 82/15 88/3 88/17 92/7 103/11 103/13 108/11 127/13 128/6 128/12 133/26 134/20 134/22 135/1 135/3 135/4 144/1 151/6 152/16 153/17 153/20 157/26 159/16 160/22 BEFORE [18] 1/26 5/2 9/8 13/25 21/27 22/13 33/28 35/7 64/9 66/21 70/17 102/18 111/19 113/13 119/3 119/4 145/21 156/12 BEGAN [1] 133/20 BEGIN [6] 91/23 103/12 107/15 116/9 120/16 160/27 BEGINNING [1] 52/24 BEGUN [1] 54/1 BEHALF [2] 96/16 96/20 BEING [18] 3/19 3/21 4/6 18/27 47/6 55/23 72/27 89/22 89/23 89/24 90/25 92/21 104/15 118/4 118/19 128/27 142/15 151/17 BELATED [1] 29/26 BELIEVE [57] 3/13 6/21 7/23 10/9 10/18 13/5 13/21 14/11 19/18 23/15 24/18 27/7 27/10 28/14 28/21 30/13 31/11 33/3 39/16 41/9 42/18 43/14 43/27 43/28 44/8 44/21 44/23 53/22 53/27 55/3 60/23 60/28 61/2 62/9 62/28 67/3 80/27 82/14 84/26 96/27 100/8 100/9 105/5 108/23 108/27 111/21 119/5 120/10 121/11 122/22 134/12 134/15 135/7 141/8 148/25 159/13 160/1 BELIEVED [1] 149/5 BELL [1] 9/1 BENEFIT [5] 44/27 62/2 70/25 90/4 90/6 BENEFITS [1] 85/26 BENNETT [1] 2/8 BEST [5] 1/26 1/26 32/6 62/13 97/1 BETTER [1] 55/19 BETWEEN [13] 7/16 11/8 15/22 26/28 67/8 78/28 85/9 94/7 94/9 127/19 132/17 151/15 152/5 BEYOND [11] 37/19 39/24 42/9 49/12 49/15 53/23 59/20 59/23 91/19 123/13 146/10	BID [1] 97/1 BIDDER [1] 96/26 BIG [1] 80/20 BILL [2] 137/24 138/6 BILLION [3] 31/21 31/22 105/28 BIOGRAPHY [2] 72/2 72/4 BIRD [2] 83/25 83/25 BIT [9] 16/8 17/1 100/28 104/8 111/11 111/20 119/4 122/5 146/12 BIT HIGH [1] 146/12 BLACK [1] 56/14 BLANKS [1] 51/19 BLENDING [2] 32/1 32/8 BLOCK [7] 81/25 142/20 142/22 142/23 142/23 142/24 158/22 BLOCK 10'S [1] 142/24 BLOCK 20 [1] 142/22 BLOCK 30 [1] 142/23 BLOW [4] 120/12 120/13 123/28 151/13 BLOW-DOWNS [1] 151/13 BLUE [1] 111/3 BLUF [5] 25/27 36/5 36/8 36/11 36/27 BLUFFING [1] 37/7 BODY [1] 157/27 BOEING [7] 80/25 93/24 93/24 94/13 96/19 100/5 142/10 BOEING'S [1] 82/23 BOILERS [2] 106/19 151/12 BOLTHOUSE [1] 1/20 BOMBERS [2] 76/22 84/4 BOMBING [1] 84/16 BOOKS [1] 136/27 BOOST [1] 33/22 BORAX [1] 2/14 BORDERS [1] 80/6 BOSH [1] 51/20 BOTH [9] 15/21 72/21 73/3 83/17 85/5 104/6 128/18 132/20 140/15 BOTTOM [14] 25/27 34/7 36/28 37/6 67/21 116/28 120/23 125/17 125/28 129/21 132/26 133/6 133/7 136/3 BOUGHT [1] 142/22 BOUNDARIES [6] 75/27 80/7 80/7 98/7 98/18 112/7 BOUNDARY [8] 80/11 80/12 83/13 95/10 95/10 95/16 95/17 112/10 BOXES [1] 73/6 BRAD [2] 87/27 124/21 BRADLEY [1] 1/23 BRANCH [1] 105/16 BREADTH [1] 94/2 BREAK [1] 155/11 BREAKDOWN [2] 13/13 145/26 BREWER [2] 68/20 68/20 BREWER'S [1] 133/22 BRIEF [4] 20/20 93/19 107/16 161/9 BRIEFLY [3] 61/12 72/13 72/26 BRIEFS [1] 161/2 BRING [5] 14/21 45/24 45/26 51/13 125/13 BRINGING [1] 74/1 BRINGS [5] 53/6 54/19 54/21 54/23 57/2 BROAD [1] 99/14 BROADENING [1] 74/5 BROKEN [1] 15/21 BROUGHT [5] 85/14 92/3 92/7 145/22 146/14 BROWN [1] 1/20 BROWNSTEIN [1] 1/22 BRUNICK [4] 1/24 1/25 158/6 158/7 BUDGET [2] 105/10 105/11 BUILD [2] 75/21 110/5 BUILDING [21] 73/2 74/18 76/16 81/9 85/3 86/22 96/24 96/25 98/1 98/3 98/7 98/9 98/11
B		
B-2 [6] 79/13 79/14 79/14 79/16 81/6 84/4 B-52'S [1] 76/22 B.S [2] 103/25 104/1 BACHELOR'S [1] 72/15 BACK [26] 15/8 32/11 47/4 48/11 50/7 51/18 52/5 52/8 56/24 74/6 75/20 76/7 76/26 88/28 89/10 100/4 112/1 113/21 122/2 132/22 140/21 153/21 155/9 156/4 156/9 156/11 BACKGROUND [4] 26/1 72/14 104/7 104/9 BACKWARDS [1] 20/4 BAG [1] 97/6 BAND [4] 122/19 125/28 126/2 141/7 BANK [4] 161/21 161/21 161/22 161/23 BARTLEBY [2] 139/24 139/25 BASE [95] 2/25 6/7 6/10 6/15 6/22 6/26 7/9 7/28 10/5 10/15 10/24 11/3 11/11 12/2 12/15 13/1 13/15 13/20 13/24 14/4 15/20 18/21 19/9 23/22 24/15 25/2 26/22 30/20 30/27 33/6 33/13 39/11 39/22 41/2 41/8 41/24 42/1 42/15 42/19 42/26 43/4 44/15 45/2 47/28 48/8 48/27 49/24 49/28 52/1 54/17 54/27 55/24 56/4 56/25 57/1 57/20 58/4 60/1 60/25 61/18 62/3 64/6 72/25 73/10 73/24 74/6 74/12 77/7 77/10 78/10 78/25 79/1 79/7 79/8 79/20 83/15 83/24 85/8 85/9 85/21 85/27 89/24 90/3 90/8 95/11 96/12 96/13 96/15 96/18 103/4 104/22 104/22 104/25 105/7 116/10 BASE 40 [1] 77/7 BASED [53] 15/7 19/14 23/17 26/8 30/28 37/10 38/1 38/2 38/28 39/1 39/1 54/26 58/19 59/8 60/2 73/23 83/12 83/22 83/24 84/1 85/3 89/18 96/28 97/1 97/1 97/7 97/28 98/2 106/13 115/28 119/12 122/11 123/22 123/27 126/28 129/10 131/21 134/13 134/15 135/23 139/6 145/1 146/6 152/15 153/10 153/27 154/20 155/23 156/19 156/26 156/28 157/1 157/4 BASELINE [3] 54/14 134/13 134/15 BASES [3] 49/7 122/2 135/20 BASIC [5] 37/5 77/5 84/9 87/3 87/4 BASICALLY [15] 26/8 73/18 74/9 76/27 78/2 78/8 79/2 79/15 80/5 83/13 84/20 89/27 99/13 99/16 113/18 BASICS [1] 120/17 BASIS [13] 41/18 44/1 48/13 49/5 49/8 49/9 49/13 96/28 119/17 121/9 140/4 143/16		

B	102/1 102/2 135/21 158/15 163/7 CASE-BY-CASE [2] 96/28 100/2 CASES [3] 1/6 128/5 163/6 CAST [1] 38/10 CATCH [1] 75/16 CAUSE [3] 70/17 102/18 163/16 CENTER [14] 8/18 8/21 76/10 76/12 76/14 76/15 76/23 78/9 80/8 81/26 89/10 89/11 105/8 105/17 CERTAIN [7] 54/8 79/17 134/6 134/7 139/10 142/7 158/10 CERTIFICATE [1] 163/9 CERTIFY [1] 163/13 CETERA [5] 9/1 76/3 83/25 96/19 106/20 CHAIN [1] 100/3 CHANGE [9] 98/18 109/19 117/20 121/16 126/28 127/27 131/22 133/15 154/6 CHANGED [2] 81/18 117/26 CHANGES [4] 128/13 131/25 139/26 140/1 CHANGING [6] 98/19 107/11 107/12 109/13 117/10 154/1 CHARACTERISTICS [1] 89/19 CHARACTERIZE [1] 9/3 CHARGED [1] 76/16 CHART [30] 10/4 10/14 13/23 14/3 14/7 15/7 15/9 15/19 15/24 16/18 18/11 20/22 46/9 55/2 62/18 63/2 63/4 63/17 63/18 109/27 115/15 117/4 118/8 119/1 119/4 120/16 120/21 120/26 126/20 133/8 CHECK [6] 24/19 27/2 27/11 32/5 32/9 117/23 CHECKING [1] 45/7 CHIEF [4] 48/4 73/7 73/28 105/15 CHLORINATED [1] 119/8 CHOSE [1] 32/2 CIRCLED [2] 116/27 118/10 CIRCUIT [1] 131/11 CITED [1] 29/15 CITIES [2] 31/27 89/27 CITY [8] 67/9 78/16 78/17 78/18 85/19 85/23 85/23 138/4 CIVIL [6] 71/11 71/21 92/4 92/7 92/8 105/15 CIVILIAN [16] 12/18 12/19 13/15 23/22 23/24 39/18 39/21 39/28 40/6 40/21 42/18 42/19 100/1 100/6 100/14 105/3 CIVILIANS [2] 13/14 37/4 CLAIM [2] 33/23 57/11 CLAIMED [1] 55/23 CLARIFICATION [2] 23/5 60/23 CLARIFY [2] 4/17 62/28 CLASSES [1] 159/18 CLEAN [2] 150/13 153/21 CLEANING [2] 113/28 114/1 CLEAR [7] 44/9 53/9 58/8 66/18 94/13 114/6 147/8 CLEARANCE [1] 161/28 CLEARLY [2] 43/24 74/26 CLIENT [1] 57/28 CLIFFORD [1] 1/20 CLIMATE [3] 122/10 150/14 154/15 CLOSE [11] 17/6 17/10 17/14 17/18 17/22 17/27 18/3 89/23 89/24 110/4 161/14 CLOSED [6] 150/22 150/27 151/3 151/16 152/5 152/27 CLOSEST [1] 161/24 CLOSING [1] 161/1 CO [1] 2/9 COATINGS [2] 104/25 122/16 COINED [1] 58/7 COLLEAGUE [1] 162/4 COLLECTIVE [1] 157/27 COLLECTS [1] 136/25	COLLEGE [2] 72/22 72/23 COLONEL [25] 22/10 22/26 23/2 23/13 25/16 25/19 25/19 25/20 25/27 28/19 33/9 34/9 39/11 70/14 70/23 71/4 72/5 74/22 86/10 87/26 95/7 97/22 100/19 127/18 127/24 COLUMN [6] 115/27 124/1 124/5 124/6 125/17 131/3 COLUMNS [2] 116/27 117/9 COME [10] 10/7 11/9 16/10 29/18 35/28 49/12 70/14 83/21 102/13 147/19 COMES [3] 16/9 29/14 83/19 COMFORTABLE [1] 9/25 COMING [8] 29/4 29/5 30/5 50/5 50/9 138/19 138/21 138/22 COMMAND [3] 71/9 72/22 100/3 COMMANDER [4] 25/28 39/12 39/12 74/10 COMMENT [3] 29/6 29/13 51/21 COMMENTED [1] 125/20 COMMERCIAL [4] 111/24 111/25 111/27 112/22 COMMISSARY [1] 13/9 COMMISSION [1] 82/15 COMMISSIONED [1] 72/28 COMMON [11] 75/24 77/6 81/13 82/17 91/3 91/24 92/2 108/7 144/17 144/18 144/20 COMMUNICATING [2] 25/28 37/3 COMMUNIQUE [1] 25/20 COMMUNITY [2] 1/19 73/19 COMPANY [1] 2/6 COMPARE [1] 15/23 COMPARED [4] 16/8 49/1 54/14 140/25 COMPARISON [1] 140/11 COMPLETELY [1] 78/16 COMPLEX [3] 82/17 82/20 86/23 COMPLY [1] 112/19 COMPONENT [3] 41/25 154/24 154/25 COMPONENTS [4] 19/15 19/22 39/2 89/8 COMPOSITE [1] 122/15 COMPOUND [4] 42/27 58/24 148/11 148/19 COMPOUNDED [1] 149/1 COMPOUNDING [2] 148/8 148/15 COMPRISE [1] 163/14 COMPUTATION [1] 21/18 CONCEPT [1] 61/22 CONCERN [2] 34/26 49/17 CONCERNED [2] 85/20 85/24 CONCERNING [1] 48/10 CONCLUDE [1] 58/16 CONCLUSION [4] 42/10 42/11 43/10 65/2 CONCLUSIONS [1] 64/5 CONCURRENT [1] 27/25 CONDITION [1] 127/9 CONDITIONING [3] 122/3 122/9 151/8 CONDITIONS [2] 83/22 85/12 CONFERENCE [3] 161/16 162/1 162/1 CONFINES [1] 98/14 CONGRESSIONAL [1] 112/24 CONNECTED [1] 6/8 CONNECTION [1] 3/8 CONSERVATION [8] 54/27 56/1 112/11 112/16 134/6 134/7 135/5 141/13 CONSERVE [1] 54/5 CONSIDER [2] 28/22 87/3 CONSIDERATION [1] 42/24 CONSIDERED [1] 40/22 CONSISTENT [1] 117/5 CONSOLIDATING [1] 61/25 CONSOLIDATION [8] 24/2 41/1 41/8 61/22 62/3 88/17 88/19 88/20 CONSTANT [3] 98/11 125/23 132/9
C		
C-17 [3] 104/17 104/20 104/27 C-5 [2] 73/11 104/27 C-U-M-M-I-N-S [1] 70/24 CADRE [1] 91/26 CALCULATE [10] 10/21 11/25 12/4 12/21 13/3 21/23 137/1 140/27 146/2 156/25 CALCULATED [7] 19/28 27/6 130/27 139/16 140/12 146/3 146/4 CALCULATION [6] 26/15 61/18 130/4 146/6 148/2 155/3 CALCULATIONS [3] 24/8 44/8 145/25 CALCULATOR [2] 9/24 148/26 CALENDAR [2] 32/5 32/9 CALIBRATED [1] 137/8 CALIFORNIA [10] 1/1 2/11 2/12 1/3 71/7 71/19 85/13 102/3 163/1 163/12 CALL [9] 1/14 19/21 23/18 27/5 63/9 70/12 102/12 109/18 115/27 CALLED [4] 18/23 38/4 38/7 62/8 CALLING [1] 43/14 CALLS [4] 28/25 118/21 144/3 144/9 CAME [5] 28/10 47/10 111/21 115/26 124/9 CAN [76] 9/24 23/6 28/2 30/14 37/1 39/20 40/5 43/11 45/27 50/10 50/11 51/6 53/14 55/6 55/7 57/23 57/27 57/28 58/8 58/10 66/21 68/3 71/28 72/13 72/26 75/2 75/12 75/13 76/13 77/12 77/13 77/28 78/28 80/4 80/6 80/22 83/27 96/4 98/13 98/18 101/1 104/8 107/5 107/15 109/27 110/10 113/22 114/8 115/3 115/4 117/13 117/17 117/21 118/10 118/11 118/14 119/6 122/4 122/24 122/27 123/21 128/8 130/12 131/9 131/11 131/14 142/24 147/10 148/20 149/28 150/13 151/19 155/9 159/22 159/23 160/27 CAN'T [13] 29/8 51/11 52/19 65/9 113/10 129/28 133/8 135/8 143/24 144/26 146/4 152/28 159/20 CAPABILITIES [1] 74/1 CAPABILITY [3] 106/24 127/8 139/8 CAPABLE [3] 118/4 118/19 125/5 CAPACITY [8] 28/8 118/5 118/7 151/22 151/24 154/9 155/19 155/22 CAPPED [1] 118/1 CAPTURE [1] 109/4 CAPTURED [1] 156/10 CARDOZO [1] 58/7 CARE [1] 162/2 CAREER [5] 26/10 72/18 74/4 74/18 85/4 CAREFUL [1] 35/21 CARRIED [2] 58/6 100/3 CASE [18] 1/6 1/1 1/2 21/20 21/26 26/18 29/15 35/3 48/4 96/28 96/28 100/2 100/2		

C	136/23 137/5 137/6 140/5 140/10 140/26 141/18 148/9 148/10 149/9 150/2 150/5 151/1 151/4 157/3 163/15 CORRECTION [1] 69/26 CORRELATED [1] 139/15 CORRESPONDENCE [3] 72/21 72/22 72/23 CORROSION [1] 104/26 COST [2] 97/8 97/8 COUGHING [1] 92/24 COULD [43] 6/17 10/23 21/23 24/3 28/16 33/23 37/27 39/3 39/4 45/3 49/25 51/15 57/20 59/14 62/28 66/17 68/7 70/21 71/12 78/3 97/10 98/23 100/23 107/16 109/10 114/17 117/11 118/8 120/13 123/18 123/28 124/1 125/13 125/13 127/25 129/20 129/26 130/28 132/22 140/27 150/19 156/15 161/1 COULDN'T [2] 136/15 136/16 COUNSEL [3] 42/19 46/7 77/15 COUNT [1] 46/1 COUNTED [1] 154/28 COUNTERPART [1] 117/22 COUNTRY [2] 95/15 105/25 COUNTY [7] 1/2 1/26 3/4 62/7 158/8 163/2 163/13 COUPLE [8] 20/23 86/20 91/22 116/8 116/27 117/9 120/5 136/4 COUPLED [1] 85/7 COURSE [9] 5/6 11/11 11/13 11/17 11/23 28/22 42/20 72/18 72/24 COURSES [1] 105/5 COURT [39] 1/1 2/5 2/27 3/10 3/14 3/25 9/21 14/27 18/9 21/8 21/28 38/19 43/8 43/12 57/18 58/28 63/27 64/8 68/26 70/17 70/25 70/26 72/14 72/26 75/3 75/12 75/13 75/13 75/16 77/28 83/27 102/18 113/13 158/20 158/24 159/7 159/23 163/1 163/12 COURT'S [8] 3/2 14/21 43/11 43/22 44/27 66/26 159/21 161/19 COURT-ORDERED [1] 2/5 COURTCALL [1] 2/4 COURTROOM [5] 35/25 98/21 108/24 127/25 127/27 COVER [1] 114/9 COVERED [1] 30/14 CRADLE [1] 76/17 CRASHED [1] 143/11 CREATED [7] 115/9 115/11 120/17 120/18 133/9 146/5 149/21 CREEK [1] 2/9 CRITERIA [2] 112/15 121/14 CRITICAL [1] 86/27 CROSS [30] 1/24 2/7 3/2 1/16 5/21 14/13 15/4 21/21 29/22 30/11 30/17 35/12 36/2 38/10 39/16 39/25 42/9 46/13 49/8 49/14 50/11 87/22 87/24 93/16 95/5 97/18 124/17 124/19 141/22 157/8 CROSS-DEFENDANT [1] 1/24 CROSS-DEFENDANTS [1] 2/7 CROSS-EXAMINATION [21] 1/16 5/21 14/13 15/4 21/21 29/22 30/11 30/17 35/12 36/2 38/10 39/16 46/13 87/22 87/24 93/16 95/5 97/18 124/17 124/19 141/22 CROSS-EXAMINE [1] 50/11 CROSS-EXAMINED [2] 49/8 49/14 CROSSING [1] 92/20 CROW [1] 95/14 CRR [2] 2/28 163/23 CRYSTAL [1] 2/5 CSR [4] 2/28 1/5 102/5 163/23 CUBICLE [3] 98/6 98/22 98/23 CUBICLES [2] 109/16 127/26 CUMMINS [12] 3/5 70/24 71/4 72/5 74/22	86/10 87/26 97/22 108/24 109/15 127/18 127/25 CURRENT [21] 2/24 20/7 20/10 20/17 21/5 21/7 21/9 71/4 84/1 84/1 88/25 91/20 94/11 105/13 105/14 107/10 122/16 131/23 131/27 142/26 149/26 CURRENTLY [30] 5/26 7/28 33/13 40/13 56/11 57/21 80/28 81/1 81/17 81/24 83/4 88/8 90/26 91/1 108/3 108/6 109/1 109/8 109/9 109/20 109/22 110/28 111/25 122/8 122/23 122/25 123/23 147/15 147/17 151/20 CURVE [5] 16/22 26/11 26/11 48/23 48/26 CURVES [1] 16/21 CUSTOMS [1] 3/9 CYCLE [9] 76/10 76/12 76/14 76/15 76/22 89/10 89/11 105/7 105/16
D	D.3 [2] 64/4 64/17 D.3-3 [2] 64/4 64/17 D.O.D [2] 134/26 134/26 DAILY [3] 71/9 71/21 140/4 DAMAGED [1] 88/27 DASH [4] 1/28 2/3 2/4 4/27 DATA [45] 15/10 15/25 16/26 18/10 18/11 20/2 20/6 20/13 20/18 45/8 46/2 48/16 48/17 51/3 52/15 62/10 62/16 62/24 63/6 63/14 115/24 116/1 116/3 116/19 119/1 127/15 127/17 129/14 130/15 131/18 133/9 136/26 136/28 136/28 146/6 152/7 152/8 152/12 152/21 152/22 155/20 155/27 156/5 156/8 156/12 DATE [1] 72/11 DATED [2] 2/11 163/17 DAVIS [1] 2/8 DAY [12] 58/8 96/5 106/7 106/8 106/8 119/14 139/11 139/12 139/15 140/1 159/17 159/20 DAY-TO-DAY [1] 106/8 DAYS [1] 160/20 DE [1] 150/25 DEAL [1] 160/26 DECADE [1] 61/26 DECEIVING [2] 80/20 147/6 DECEMBER [4] 51/17 133/10 135/11 153/1 DECEMBER 2012 [1] 153/1 DECISION [1] 100/3 DECISIONS [1] 3/10 DECLINE [2] 40/27 61/28 DECLINED [3] 56/5 128/9 128/10 DECLINING [10] 23/22 23/25 39/18 39/21 39/27 40/6 40/21 41/7 61/18 127/2 DECOMMISSIONING [1] 76/18 DECREASE [1] 24/1 DECREASING [3] 40/25 41/4 125/23 DEED [6] 5/8 67/8 67/11 67/18 67/19 67/27 DEEDED [1] 5/6 DEFENDANT [6] 1/20 1/22 1/24 1/26 2/3 2/14 DEFENDANTS [2] 2/5 2/7 DEFENSE [17] 40/27 75/22 75/25 77/2 84/3 87/2 89/16 90/16 92/4 93/4 94/8 96/12 96/21 99/26 112/15 112/28 113/4 DEFINE [1] 136/18 DEFINED [1] 135/2 DEFUNCT [1] 82/13 DEGREE [5] 72/16 117/7 123/10 139/10 150/14 DEGREES [1] 103/24 DELIVERED [5] 13/14 13/16 137/25 138/16 140/13 DELIVERIES [6] 7/18 12/5 12/22 13/4 13/6 15/22	

D	36/9 38/13 38/16 46/26 47/9 47/10 47/21 48/18 52/14 68/23 69/27 118/12 129/8 137/3 138/24 140/14 149/3 152/12 154/4 155/3 156/3 159/3 DIFFER [2] 132/25 132/27 DIFFERENCE [4] 151/15 151/17 152/4 152/26 DIFFERENCES [1] 132/16 DIFFERENT [19] 4/1 28/12 29/25 35/24 47/23 85/21 90/7 90/19 92/11 92/16 97/9 98/22 107/24 116/27 123/21 126/28 129/3 130/9 136/26 DIFFERENTIATED [1] 127/19 DIFFERENTIATION [1] 68/14 DIFFICULT [3] 2/10 48/4 75/8 DIFFICULTIES [1] 30/28 DIFFICULTY [1] 94/9 DIMENSIONS [1] 139/12 DIORIO [5] 32/18 32/28 33/5 41/14 41/16 DIRE [2] 74/25 107/4 DIRECT [15] 3/2 29/20 37/19 39/25 45/3 46/13 49/7 49/12 53/24 71/2 103/21 113/27 115/12 120/18 142/26 DIRECTION [2] 115/10 120/17 DIRECTIVE [4] 54/1 54/5 54/8 56/1 DIRECTLY [9] 63/24 71/12 94/16 109/3 116/8 134/20 136/9 139/1 139/8 DIRECTOR [11] 71/6 71/8 71/18 73/13 73/14 73/14 73/17 73/25 74/8 74/12 74/14 DISCERN [1] 132/23 DISCOVERY [2] 2/6 51/16 DISCUSS [2] 83/1 158/11 DISCUSSED [6] 12/1 46/12 64/2 139/3 158/23 159/14 DISCUSSING [1] 13/19 DISCUSSION [8] 13/20 30/19 32/4 32/22 89/18 127/22 131/14 133/25 DISCUSSIONS [10] 100/27 109/6 158/2 158/3 158/9 158/10 158/21 159/19 159/23 160/21 DISTINCTION [1] 116/16 DISTINGUISH [1] 7/16 DISTINGUISHED [1] 6/13 DISTRICT [20] 1/27 12/28 107/27 108/9 108/13 111/4 111/9 114/16 115/28 116/20 137/14 137/16 137/24 138/5 138/13 138/22 144/14 145/14 146/8 158/9 DITCHES [3] 3/7 120/7 146/17 DIVEST [1] 88/25 DIVESTITURE [1] 89/1 DIVIDE [1] 90/20 DIVIDING [1] 10/25 DIVISION [2] 1/15 74/1 DO [169] DOCUMENT [23] 1/27 2/4 2/28 3/12 3/13 3/17 4/10 5/4 5/5 9/19 13/25 22/13 48/6 48/15 48/16 65/28 66/14 66/27 67/1 71/28 114/21 114/22 115/9 DOCUMENTATION [2] 92/18 100/13 DOCUMENTS [7] 4/12 27/16 27/18 51/13 52/5 152/20 160/13 DOES [45] 6/26 7/10 11/9 12/17 16/14 16/14 16/23 19/7 26/16 26/17 30/8 33/13 33/15 34/25 36/27 41/27 41/28 43/10 47/5 72/8 72/10 78/20 78/23 78/24 79/15 82/19 83/7 97/11 98/9 98/12 98/26 98/27 106/21 117/6 123/11 125/8 134/19 134/22 136/3 139/25 139/28 141/12 141/15 142/27 158/28 DOESN'T [6] 31/28 37/7 47/4 64/9 109/27 149/15 DOING [8] 21/16 21/17 80/28 81/2 81/6 92/11 93/21 120/5 DOLING [1] 135/19	DOMESTIC [11] 108/9 110/16 114/2 116/11 116/11 116/13 116/14 119/7 144/24 144/25 145/27 DON'T [70] 3/27 5/10 7/6 7/12 7/19 7/23 9/20 11/2 12/25 12/27 13/8 13/17 14/11 18/8 19/1 19/2 20/8 21/11 21/21 22/2 22/5 22/16 27/7 27/10 31/11 31/11 33/4 33/20 42/16 50/19 50/19 50/21 52/27 58/11 58/11 58/28 62/9 62/15 63/12 63/15 68/11 68/13 77/18 77/19 82/15 82/26 83/1 91/18 92/19 93/9 100/8 113/13 119/24 129/3 135/17 135/17 138/14 143/18 143/22 143/24 151/23 151/27 152/7 152/21 155/10 155/20 155/27 159/20 160/16 161/18 DONE [10] 14/23 31/27 35/1 35/6 90/3 91/20 92/12 116/25 147/17 160/4 DOTTING [1] 92/20 DOUBLE [3] 27/2 27/11 154/28 DOUBLE-CHECK [2] 27/2 27/11 DOUBLED [1] 117/18 DOUBT [1] 38/10 DOUGHNUT [1] 75/25 DOWN [34] 6/15 6/17 6/19 6/22 15/21 24/25 25/5 25/7 25/9 26/16 28/1 29/9 34/10 36/12 54/19 54/21 54/23 54/23 64/27 81/12 83/19 85/10 109/11 122/26 123/4 128/11 132/6 132/9 134/26 134/26 134/28 135/13 145/10 157/23 DOWNS [1] 151/13 DOWNSIZE [1] 40/28 DOWNSIZING [2] 6/5 88/19 DR. [2] 8/24 79/9 DR. HALLION [1] 8/24 DR. HALLION'S [1] 79/9 DRAW [1] 3/2 DRAWING [2] 81/22 94/9 DRAWS [1] 137/21 DREAM [1] 58/10 DRIVING [2] 13/12 95/12 DRONE [1] 81/9 DROP [3] 139/12 139/14 139/23 DROPS [3] 119/14 139/11 140/3 DRYDEN [2] 8/17 8/20 DUBOIS [5] 1/16 47/11 90/18 97/16 127/18 DUE [9] 6/16 6/20 6/23 81/26 81/28 82/2 83/10 117/20 154/6 DUNN [4] 1/26 158/3 160/23 161/17 DUNN'S [1] 161/16 DURING [10] 14/13 19/9 46/7 46/12 67/7 114/22 120/8 125/27 126/3 155/25 DUST [1] 120/7 DUTIES [3] 104/28 106/6 106/7 DUTY [1] 94/11
	E E-L-A-M [1] 102/28 E-MAIL [15] 22/12 22/26 23/2 23/13 24/19 25/17 27/23 32/23 33/4 35/15 36/1 36/9 39/18 40/24 41/7 E-MAILS [1] 41/14 EACH [33] 86/26 87/5 93/3 93/3 93/6 110/15 112/4 114/7 114/25 114/26 116/15 117/1 117/7 117/10 117/28 118/3 118/9 118/11 118/28 119/21 121/15 121/28 123/20 126/3 127/5 131/3 131/23 131/25 136/25 139/11 147/15 147/25 149/17 EACH PLANT [1] 112/4 EARL [1] 3/3 EARLIER [11] 8/24 35/28 41/23 51/25 52/5 88/18 90/19 106/2 127/19 132/7 147/8 EARLY [2] 117/13 142/21 EARS [1] 29/12 EASIER [1] 49/4	

E	ENTITIES [1] 93/25	EXAMPLES [3] 120/5 149/28 150/20
EASILY [1] 75/13	ENTITLED [2] 38/11 163/16	EXCEED [2] 126/10 130/24
EAST [1] 161/21	ENVIRONMENT [1] 1/14	EXCEEDED [3] 53/14 60/25 61/5
EBB [5] 49/21 49/22 49/27 59/9 128/17	ENVIRONMENTAL [2] 31/3 135/8	EXCEEDS [2] 126/8 130/7
EBBS [2] 27/4 98/27	EQUAL [1] 119/1	EXCEPTION [1] 47/28
ECONOMIC [1] 85/25	EQUATION [1] 27/6	EXCHANGE [1] 150/26
EDGES [1] 75/26	EQUIPMENT [2] 104/20 151/8	EXCUSE [5] 13/13 20/1 46/14 77/15 92/24
EDUCATION [6] 72/9 72/19 74/7 74/9	EQUIVALATES [1] 57/10	EXCUSED [3] 65/1 68/1 100/18
103/23 104/3	EQUIVALENCE [1] 57/10	EXECUTE [2] 105/10 106/17
EDUCATIONAL [1] 72/14	EQUIVALENT [8] 28/14 28/16 33/27 37/11	EXECUTION [1] 106/8
EDWARD [2] 2/12 2/18	37/14 37/18 37/19 37/21	EXECUTIVE [1] 134/25
EDWARDS [70] 2/25 6/7 6/10 6/15 6/19	ESCALATOR [1] 153/26	EXEMPLARY [1] 105/2
6/26 7/27 8/6 8/14 8/25 9/3 9/13 10/13 10/19	ESCAPING [1] 54/20	EXERCISE [1] 58/9
10/22 13/20 13/24 14/3 15/20 16/20 18/21	ESCROW [1] 99/16	EXHIBIT [106] 2/16 4/21 5/13 6/1 9/9 9/12
19/8 19/17 30/5 31/5 35/7 41/2 41/23 41/28	ESQ [16] 1/15 1/16 1/18 1/19 1/21 1/23 1/23	9/21 14/6 14/11 14/12 14/17 14/18 14/18
42/26 43/4 44/14 45/2 46/24 47/28 48/7	1/25 1/26 1/27 2/3 2/5 2/8 2/8 2/15 2/19	14/20 14/28 15/24 18/27 20/22 22/13 22/16
48/27 49/23 49/28 54/17 54/26 55/24 56/4	ESSENCE [1] 27/3	23/1 33/21 36/12 43/14 43/15 43/21 45/4
56/25 57/1 60/1 60/24 61/27 62/2 64/6 78/10	ESSENTIALLY [3] 45/6 65/28 160/9	46/5 46/19 47/1 47/8 48/21 52/15 52/16
78/22 78/25 79/1 79/6 79/7 79/20 83/15	ESTABLISH [4] 3/12 7/9 21/3 59/21	62/19 63/28 64/3 64/16 65/6 65/13 65/13
83/24 83/26 85/7 85/9 85/21 89/24 90/3 90/5	ESTABLISHED [5] 18/25 41/15 50/18	65/18 66/10 66/13 66/16 66/18 66/22 66/28
90/7 90/8 95/11 95/19	50/21 58/5	67/3 67/7 67/26 69/5 69/12 69/27 70/6 71/25
EDWARDS' [4] 25/4 27/20 28/11 62/12	ESTABLISHING [1] 48/5	72/4 72/8 77/12 77/13 77/16 77/16 77/22
EDWIN [1] 2/19	ESTATE [5] 75/5 75/20 75/26 80/7 90/9	78/13 78/20 79/22 79/27 87/12 87/13 87/18
EFFECTIVE [2] 106/10 125/6	ESTIMATE [25] 12/10 25/25 32/6 32/18	103/13 103/17 107/15 107/21 110/10 110/11
EFFECTIVELY [1] 113/5	32/21 32/27 33/5 37/14 50/9 58/19 58/27	110/22 114/17 115/15 120/10 120/26 123/19
EFFICIENT [1] 54/5	59/7 124/8 124/12 138/20 138/23 138/26	125/14 125/16 129/15 129/16 129/20 130/2
EFFICIENTLY [2] 113/5 159/22	138/27 139/5 139/11 141/2 141/4 143/28	130/8 130/16 130/17 130/19 130/24 131/19
EFFORT [2] 33/16 92/2	144/5 153/9	132/2 132/8 132/17 132/25 132/25 136/6
EFFORTS [1] 4/17	ESTIMATED [2] 33/6 140/3	141/7 147/10 147/28 152/9 152/13 157/20
EICHHORN [2] 28/19 39/13	ESTIMATES [1] 62/11	EXHIBIT 146 [1] 110/11
EIGHT [8] 82/26 87/5 90/19 90/24 90/28	ESTIMATION [4] 26/12 37/26 123/1	EXHIBIT 148 [3] 77/12 77/22 79/22
91/1 91/4 105/21	123/26	EXHIBIT 151 [13] 114/17 125/14 129/15
EITHER [3] 9/25 84/13 94/11	ET [5] 9/1 76/3 83/25 96/19 106/20	130/2 130/8 130/19 130/24 131/19 132/8
ELAM [3] 3/8 102/27 103/18	ET CETERA [3] 9/1 96/19 106/20	132/17 132/25 136/6 141/7
ELECTRIC [1] 104/16	EVALUATE [1] 33/16	EXHIBIT 164 [7] 120/10 129/16 129/20
ELEMENT [2] 73/8 125/11	EVALUATES [1] 8/3	132/25 147/10 147/28 152/13
ELEMENTS [1] 60/2	EVALUATING [1] 26/11	EXHIBIT 178 [7] 9/9 9/12 15/24 20/22 46/5
ELEVATION [2] 139/22 139/26	EVALUATION [6] 32/15 73/3 73/14 73/25	47/8 52/15
ELEVATIONS [1] 139/18	74/19 79/5	EXHIBIT 262 [1] 65/13
ELHANEY [1] 1/24	EVAPORATIVE [1] 150/25	EXHIBIT 3-5 [1] 36/12
ELSE [7] 22/6 29/14 61/11 83/8 99/3 141/20	EVEN [3] 57/8 90/2 146/12	EXHIBIT 4 [1] 43/15
154/19	EVENDALE [1] 104/13	EXHIBIT 5 [1] 66/13
EMBEDDED [4] 149/22 149/24 149/25	EVENING [1] 122/24	EXHIBIT 5-3 [1] 33/21
155/2	EVENTUALLY [1] 151/5	EXHIBIT 5-4 [1] 47/1
EMERGENCY [1] 71/22	EVER [10] 30/26 31/12 35/1 35/6 56/25	EXHIBIT 5-TEJON-3 [1] 22/13
EMPLOYED [1] 98/11	57/22 62/10 126/23 152/22 155/21	EXHIBIT 6 [3] 71/25 72/8 87/12
EMPLOYEES [6] 5/25 6/3 42/14 92/8 92/10	EVERY [15] 86/21 86/22 92/20 92/20 99/20	EXHIBIT 8 [1] 6/1
92/12	128/25 140/1 142/2 148/5 148/6 148/14	EXHIBIT 80 [1] 67/3
ENCOURAGE [2] 159/10 159/12	148/16 148/18 149/1 156/20	EXHIBIT 87 [1] 67/7
ENCROACHMENT [3] 85/17 85/24 89/27	EVERYBODY [1] 101/5	EXHIBITS [12] 1/20 1/21 15/5 65/3 65/11
END [8] 23/19 38/14 43/13 58/5 83/8 130/15	EVERYBODY'S [1] 29/11	68/8 68/9 68/16 103/7 103/11 157/13 160/26
142/25 149/8	EVERYONE [1] 161/28	EXHIBITS 196 [1] 68/16
ENDED [1] 145/10	EVERYTHING [1] 112/17	EXIST [1] 98/8
ENDS [1] 159/23	EVIDENCE [16] 3/14 4/2 1/27 3/26 4/1 4/2	EXISTENCE [1] 88/6
ENDURING [1] 89/16	4/15 18/28 21/27 48/19 57/18 65/3 65/22	EXISTING [3] 32/15 151/24 152/1
ENERGY [1] 135/8	65/25 130/11 160/14	EXISTS [1] 85/8
ENGINEER [4] 73/6 105/15 116/3 139/3	EVOLUTION [1] 150/11	EXPAND [5] 91/8 91/9 91/11 91/19 114/18
ENGINEERING [17] 25/21 25/25 25/25	EVOLVING [1] 117/26	EXPANDABLE [2] 108/27 109/25
27/5 50/9 71/11 71/21 72/17 92/7 103/26	EXACT [2] 88/14 135/9	EXPANDED [1] 55/3
104/4 104/6 104/10 104/10 107/2 109/23	EXACTLY [3] 15/10 50/1 128/16	EXPANSION [6] 97/23 97/24 97/24 97/26
119/11	EXAMINATION [34] 1/16 4/13 5/21 14/13	98/13 109/1
ENGINEERS [4] 25/22 109/11 109/24	15/4 21/21 29/22 30/11 30/17 35/12 36/2	EXPEC [1] 149/26
128/3	36/18 36/24 38/10 39/16 46/13 47/24 49/7	EXPECT [2] 59/3 155/6
ENGINES [1] 104/15	61/15 64/24 71/2 87/22 87/24 93/13 93/16	EXPECTED [2] 72/20 131/22
ENOUGH [1] 162/1	95/5 97/16 97/18 97/20 103/21 124/17	EXPECTING [3] 14/12 121/24 135/17
ENSURE [2] 106/9 125/2	124/19 141/22 157/8	EXPENSIVE [2] 31/25 34/18
ENSURING [2] 125/8 139/8	EXAMINE [1] 50/11	EXPERIENCE [9] 26/9 27/28 72/9 72/27
ENTER [6] 65/11 67/3 67/13 112/26 113/3	EXAMINED [4] 47/6 49/8 49/14 51/28	74/6 85/3 126/18 126/22 139/7
143/2	EXAMPLE [25] 51/9 79/12 93/24 94/10	EXPERIENCING [1] 127/6
ENTERED [4] 46/12 46/16 67/7 112/21	98/21 100/5 109/9 109/14 109/15 109/20	EXPERT [14] 7/1 7/14 28/23 28/24 49/6
ENTERING [3] 106/12 112/27 157/13	117/12 117/25 122/22 122/26 127/3 127/24	62/8 64/4 64/5 64/17 74/23 107/1 152/14
ENTIRE [4] 84/2 90/9 90/10 94/2	128/1 128/8 142/9 146/14 151/15 151/19	152/24 152/25
	151/23 151/28 154/8	EXPERT'S [2] 49/6 49/13

E		
EXPERTISE [1] 52/3	118/15 119/2 119/3 119/15 123/18 124/10	FLOWS [3] 27/4 98/27 160/18
EXPERTS [2] 51/27 62/7	124/11 125/17 126/6 126/9 126/16 129/19	FLUCTUATE [1] 135/24
EXPLAIN [12] 34/19 37/1 38/12 38/17	129/23 130/7 131/1 139/16	FLUCTUATING [1] 58/25
39/20 40/5 49/18 76/13 122/5 122/24 129/26	FELT [1] 124/7	FLUCTUATION [5] 57/7 58/20 58/20
131/14	FEW [6] 27/28 30/13 87/28 93/14 123/14	135/26 136/1
EXPLAINING [2] 25/24 52/23	140/21	FLUCTUATIONS [1] 126/27
EXPLANATION [5] 4/7 35/13 35/27 36/1	FEWER [1] 128/14	FLUSH [1] 119/28
66/28	FIFE [3] 1/23 159/11 160/27	FLUSHING [2] 119/27 145/1
EXPRESSIONS [1] 25/27	FIGHTER [27] 25/19 28/4 28/13 28/15	FLYING [2] 9/1 83/22
EXTEND [1] 151/8	28/17 29/28 30/4 33/13 33/17 33/19 33/25	FOCUSED [3] 24/4 24/7 104/26
EXTENDED [2] 108/13 140/6	33/27 34/2 34/5 37/10 37/10 37/13 37/23	FOERSTER [1] 2/14
EXTENDS [1] 44/28	37/27 38/5 39/4 74/3 76/21 81/9 84/7 84/16	FOLKS [2] 98/10 136/21
EXTENSIVE [1] 158/9	145/8	FOLLOW [2] 16/15 142/22
EXTENSIVELY [1] 48/10	FIGHTERS [2] 73/12 113/7	FOLLOW-ON [1] 142/22
EXTENT [4] 21/4 43/9 87/13 114/8	FIGHTING [1] 19/17	FOLLOWS [1] 42/11
EXTERNAL [2] 80/7 142/28	FIGURE [12] 15/21 44/21 44/25 44/25	FOOT [6] 18/12 18/14 53/15 109/10 126/24
EXTRACT [1] 150/25	45/21 46/19 53/11 54/18 59/15 60/25 123/14	146/22
EXTRAORDINARILY [1] 143/26	123/17	FOOTAGE [8] 98/1 98/1 98/14 108/19
EXTREMELY [2] 135/22 155/24	FIGURE YOU [1] 45/21	108/22 127/21 127/27 128/7
EYES [2] 131/8 147/6	FIGURES [4] 46/12 65/15 146/26 152/21	FORCE [160] 2/18 2/6 2/25 5/7 6/7 6/10
F	FILE [4] 14/22 115/24 116/1 152/21	6/15 6/26 7/27 8/11 8/14 9/9 13/20 13/24
F-117 [1] 145/8	FILLS [1] 138/9	14/3 15/20 18/21 19/9 30/20 30/27 41/2
F-15 [3] 73/12 80/28 84/8	FILTRATION [1] 31/25	41/24 42/1 42/3 42/26 43/4 44/14 45/2 46/25
F-22 [1] 28/3	FINAL [8] 60/13 102/12 115/13 120/9 124/5	47/28 48/8 48/27 49/23 49/28 50/20 54/17
F-35 [2] 81/8 84/8	124/6 124/9 140/21	54/27 55/24 56/4 56/25 57/1 60/1 60/25
F-R-A-N-K-L-I-N [1] 70/24	FINANCIAL [1] 71/23	61/24 62/11 64/6 67/2 71/6 72/25 73/10
F.A.A [5] 12/22 41/25 41/28 42/2 42/14	FIND [1] 62/17	73/24 74/6 74/11 75/5 75/19 75/22 76/9 76/9
F.Y [1] 54/14	FINDINGS [1] 113/2	76/12 76/13 76/15 76/20 76/22 78/9 78/10
FAA [1] 12/15	FINE [2] 29/14 53/2	78/17 78/25 79/1 79/6 79/7 79/20 80/5 80/8
FACE [1] 137/3	FINISH [1] 159/20	82/17 82/19 82/25 83/7 83/15 83/24 84/3
FACILITIES [28] 54/9 79/4 80/23 82/25	FINISHED [1] 53/18	84/26 85/7 85/9 85/21 88/3 88/4 88/9 88/19
91/11 97/23 105/16 105/22 105/24 106/1	FIRE [44] 71/22 76/1 86/21 86/21 86/24	88/22 88/25 89/1 89/11 89/15 89/24 90/3
106/4 106/6 106/9 106/17 106/18 107/3	86/25 92/27 93/5 93/6 110/14 110/15 110/18	90/8 90/15 91/23 91/25 91/28 92/4 92/8
108/19 108/21 111/15 112/15 113/5 118/3	110/19 110/23 110/26 110/26 111/5 111/8	92/10 92/14 92/14 92/15 92/28 93/25 95/11
119/21 122/23 143/3 144/15 153/20 153/22	114/3 116/16 116/16 119/5 119/7 119/9	96/9 96/13 96/16 96/21 96/23 97/2 97/12
FACILITY [15] 9/5 80/19 82/14 104/6	119/15 119/20 119/20 119/20 119/26 120/2	99/10 100/10 103/4 104/13 104/14 104/15
105/10 106/16 107/1 109/5 109/22 109/26	137/10 137/11 137/12 138/2 138/20 138/28	104/22 104/22 104/23 104/24 104/25 105/2
110/27 111/13 112/13 116/3 125/5	139/6 139/9 143/5 143/7 143/9 143/10	105/7 105/7 105/8 105/16 105/24 105/24
FACT [13] 32/21 32/26 33/2 36/8 41/2 42/11	143/12 144/19	106/3 106/26 116/1 121/7 124/13 133/27
46/1 47/18 50/3 61/4 63/2 88/2 100/9	FIREFIGHTERS [2] 71/21 92/6	134/24 134/27 134/27 135/7 135/8 135/9
FACTIONS [1] 90/15	FIRES [1] 119/16	135/18 135/19 135/21 136/21 142/17 142/19
FACTOR [8] 26/14 39/17 39/20 39/28 40/10	FIRING [1] 82/13	142/19 142/22 142/28 143/2 143/13 145/21
50/3 121/19 138/21	FIRM [1] 97/5	145/23 153/16
FACTORED [1] 141/16	FIRMLY [1] 160/1	FORCE'S [3] 34/17 92/26 97/7
FACTORS [6] 19/20 33/6 40/22 50/9 50/10	FIRST [18] 1/11 2/9 4/5 14/16 32/3 32/8	FORCES [1] 71/22
123/27	36/11 37/16 50/17 50/21 114/20 117/12	FORECAST [1] 154/18
FACTS [2] 58/11 130/10	121/14 124/1 124/28 147/13 159/15 160/17	FOREGOING [1] 163/14
FACTUAL [1] 23/18	FISCAL [1] 24/25	FOREIGN [1] 142/7
FAIR [6] 9/3 26/13 26/13 48/7 74/17 88/16	FIT [1] 80/18	FOREVER [2] 58/8 151/10
FAIRLY [1] 117/2	FIVE [39] 10/22 10/26 19/15 19/28 20/3	FORGOT [1] 55/14
FAMILIAR [6] 11/18 77/14 77/25 79/23	20/14 20/21 21/10 26/21 26/24 44/2 44/5	FORM [2] 121/2 152/22
133/28 134/8	44/20 45/13 45/19 82/25 88/8 88/9 88/10	FORMAL [1] 64/9
FAR [11] 7/19 16/21 16/22 18/5 19/1 47/22	88/25 88/26 105/23 106/1 106/4 120/22	FORMER [1] 94/11
96/3 119/13 124/7 139/10 156/4	121/28 147/26 148/5 148/6 148/16 148/19	FORMING [2] 85/1 116/6
FARBER [1] 1/22	148/19 148/22 148/24 148/25 149/1 156/21	FORMULATE [1] 35/14
FARGO [1] 161/26	158/15 158/16	FORMULATED [1] 29/1
FARMING [1] 2/6	FIVE-YEAR [14] 19/15 19/28 26/21 26/24	FORT [1] 58/19
FARMS [1] 2/6	44/2 44/5 45/13 45/19 120/22 121/28 147/26	FORTHCOMING [1] 135/16
FARTHER [1] 138/10	148/24 148/25 156/21	FORWARD [6] 46/5 48/13 48/17 86/13 94/8
FAST [2] 50/25 119/13	FIXED [1] 97/5	102/14
FAULT [2] 1/12 55/15	FLAT [1] 80/19	FOUND [1] 92/13
FEBRUARY [5] 1/12 1/3 102/3 162/9	FLEW [1] 142/20	FOUNDATION [15] 3/12 14/26 15/6 18/24
163/16	FLIES [1] 95/14	46/4 46/5 46/23 48/6 48/19 52/15 57/13
FED [4] 137/13 137/15 137/16 140/9	FLIGHT [18] 1/12 8/6 8/21 8/22 73/9 73/11	65/26 86/14 113/12 144/7
FEDERAL [2] 161/1 161/2	74/19 77/1 79/17 79/19 80/27 84/18 85/12	FOUR [4] 65/14 82/25 89/12 114/23
FEE [1] 97/9	89/14 90/12 95/26 96/1 143/11	FOURTH [2] 34/10 114/3
FEET [42] 9/14 10/5 10/6 10/7 10/14 10/15	FLIP [2] 129/20 130/12	FRAME [2] 104/11 117/18
10/17 11/1 11/8 12/13 18/15 33/7 44/22	FLOAT [2] 134/26 134/28	FRANKLIN [2] 3/5 70/23
45/19 46/2 53/5 54/24 59/16 59/17 59/22	FLOODING [1] 88/28	FREE [1] 34/16
59/27 81/16 105/27 108/21 117/14 117/19	FLOOR [2] 114/1 162/5	FREQUENCY [1] 95/26
	FLOW [6] 49/21 49/22 49/28 59/9 128/17	FRESH [2] 43/21 78/6
	159/14	FROM 19 [1] 48/24
	FLOWED [2] 134/26 135/13	FRONT [2] 25/28 36/28

F	86/12 113/8 113/11 118/18 123/23 129/9 131/21 131/25 132/4 135/2 138/12 140/21 146/18 147/16 147/18 151/4 154/8 159/15 159/15 160/9 160/23 161/16 161/18 GOLDEN [1] 2/9 GOLF [5] 11/11 11/13 11/19 11/23 42/20 GONE [2] 24/15 128/11 GOOD [27] 1/10 1/24 1/25 5/23 5/24 7/27 38/27 70/12 78/7 83/22 85/11 85/22 85/22 87/26 89/23 89/25 93/18 95/7 95/8 124/21 124/24 141/24 141/25 145/24 158/5 160/3 161/12 GOODFELLOW [1] 72/24 GOT [5] 24/18 35/21 63/13 97/17 100/27 GOVERN [1] 95/20 GOVERNMENT [3] 5/25 33/23 142/3 GOVERNMENT'S [2] 4/11 7/10 GRADING [2] 146/15 146/16 GRADUATE [2] 103/24 103/28 GRADUATED [1] 104/1 GRAND [2] 161/20 161/25 GRANT [2] 67/18 67/26 GRAPH [8] 16/8 16/9 17/2 18/13 49/1 61/4 65/15 65/19 GRAVE [1] 76/17 GREAT [1] 117/11 GREATER [1] 143/23 GREEN [7] 52/23 53/5 53/10 54/22 54/23 78/11 80/13 GRESHAM [1] 2/7 GROSS [1] 98/14 GROUND [26] 9/14 10/3 10/13 10/22 10/24 10/25 11/10 13/13 15/22 25/4 25/7 25/8 25/9 28/17 30/20 30/28 31/5 31/10 31/17 34/12 34/15 34/27 35/7 87/28 124/22 136/7 GROUNDWATER [5] 1/6 1/22 1/2 102/2 163/6 GROUP [4] 2/8 62/7 82/27 104/19 GROW [1] 28/2 GROWTH [6] 27/22 27/24 28/12 84/24 121/10 121/12 GRUMMAN [7] 79/15 79/19 81/6 81/17 81/19 96/19 127/4 GUARD [1] 83/20 GUARDS [2] 92/6 144/19 GUESS [13] 14/25 25/13 25/18 25/26 26/2 26/3 35/13 35/28 36/5 42/18 65/14 76/25 157/27 GUIDANCE [1] 135/9	HAPPENING [4] 49/11 147/16 147/18 149/16 HARD [1] 135/22 HAS [59] 6/4 6/10 12/1 12/15 12/28 18/28 21/18 21/28 30/14 41/25 45/9 46/15 48/9 49/21 52/6 53/14 56/1 56/5 57/7 61/24 61/27 62/2 66/1 74/18 76/27 77/4 77/18 78/6 90/7 91/25 94/4 94/15 108/2 108/10 108/15 110/15 112/4 112/14 112/27 114/10 114/11 114/12 114/13 114/13 114/14 114/15 116/19 117/1 117/24 126/23 128/6 128/9 128/9 128/10 134/20 135/1 139/7 151/5 155/21 HASN'T [6] 14/15 21/4 21/6 46/25 66/1 108/11 HAVE [237] HAVEN'T [5] 3/20 127/10 135/26 144/4 146/3 HAVING [8] 38/20 38/22 38/24 52/26 89/25 89/28 154/13 154/22 HAWK [4] 81/10 84/7 117/22 142/18 HAWKS [3] 142/17 142/21 142/23 HAZARD [1] 83/26 HE [55] 7/3 7/5 7/6 15/8 21/4 21/6 25/20 29/1 29/13 29/13 38/18 39/13 40/14 41/17 43/11 43/24 46/7 47/9 47/9 48/5 48/6 49/13 49/14 49/18 49/25 50/2 50/4 50/5 50/6 50/6 50/7 50/8 50/8 50/10 52/6 52/6 52/9 52/13 52/14 57/11 59/3 63/23 65/6 65/15 68/2 77/16 79/12 107/5 139/7 139/10 139/28 140/3 159/17 159/26 159/27 HE'S [14] 2/22 2/24 5/11 7/1 7/13 21/6 28/28 38/11 47/6 49/26 57/8 58/26 159/16 159/17 HEAD [2] 51/12 134/11 HEAL [2] 34/24 34/25 HEAR [10] 29/8 38/14 38/16 40/2 65/9 68/18 68/24 75/13 113/10 129/8 HEARD [7] 3/20 8/24 8/28 40/8 68/11 68/13 106/2 HEARING [4] 38/20 38/22 38/24 52/26 HEARSAY [5] 28/25 28/26 29/18 48/2 86/5 HEATING [5] 113/26 122/3 122/9 123/6 123/10 HEAVY [1] 73/11 HELD [1] 92/14 HELP [5] 70/19 70/27 102/20 107/13 152/14 HELPER [1] 116/5 HELPFUL [4] 20/28 21/8 75/11 121/2 HELPING [2] 73/18 74/6 HERBERT'S [1] 67/7 HERE [68] 7/20 8/26 11/26 12/6 14/26 15/6 18/24 35/2 35/25 39/27 42/24 44/10 45/18 45/27 46/18 49/9 49/26 51/4 53/20 55/23 58/9 62/17 63/18 68/17 76/7 79/9 80/13 108/8 108/23 110/1 110/1 110/3 110/3 111/3 115/28 116/10 116/25 119/6 120/21 125/21 126/11 126/22 127/21 129/15 129/19 130/6 130/27 131/2 133/22 138/8 138/9 138/12 138/28 138/28 149/23 155/11 157/27 159/1 159/16 159/16 159/17 159/18 159/21 159/22 159/25 159/27 161/5 161/21 HEREBY [1] 163/13 HERREMA [3] 1/23 87/27 124/22 HIGH [20] 6/16 6/20 6/23 12/12 16/8 26/25 26/28 31/16 98/5 117/3 117/4 117/7 118/10 118/26 122/15 123/19 126/10 143/26 146/12 161/24 HIGH-RISE [1] 161/24 HIGHER [14] 16/10 92/17 92/18 122/9 122/19 130/2 132/28 133/2 146/12 146/25 146/26 149/17 149/27 150/14 HIGHEST [13] 113/27 118/9 118/14 118/15 118/16 118/20 118/28 122/7 126/3 126/4
G	G-E-N-E [1] 70/24 G.P.S [2] 73/5 73/6 GALLON [4] 111/6 111/7 111/8 139/13 GALLONS [3] 139/15 139/16 148/21 GAMUT [1] 84/2 GANDY [11] 22/10 22/27 23/2 23/13 25/16 25/19 25/19 25/21 28/19 34/9 39/11 GAVE [5] 35/27 65/6 122/22 127/25 128/1 GENE [2] 3/5 70/23 GENERAL [19] 2/12 2/13 2/13 28/19 33/8 39/13 68/20 78/21 93/18 104/16 106/5 106/6 106/7 120/20 121/16 128/17 133/22 147/11 153/28 GENERALLY [4] 75/2 80/22 131/15 132/9 GENERATED [1] 97/12 GERALD [1] 51/20 GERMANY [1] 142/14 GET [22] 1/26 5/11 5/15 7/19 9/22 25/11 43/28 46/21 78/3 112/1 121/26 128/25 137/23 137/26 138/3 138/5 138/14 138/15 154/17 161/4 162/3 162/4 GETTING [5] 37/18 55/4 76/25 145/13 150/6 GIVE [14] 10/28 32/6 32/10 37/5 70/17 102/18 104/11 107/16 109/8 122/26 128/8 149/28 151/14 151/19 GIVEN [10] 23/19 40/23 40/24 41/3 123/14 136/8 136/13 136/24 141/6 161/2 GIVES [1] 148/28 GLOBAL [8] 81/10 84/6 117/22 142/17 142/18 142/21 142/23 158/12 GO [44] 14/1 24/3 25/21 25/22 26/16 26/17 41/22 44/25 45/25 47/22 50/15 52/5 53/2 53/18 55/3 55/25 55/28 56/24 60/20 70/28 71/17 76/3 100/10 103/23 111/19 113/21 114/17 118/8 120/9 122/2 122/26 124/1 130/3 130/25 131/7 139/1 146/8 150/19 151/27 151/28 155/15 159/15 160/17 160/23 GOAL [3] 128/25 135/15 145/23 GOALS [5] 135/3 135/10 135/13 135/18 135/21 GOD [2] 70/19 102/20 GOES [8] 2/7 26/18 48/11 52/13 79/17 94/8 99/16 113/18 GOING [59] 2/23 4/19 5/12 5/16 15/8 18/22 18/27 20/3 21/1 21/25 25/5 25/7 25/9 29/11 35/17 40/17 42/12 43/11 43/20 44/26 46/3 47/3 47/12 47/22 47/23 50/7 50/25 51/18 52/8 52/9 56/14 57/14 58/9 58/14 68/5 68/10	H HACK [1] 11/19 HAD [55] 1/28 4/12 4/13 14/10 20/6 24/15 24/27 25/1 26/21 26/24 29/20 30/4 31/21 31/24 32/22 34/1 34/4 35/1 35/13 35/28 38/5 41/19 41/19 48/20 56/20 56/28 60/25 61/5 63/1 63/3 63/3 65/4 69/26 79/12 79/13 92/12 110/5 115/24 116/1 117/18 123/13 126/2 133/9 139/10 146/10 149/22 152/8 152/14 152/16 155/2 158/9 158/22 159/13 159/17 160/20 HALF [6] 76/7 76/28 80/10 80/17 81/16 105/26 HALLION [1] 8/24 HALLION'S [1] 79/9 HAND [5] 70/15 71/24 80/24 81/22 102/15 HANDFUL [1] 124/25 HANDLED [1] 26/27 HANDS [1] 81/18 HANGAR [2] 98/4 151/21 HANGARS [4] 119/23 123/7 154/9 154/14 HAPPEN [2] 98/26 98/27 HAPPENED [2] 128/6 145/9

H	139/25 139/28 140/3 143/16 145/2 146/15 147/4 147/22 147/27 148/14 148/24 153/8 156/4 159/14 HOWEVER [4] 108/11 117/6 121/22 123/21 HUH [3] 40/11 84/22 90/21 HUMIDITY [4] 122/10 122/14 122/20 150/15 HUNDREDS [1] 150/20 HVAC [26] 112/17 122/18 123/13 145/3 145/4 150/4 150/7 150/9 150/17 150/20 150/27 151/16 152/6 152/12 152/14 152/15 152/27 153/2 153/18 153/19 153/27 154/6 154/10 154/13 154/25 154/28 HYATT [1] 1/22 HYDRANT [1] 86/21 HYDRANTS [1] 119/21 HYDROGEOLOGIST [1] 7/2 HYPERSONIC [1] 80/26	INCLUDED [4] 14/12 40/5 130/15 134/8 INCLUDES [8] 5/9 104/3 106/26 106/27 112/8 112/8 112/10 112/16 INCLUDING [6] 44/2 72/20 90/10 158/15 158/16 162/1 INCORRECT [1] 46/27 INCREASE [17] 27/20 98/23 121/21 128/2 128/2 140/26 141/9 141/12 141/17 147/22 147/24 148/15 148/23 148/27 149/6 149/8 156/20 INCREASED [5] 62/3 117/24 117/25 148/13 150/1 INCREASES [2] 147/9 147/12 INCREASING [1] 125/23 INCREMENT [1] 147/26 INCREMENTS [1] 120/22 INDEED [1] 28/23 INDEPENDENT [2] 6/11 94/5 INDICATED [3] 32/11 34/1 136/8 INDICATES [1] 32/14 INDICATING [27] 2/3 15/16 22/23 36/22 43/25 45/27 53/1 54/20 56/3 62/21 64/14 65/27 67/12 71/16 71/26 80/6 102/26 103/9 108/1 110/1 115/26 120/14 120/24 124/2 129/24 138/8 156/16 INDISCERNIBLE [4] 47/16 50/23 51/23 153/14 INDIVIDUAL [1] 126/4 INDUSTRIAL [31] 75/4 75/18 75/20 79/4 85/27 86/23 89/24 93/3 93/8 94/23 96/7 96/12 96/13 96/15 96/17 96/18 104/23 105/15 105/24 105/27 106/13 107/25 109/5 110/5 110/17 113/25 115/22 116/15 134/14 135/1 135/10 INDUSTRIAL-BASED [1] 106/13 INDUSTRIES [1] 96/24 INDUSTRY [12] 75/25 89/25 90/10 90/26 91/2 93/4 93/6 93/27 97/5 97/6 98/20 99/6 INEXTRICABLY [1] 43/5 INFORMATION [12] 5/9 12/24 21/5 21/7 30/4 50/28 51/2 51/24 63/11 74/7 115/21 131/28 INFRARED [1] 73/24 INFRASTRUCTURE [7] 85/5 85/15 89/28 111/3 112/9 118/4 128/13 INITIAL [1] 147/19 INPUT [2] 115/12 120/19 INSIDE [3] 80/18 98/2 98/11 INSIGNIFICANT [1] 111/18 INSOFAR [1] 97/11 INSPECTION [1] 119/12 INSTALL [3] 31/25 150/13 150/13 INSTALLATION [18] 24/3 26/9 27/28 28/9 28/16 31/23 37/26 39/2 39/3 39/3 39/12 40/24 41/2 53/14 53/22 86/11 89/5 89/8 INSTALLATIONS [2] 26/10 134/28 INSTALLED [2] 150/18 151/6 INSTALLING [2] 151/7 153/20 INSTANCE [2] 28/3 121/24 INSTEAD [1] 79/28 INSTRUCTING [1] 3/3 INSTRUCTIONS [1] 92/14 INTEGRATION [1] 73/5 INTEL [1] 73/21 INTELLIGENCE [6] 72/24 73/17 73/19 81/3 84/5 84/12 INTENDED [1] 34/12 INTENSITY [1] 135/22 INTEREST [3] 112/28 113/1 114/24 INTERESTED [2] 57/18 123/4 INTERFACE [1] 109/3 INTERIM [1] 119/26 INTERJECT [1] 51/15
I	I TIME [1] 148/3 I'D [17] 32/9 35/20 43/13 50/13 56/13 64/1 74/22 79/21 87/11 87/14 106/28 130/3 130/25 131/7 146/2 149/10 160/14 I'LL [13] 4/7 14/25 40/20 58/3 86/6 86/7 93/18 114/20 122/26 124/5 134/16 158/3 161/27 I'M [108] 2/7 2/21 2/27 3/25 4/9 4/19 6/17 7/8 7/15 7/15 9/17 10/16 11/18 13/12 15/3 16/1 16/17 19/19 19/20 20/9 21/3 21/18 22/1 22/15 23/10 24/4 24/7 24/12 28/22 29/8 29/10 30/22 31/4 32/7 33/9 34/19 34/19 35/17 35/19 38/13 38/24 40/17 40/28 42/11 43/20 44/26 45/14 45/15 46/3 48/9 50/22 50/27 52/26 52/27 53/18 55/1 55/12 57/26 58/14 58/15 59/21 63/12 65/10 66/27 67/16 68/4 68/23 69/8 71/6 71/18 73/1 82/2 83/26 86/3 87/27 88/9 91/9 91/21 94/1 94/13 95/18 95/23 96/2 99/23 100/15 105/14 105/15 105/23 113/8 113/11 114/5 114/27 123/28 124/22 129/8 134/4 135/17 136/25 140/22 140/23 142/25 145/13 151/26 153/16 159/22 160/14 160/23 161/24 I'VE [9] 18/4 26/10 68/11 68/13 87/28 105/2 127/17 155/23 157/26 IDEA [5] 3/21 28/10 30/1 88/4 130/1 IDENTIFICATION [11] 3/14 4/2 1/28 3/22 4/22 14/3 15/19 65/22 68/10 69/3 69/28 IDENTIFIED [18] 2/17 14/6 23/1 46/15 51/26 64/16 65/18 67/26 69/12 72/4 78/13 103/17 107/21 110/22 115/15 120/26 146/13 146/20 IDENTIFIER [1] 2/6 IDENTIFY [4] 71/28 73/19 74/7 105/9 IDENTIFYING [1] 63/10 ILLEGIBLE [1] 4/12 ILLUSTRATIVE [2] 46/17 46/21 IMPACT [1] 117/11 IMPLEMENT [1] 135/14 IMPLEMENTATION [2] 133/27 134/19 IMPORTANT [2] 7/3 46/21 IMPORTED [1] 44/15 IMPROPER [1] 52/18 IMPROVE [1] 99/18 IMPROVEMENT [1] 153/18 IMPROVEMENTS [1] 122/4 IN-HOUSE [1] 92/7 IN-SOURCING [2] 91/28 92/2 INACTIVE [1] 114/14 INAUDIBLE [3] 38/12 68/22 129/6 INCENTIVE [1] 97/9 INCEPTION [1] 76/18 INCLUDE [3] 44/15 106/21 112/5	

I	JUMP [4] 121/26 121/28 123/2 154/11 JUMPS [1] 121/22 JUST [88] 5/14 14/21 23/5 25/22 26/17 31/19 31/26 32/7 34/19 40/20 41/13 44/9 44/11 46/1 50/5 53/9 53/12 54/25 55/8 56/24 58/18 59/14 59/21 60/15 60/22 64/1 65/6 65/10 65/15 66/7 66/21 68/17 69/18 69/21 70/12 75/2 78/18 80/15 80/19 84/20 86/22 87/28 91/22 92/19 93/14 96/24 97/17 103/12 104/10 107/16 107/24 109/8 111/4 111/11 111/20 114/8 114/20 115/4 117/9 117/26 118/8 120/5 120/13 122/24 123/28 124/3 124/25 129/9 131/9 131/14 136/4 140/8 140/21 141/1 144/24 144/27 146/10 148/2 148/3 148/20 148/22 153/1 154/4 156/6 157/13 158/22 159/20 162/2 JUSTICE [4] 1/14 2/12 2/13 58/7 JUSTIFICATION [1] 40/1 JUSTIFY [1] 27/20	143/4 LANDS [2] 82/3 82/4 LANDSCAPING [2] 111/17 111/18 LANGUAGE [2] 3/3 67/10 LAPIS [1] 2/6 LARGE [4] 45/27 80/19 123/2 162/1 LARGER [2] 121/22 121/26 LASER [3] 45/14 78/3 114/28 LAST [25] 13/18 15/6 21/9 27/27 32/22 35/15 36/2 41/15 44/1 46/13 46/14 48/5 48/22 63/1 63/3 65/13 66/12 66/16 80/27 91/22 110/6 132/5 133/19 150/17 155/18 LATE [2] 135/11 135/11 LATEST [2] 133/9 135/9 LAW [2] 1/17 161/3 LAWS [1] 3/9 LAWSUIT [2] 33/18 35/9 LAY [1] 144/7 LAYOUT [1] 80/22 LE [1] 2/5 LEAD [2] 139/3 139/4 LEADERSHIP [4] 28/18 39/9 73/13 73/23 LEARNED [1] 27/13 LEASABLE [5] 91/8 91/10 91/12 127/20 127/21 LEASE [21] 77/4 97/2 97/28 99/9 99/12 109/23 111/23 112/3 112/4 112/5 112/6 112/9 112/18 112/25 112/26 112/28 113/16 113/18 113/18 115/23 154/21 LEASED [14] 81/1 81/5 81/15 81/17 81/24 83/4 90/26 91/1 94/23 117/16 128/27 129/1 143/1 145/7 LEASES [15] 75/6 75/20 94/20 97/28 106/12 112/2 112/2 112/5 112/6 112/12 112/13 112/19 112/21 113/3 113/12 LEASING [2] 111/21 112/24 LEAST [8] 38/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 88/3 100/23 100/26 113/23 157/28 157/28 159/21 LEAVE [2] 68/3 119/4 LEE [1] 1/15 LEFT [4] 13/18 80/24 81/22 110/2 LEFT-HAND [2] 80/24 81/22 LEGAL [3] 42/6 8
---	---	--

L	133/14 LOWEST [2] 96/25 97/1 LUCK [1] 161/13 LUNCH [1] 101/4	MATHEMATICAL [2] 21/17 148/2 MATHEMATICALLY [1] 21/12 MATHEMATICS [1] 149/22 MATTER [2] 152/24 152/25 MATURED [1] 28/1 MATURING [1] 28/3 MAXIMUM [11] 31/20 32/12 53/21 53/21 54/16 54/26 56/24 56/28 57/9 57/19 123/15 MAXWELL [2] 74/6 74/11 MAY [40] 2/1 3/8 3/11 5/2 15/14 15/15 20/23 22/20 39/22 40/20 43/22 43/24 45/16 49/20 52/4 52/21 52/24 55/8 60/14 60/15 64/12 64/26 69/18 69/21 70/17 71/25 74/26 78/5 84/20 97/8 98/16 102/18 103/6 114/18 116/10 128/12 130/13 142/9 157/23 160/3 MAYBE [4] 131/9 131/11 161/4 161/4 MC [2] 1/17 1/24 ME [47] 3/15 9/22 13/14 18/5 18/13 20/1 20/20 21/1 21/14 22/25 24/19 26/5 35/23 38/22 40/2 43/28 46/14 51/7 54/20 57/17 63/1 64/8 64/9 66/24 71/11 72/1 74/28 77/15 92/19 92/24 102/25 104/8 107/16 113/22 130/28 147/6 147/10 151/14 151/28 152/4 152/14 153/24 154/4 158/28 160/2 160/4 162/3 MEAN [13] 22/15 30/8 37/7 42/24 96/8 98/10 116/11 122/25 125/8 134/22 134/24 150/19 159/3 MEANS [3] 37/2 129/27 151/10 MEASURE [2] 10/19 135/2 MEASURES [3] 54/27 134/7 141/13 MECHANICAL [1] 103/25 MEDAL [2] 105/3 105/3 MEET [6] 31/28 59/28 135/21 161/20 161/27 162/2 MEETING [2] 31/20 154/14 MEMORY [1] 139/28 MENTION [1] 41/7 MENTIONED [4] 13/9 53/12 82/23 82/23 MERE [1] 24/10 MERELY [1] 48/28 MET [1] 56/7 METALLIC [1] 122/13 METER [8] 115/24 136/12 136/24 136/25 137/20 138/3 138/10 138/12 METERED [3] 119/9 137/18 138/8 METERS [5] 119/9 119/28 136/9 136/22 137/8 METHOD [1] 138/26 METHODOLOGY [2] 123/22 138/27 MEXICO [1] 159/17 MIC [5] 52/27 52/28 71/13 71/14 75/7 MICHAEL [3] 1/17 1/23 2/8 MICROPHONE [4] 65/9 70/27 75/14 102/25 MID [4] 32/12 53/22 63/6 81/8 MID-FUSELAGE [1] 81/8 MIDAFTERNOON [1] 155/10 MIGHT [7] 2/9 75/11 125/3 127/1 127/2 127/28 143/14 MILE [2] 76/28 80/17 MILES [4] 80/10 95/9 95/16 95/19 MILIBAND [1] 1/19 MILITARY [36] 6/5 13/16 23/21 23/24 23/28 24/15 37/1 39/18 39/21 39/27 40/6 40/21 42/4 42/25 42/26 43/3 43/6 54/9 59/9 60/1 72/18 72/19 86/19 93/22 94/5 94/11 94/12 94/17 94/17 95/27 103/26 117/28 124/13 142/8 142/13 143/21 MILITARY ACTIVITIES [1] 42/25 MILLION [8] 81/16 105/26 108/20 111/6 111/7 111/8 139/13 148/21 MILLION-GALLON [1] 139/13
LIGHT [2] 40/7 131/18 LIKE [26] 5/8 18/5 18/9 25/26 25/27 35/23 41/2 43/13 50/13 56/13 64/1 65/12 67/2 79/21 100/28 106/28 117/3 126/5 127/11 140/25 147/6 149/28 158/11 159/12 160/14 160/22 LIKELY [1] 86/10 LIMITATION [1] 46/10 LIMITED [4] 29/19 48/12 86/7 93/22 LINE [40] 18/5 18/12 18/19 18/24 18/24 19/7 21/1 25/27 36/28 37/6 44/28 45/12 45/18 49/27 52/23 52/25 53/4 53/5 53/6 54/22 54/22 54/22 54/23 56/14 94/9 104/28 108/13 111/3 113/9 116/28 125/28 136/3 138/1 138/1 138/2 138/3 138/8 143/11 149/3 149/7 LINES [4] 53/10 53/10 110/25 116/13 LINK [2] 4/11 27/21 LINKAGE [1] 94/7 LINKED [4] 28/14 33/24 33/26 43/6 LINKING [1] 28/11 LINKS [2] 11/15 11/17 LIST [2] 14/11 14/28 LISTED [3] 40/23 129/18 130/6 LISTING [1] 64/5 LISTS [1] 129/22 LITIGATION [1] 94/25 LITTLE [11] 17/1 21/17 48/3 100/28 104/8 104/11 111/11 111/20 119/4 122/5 146/11 LIVE [1] 77/7 LLC [1] 1/21 LLP [1] 1/19 LOBBY [3] 161/20 161/27 162/3 LOCAL [2] 3/9 89/26 LOCATED [3] 80/14 90/2 91/12 LOCATION [5] 76/11 78/21 78/21 85/11 89/22 LOCKHEED [11] 81/1 81/15 81/18 81/21 83/4 83/9 94/14 96/19 127/3 142/10 145/7 LOCKHEED'S [1] 82/24 LOG [1] 136/27 LOGISTICIANS [1] 105/9 LOGISTICS [1] 105/7 LOGS [2] 51/10 51/18 LONG [12] 35/12 35/18 43/24 61/24 74/14 76/28 82/4 82/7 82/15 89/16 127/13 139/7 LONG-TERM [1] 89/16 LONG-WINDED [2] 35/12 35/18 LONGER [1] 88/21 LOOK [27] 9/12 15/25 16/27 18/5 22/27 49/4 51/10 55/2 55/4 66/17 66/21 95/17 116/8 116/28 121/23 122/27 126/4 129/18 130/3 130/25 133/12 149/14 151/19 151/20 154/16 155/28 156/1 LOOKED [18] 18/4 117/2 123/19 131/23 131/28 132/1 132/4 132/13 132/18 132/20 132/21 132/22 147/13 147/15 147/17 155/24 156/4 156/8 LOOKING [3] 16/17 40/28 48/9 LOOKS [3] 17/6 140/25 147/6 LOOP [8] 86/25 150/22 150/23 150/27 151/3 151/16 152/6 152/27 LOS [11] 1/2 1/3 3/4 62/7 73/24 85/10 102/3 158/8 158/22 163/2 163/13 LOS ANGELES [6] 3/4 62/7 73/24 85/10 158/8 158/22 LOST [1] 57/26 LOT [11] 19/2 19/18 21/17 32/22 58/10 58/11 117/20 118/17 122/6 144/26 153/18 LOW [5] 26/25 26/28 117/3 123/1 123/1 LOWER [5] 81/22 83/25 98/5 123/28	M M.C.L [1] 31/28 M.S [1] 104/1 MADE [9] 23/12 23/13 30/3 31/6 122/23 131/24 133/10 135/21 147/11 MAIL [15] 22/12 22/26 23/2 23/13 24/19 25/17 27/23 32/23 33/4 35/15 36/1 36/9 39/18 40/24 41/7 MAILS [1] 41/14 MAIN [5] 10/5 10/15 10/24 119/13 153/3 MAINTAIN [7] 75/28 99/18 106/14 122/19 127/8 150/14 153/18 MAINTAINED [2] 91/25 100/13 MAINTAINERS [1] 109/24 MAINTAINING [3] 76/4 85/26 85/26 MAINTAINS [1] 97/4 MAINTENANCE [8] 79/16 81/2 81/7 84/5 84/18 90/12 99/21 119/27 MAJOR [8] 19/21 25/20 73/22 104/23 146/15 146/21 146/24 153/2 MAJORITY [3] 157/28 158/26 159/1 MAKE [13] 20/25 28/19 50/11 50/12 53/7 93/18 106/24 109/5 116/15 119/28 125/5 146/17 157/28 MAKES [1] 51/20 MAKING [2] 57/11 133/7 MAN [1] 31/6 MAN-MADE [1] 31/6 MANAGE [2] 75/28 128/24 MANAGED [1] 92/1 MANAGEMENT [17] 71/23 73/13 74/23 76/10 76/12 76/14 76/15 76/23 89/10 89/11 91/26 105/8 105/16 106/8 106/22 107/3 144/18 MANAGERS [1] 105/9 MANAGES [1] 75/23 MANAGING [1] 127/12 MANDATE [1] 133/27 MANIFOLDED [1] 139/1 MANNED [1] 84/13 MANNER [1] 159/22 MANPOWER [1] 76/3 MANUFACTURE [3] 99/28 141/27 142/3 MANUFACTURED [5] 41/6 104/16 143/17 143/19 143/20 MANUFACTURERS [1] 94/14 MANUFACTURING [10] 3/6 104/3 104/7 104/9 121/17 150/12 150/16 153/11 156/28 157/1 MANY [16] 5/25 30/14 31/27 42/14 61/4 88/4 88/12 88/22 94/10 95/9 97/9 98/22 105/19 105/22 137/11 143/16 MARCH [1] 163/17 MARILYN [1] 2/13 MARINE [1] 33/6 MARK [7] 4/23 15/12 16/1 43/21 65/5 65/12 65/21 MARKED [19] 1/28 3/22 4/22 5/28 9/9 13/23 14/2 15/18 22/12 22/26 32/23 66/1 67/6 68/10 69/3 69/27 69/28 103/13 107/15 MARTIN [8] 81/2 81/15 81/18 81/21 83/5 83/9 96/19 145/7 MASS [1] 96/14 MASTER [2] 72/24 103/26 MASTER'S [1] 72/15 MATERIAL [2] 64/8 104/10 MATERIALS [1] 104/7 MATH [3] 126/7 137/27 138/6	

M	MR. GERALD [1] 51/20 MR. HERBERT'S [1] 67/7 MR. JUDKINS [26] 1/16 1/24 5/23 7/22 7/27 9/23 13/12 14/2 15/18 16/18 19/7 21/28 22/9 22/25 23/12 24/5 30/1 30/19 36/26 60/22 61/17 64/24 66/7 68/1 68/6 133/20 MR. JUDKINS' [3] 52/2 65/4 65/11 MR. KUHS [14] 14/11 15/2 20/28 30/14 35/14 36/1 46/20 52/9 55/4 58/13 61/13 95/2 155/15 160/11 MR. KUHS'S [1] 160/26 MR. LEININGER [9] 4/4 47/11 49/5 51/15 51/22 102/10 125/15 126/2 160/4 MR. OYARZO [1] 71/24 MR. SCOTT [6] 103/23 107/1 114/27 124/21 141/24 155/18 MR. TOM [1] 63/22 MR. ZIMMER [6] 30/12 35/17 36/17 49/3 59/1 157/9 MS. [1] 162/4 MS. WANG [1] 162/4 MUCH [25] 10/12 13/13 13/14 13/15 18/8 34/18 34/27 42/23 55/19 57/23 57/27 57/28 58/10 59/28 64/26 84/2 100/19 138/12 139/14 139/15 140/1 140/3 147/4 148/14 157/25 MULTIPLE [1] 87/13 MULTIPLICATION [1] 148/3 MULTIPLIER [6] 19/16 25/11 25/13 26/7 27/9 154/18 MUNICIPAL [2] 115/27 116/18 MUROC [1] 12/28 MUST [1] 54/15 MUTUAL [1] 143/14 MUTUALS [1] 2/8 MY [87] 1/11 1/12 4/7 8/23 9/24 19/19 25/28 26/8 26/10 26/12 26/12 27/15 27/28 28/18 29/2 29/6 29/12 29/13 32/5 32/9 33/9 33/18 37/26 39/3 39/9 49/15 51/11 55/15 57/28 61/3 62/13 68/28 72/2 72/15 72/18 74/5 74/12 75/23 80/13 81/13 84/26 85/3 85/4 87/26 89/9 89/9 91/3 93/3 94/10 100/3 103/3 104/1 104/1 104/5 105/14 109/2 115/11 115/11 120/18 120/18 124/21 126/7 126/25 127/12 128/23 128/23 128/25 130/3 130/25 131/8 135/13 145/1 145/21 146/26 147/6 149/20 149/26 149/26 152/14 152/23 152/24 153/16 154/20 158/21 159/16 159/16 162/3	NEEDS [15] 40/7 44/2 44/14 49/1 57/7 57/14 58/19 58/21 58/27 59/8 59/9 114/3 124/8 125/27 161/3 NEELY [1] 63/22 NEGOTIATING [1] 106/11 NEIGHBORS [2] 85/22 89/26 NEVER [5] 33/19 34/1 50/6 127/10 152/8 NEW [33] 19/17 20/13 30/4 49/12 66/22 73/19 73/20 77/15 77/20 88/27 106/19 106/19 106/19 109/11 109/13 110/5 112/13 117/21 123/3 123/5 123/11 123/11 145/11 150/17 151/16 152/5 152/27 153/27 154/9 154/10 154/12 154/22 159/17 NEW YORK [1] 88/27 NEXT [11] 1/14 15/12 45/25 110/10 120/9 131/26 141/10 147/18 148/24 148/25 155/7 NICE [1] 101/4 NIGHT [2] 96/5 159/23 NINE [3] 130/6 130/20 130/23 NINE-MONTH [2] 130/20 130/23 NO [128] 1/6 1/27 2/28 3/18 3/18 3/21 4/14 4/26 5/18 6/9 7/23 8/8 9/20 11/21 11/24 12/9 12/11 12/25 12/27 13/8 13/17 16/3 18/13 18/24 20/7 20/19 22/2 22/15 22/22 23/10 25/6 25/15 27/10 27/18 28/28 30/4 30/8 31/2 31/11 31/18 31/18 32/16 33/1 33/12 33/15 34/4 35/10 36/3 36/15 37/8 37/18 41/7 42/16 46/5 46/23 47/13 47/27 48/4 48/14 48/19 51/14 52/12 52/18 57/13 57/25 61/9 63/12 63/15 63/25 63/26 64/25 66/2 75/8 77/9 77/18 82/9 82/11 88/21 91/21 93/12 94/27 95/28 96/2 97/14 98/12 99/4 100/15 100/17 111/14 111/14 111/16 111/27 118/2 124/16 127/12 128/23 129/28 130/25 133/16 137/9 137/19 137/22 138/24 139/20 140/2 140/14 141/19 142/4 148/12 148/12 148/15 151/10 152/23 154/8 154/8 154/26 155/1 156/3 156/14 157/6 157/7 157/10 157/12 159/24 160/7 160/8 161/22 163/7 NOISE [3] 95/21 95/22 95/23 NON [1] 142/12 NON-U.S. [1] 142/12 NONE [4] 5/9 32/16 67/10 136/21 NONRESPONSIVE [1] 29/24 NONSUIT [1] 161/9 NOON [3] 100/20 100/27 101/7 NORMALIZE [1] 135/22 NORTH [10] 6/22 78/18 81/26 82/13 107/28 110/27 111/7 137/15 140/8 140/12 NORTHERN [2] 80/11 95/9 NORTHROP [8] 79/15 79/19 81/5 81/17 81/18 94/14 96/19 127/4 NORTHROP'S [1] 82/24 NOT [168] NOTABLE [1] 105/4 NOTE [3] 156/18 156/19 156/22 NOTED [2] 43/24 139/10 NOTES [1] 68/28 NOTHING [6] 20/8 31/26 70/18 87/8 99/1 102/19 NOTICE [7] 2/28 3/26 3/28 63/28 64/1 64/10 160/13 NOTICED [1] 36/4 NOTIFY [1] 31/26 NOW [45] 1/13 4/3 4/9 5/28 10/21 14/19 19/11 20/13 24/14 25/10 27/19 28/5 39/23 47/7 49/5 49/11 53/27 54/20 56/24 57/8 57/11 57/21 59/17 62/28 66/23 68/1 70/9 70/17 92/5 92/7 92/13 95/20 102/18 109/21 112/1 118/4 120/5 120/20 122/27 126/20 150/19 158/3 158/23 160/10 162/2 NUMBER [80] 3/14 4/2 1/1 2/16 6/3 7/5 10/10 23/10 24/23 26/22 26/25 26/25 26/28
	N NAME [9] 1/2 63/8 70/22 87/26 102/2 102/23 117/21 124/21 139/21 NARROW [3] 117/2 132/9 141/7 NASA [16] 8/17 8/20 12/1 12/5 12/7 81/24 83/11 94/3 94/7 94/15 142/16 142/24 142/24 142/26 142/27 143/10 NATION [3] 85/27 85/28 96/12 NATION'S [1] 113/6 NATIONAL [5] 83/20 85/27 96/10 112/28 113/4 NATURAL [3] 1/14 6/27 7/10 NAVY [1] 117/22 NAVY'S [1] 81/10 NEAR [1] 90/3 NEARLY [1] 117/18 NECESSARILY [1] 98/9 NECESSARY [10] 37/25 38/5 59/28 86/18 92/25 119/19 121/7 124/13 143/5 159/28 NEED [24] 3/11 9/6 16/27 27/2 28/22 40/12 52/28 57/10 57/21 62/17 87/3 114/18 122/7 122/8 123/2 141/3 141/4 145/19 146/12 146/20 146/23 150/8 161/6 161/8 NEEDED [2] 27/21 73/21	

N	26/5 28/7 28/10 37/9 39/16 41/18 42/17 43/27 44/17 45/9 51/4 53/16 61/24 66/8 71/24 71/28 72/26 74/17 74/28 75/15 76/8 76/27 79/9 79/21 80/2 82/12 83/3 86/10 88/16 88/21 88/24 89/3 90/2 90/18 91/4 91/7 91/11 91/14 91/18 91/22 93/12 99/24 100/12 104/12 104/28 105/23 110/8 111/19 114/10 115/2 115/9 115/22 116/8 116/21 118/7 119/3 124/27 125/13 126/1 126/7 126/13 126/18 126/26 127/10 127/15 127/18 127/24 129/7 129/14 130/5 130/14 130/22 131/5 131/16 131/20 132/7 132/13 132/16 133/12 133/25 134/6 136/4 137/13 138/19 138/25 141/6 141/12 144/22 147/21 147/24 148/18 148/24 149/1 149/14 149/18 150/17 151/11 152/4 154/16 155/5 160/11 160/16 161/12 OLD [5] 109/21 146/23 151/17 152/5 152/27 OLDER [1] 122/12 ON-SITE [2] 116/21 139/4 ONCE [16] 27/8 27/8 74/2 74/5 76/16 77/5 81/6 81/13 83/12 84/17 85/13 85/14 89/22 89/26 89/28 90/8 ONE [61] 4/9 14/18 19/15 23/21 23/26 24/18 28/1 31/24 31/26 31/28 34/10 38/5 39/17 40/21 50/10 55/2 60/13 61/2 61/17 66/4 69/18 69/21 69/26 77/18 77/20 78/6 80/18 82/24 86/26 88/27 89/12 97/17 100/24 103/12 106/3 108/3 108/10 108/27 110/11 110/27 110/28 114/12 117/21 121/14 121/16 122/2 122/26 122/26 123/5 127/1 127/2 128/1 135/17 136/3 142/2 146/14 148/20 150/1 150/4 151/16 151/16 ONE'S [1] 77/19 ONE-THIRD [1] 61/2 ONES [2] 114/6 151/17 ONGOING [3] 89/17 100/28 158/2 ONLY [16] 11/20 15/8 18/4 24/16 46/4 48/17 52/16 58/14 68/26 87/14 90/15 108/3 110/2 116/18 139/1 156/8 ONWARD [1] 55/5 OPEN [1] 150/22 OPERATED [4] 118/5 118/20 155/19 155/22 OPERATING [6] 76/11 91/23 106/14 112/6 112/8 125/1 OPERATION [3] 74/2 74/23 76/10 OPERATIONAL [2] 7/16 103/27 OPERATIONALLY [1] 106/9 OPERATIONS [5] 71/9 71/18 71/21 73/28 74/8 OPERATOR [7] 109/23 115/23 119/12 136/25 139/5 139/7 139/22 OPERATORS [5] 109/3 112/6 112/18 145/11 154/21 OPERUM [1] 19/19 OPINION [36] 13/19 19/11 19/14 21/4 22/9 23/17 23/27 24/14 27/19 28/24 29/1 29/5 38/11 39/6 39/8 39/9 39/14 40/7 41/18 42/6 42/8 43/3 49/6 49/7 49/9 49/10 49/13 58/22 59/28 84/23 84/26 85/2 89/7 121/3 124/11 147/1 OPINIONS [3] 51/5 116/6 124/26 OPPORTUNITY [5] 14/22 14/23 14/27 24/1 161/8 OPPOSED [2] 31/8 92/15 OPTION [1] 32/2 OPTIONS [1] 31/24 ORDER [9] 15/13 33/22 77/3 87/2 96/11 113/22 134/25 154/17 159/14 ORDERED [1] 2/5 ORGANICS [1] 2/5 ORGANIZATION [10] 12/18 74/10 75/23 76/4 81/14 89/9 89/10 91/3 92/15 92/16	ORGANIZATIONS [1] 13/15 ORIGINALLY [1] 135/19 OTHER [37] 3/6 18/6 23/20 26/9 27/25 28/21 29/15 29/16 30/11 57/24 82/6 88/3 88/4 88/8 90/15 93/13 93/25 93/25 93/28 94/19 97/16 106/15 110/28 130/12 130/16 130/17 142/5 142/12 143/20 149/16 149/22 149/24 149/25 154/24 157/8 158/11 161/7 OTHERS [4] 18/6 38/10 70/3 94/15 OUR [59] 3/19 25/7 25/9 34/11 48/21 48/28 65/13 80/9 81/20 81/25 81/27 81/27 83/22 84/1 90/10 96/16 100/20 112/13 112/18 112/24 113/2 113/25 113/26 113/27 116/28 117/1 117/4 117/11 117/22 119/6 119/9 119/15 119/20 120/2 120/6 120/7 120/21 122/7 122/10 123/19 124/8 126/10 135/4 135/9 135/23 135/23 142/10 143/4 143/7 143/11 143/15 146/17 146/21 153/19 153/21 154/9 154/9 155/10 158/1 OUT [31] 34/15 48/28 61/8 73/5 80/16 82/15 83/21 92/6 93/20 93/21 110/5 112/25 117/16 117/23 119/16 119/19 120/22 122/1 124/7 124/9 125/22 126/20 130/6 135/20 139/16 140/27 143/10 147/4 154/6 156/10 159/20 OUTLINE [3] 80/5 107/18 107/22 OUTPUT [1] 95/21 OUTSIDE [4] 7/1 60/11 62/11 151/4 OUTSTANDING [1] 158/14 OVER [26] 4/16 13/24 15/9 16/10 16/10 20/21 21/9 25/1 26/10 27/27 34/24 34/26 46/1 52/24 54/13 61/2 61/26 74/18 88/15 93/9 103/23 106/5 141/10 146/22 149/6 158/3 OVERALL [2] 136/2 145/23 OVERHAUL [1] 104/24 OVERRULE [1] 42/12 OVERRULED [13] 19/4 29/3 38/15 38/26 40/18 41/11 52/20 53/25 86/15 98/16 113/14 118/23 130/13 OVERRUN [1] 82/3 OVERSAW [1] 92/1 OVERSEE [4] 5/26 6/4 71/9 71/19 OVERSTATED [1] 26/13 OVERVIEW [2] 78/8 78/14 OWN [8] 6/10 21/20 93/5 93/7 94/4 110/16 112/4 143/13 OWNED [2] 81/23 143/13 OWNS [2] 75/5 75/19 OYARZO [2] 2/19 71/24
O	O'CLOCK [3] 1/12 159/6 160/24 OATH [1] 1/19 OBJECT [5] 18/22 46/3 68/15 113/8 113/11 OBJECTING [2] 4/3 19/4 OBJECTION [31] 3/19 4/7 6/28 14/24 14/26 29/2 29/3 29/25 30/22 37/17 37/17 38/3 38/26 39/24 40/14 41/5 41/11 42/12 42/27 43/7 52/20 53/23 55/26 67/15 78/26 86/1 86/4 87/15 118/21 130/10 144/1 OBJECTIVES [2] 94/4 134/8 OBSERVATION [1] 139/27 OBSERVATIONS [1] 140/5 OBTAIN [2] 100/6 136/28 OBSOLETELY [1] 57/25 OCCASION [1] 100/2 OCCASIONALLY [1] 83/18 OCCUPIED [1] 91/5 OCCUPY [1] 97/13 OCCUPYING [1] 98/17 OCEAN [1] 83/25 OFF [11] 13/18 17/1 25/23 51/11 96/4 104/12 134/11 138/8 138/11 143/4 159/24 OFFER [15] 1/27 3/28 4/2 5/13 21/25 48/18 48/25 51/5 64/1 64/12 67/9 68/11 69/28 74/22 160/26 OFFERED [9] 3/19 3/20 3/22 5/5 18/27 46/16 52/14 68/25 77/19 OFFERING [11] 2/7 2/26 2/27 3/24 4/9 7/15 7/15 65/22 65/24 70/1 70/2 OFFERING IT [1] 7/15 OFFICE [17] 1/17 2/12 11/27 80/13 81/14 98/5 104/13 104/14 104/17 105/20 109/2 109/10 109/16 128/2 135/14 152/24 158/22 OFFICER [3] 72/20 72/20 73/1 OFFICERS [2] 11/20 37/4 OFFICIAL [3] 2/28 163/11 163/23 OFFSET [1] 27/25 OFFSETS [1] 28/5 OFTEN [1] 119/25 OH [6] 22/21 45/15 62/20 65/10 65/28 78/4 OHIO [2] 103/4 104/13 OKAY [116] 1/18 4/3 4/25 5/1 6/25 7/25 11/27 16/28 18/18 20/5 20/13 22/21 25/10	P P.A.A [4] 28/15 37/10 37/23 37/27 P.M [2] 101/8 102/6 PACKET [1] 103/7 PAGE [6] 1/7 23/7 36/12 36/13 87/13 102/7 PAGES [3] 65/14 66/6 163/14 PALMDALE [38] 5/6 67/9 71/7 71/19 74/13 78/16 78/18 85/20 85/23 86/4 95/18 107/27 108/9 108/12 108/13 111/4 111/9 114/16 115/28 116/20 137/14 137/16 137/24 137/28 138/5 138/13 138/21 138/22 144/11 144/14 144/23 145/14 145/20 145/22 146/8 146/13 146/27 147/5 PAPER [2] 9/22 20/23 PAPERS [2] 130/3 130/26 PARAPHRASE [1] 84/21 PARCELS [1] 110/3 PARENT [1] 89/9 PARKER [1] 2/3 PARLANCE [1] 37/1 PART [18] 2/9 21/19 21/26 21/27 29/18 29/19 47/19 62/13 64/10 76/9 82/8 86/2 94/24 96/9 96/13 109/5 116/2 153/27

P	PHELAN [1] 1/19	PLUGGED [1] 29/12
PARTICULAR [8] 3/3 43/2 58/4 63/1 82/27 127/7 128/14 149/19	PHONE [1] 119/22	PLUS [4] 59/19 80/21 97/8 148/28
PARTICULARLY [2] 2/23 117/16	PHONETIC [3] 19/19 51/20 63/22	PLUSSED [1] 146/18
PARTIES [6] 109/7 158/12 158/23 158/24 159/1 160/20	PHOTO [4] 77/14 77/26 78/14 107/19	POINT [21] 3/19 4/14 16/26 18/10 18/11 18/28 19/5 21/19 34/17 50/1 53/20 54/18 55/6 58/14 60/22 66/12 78/3 108/4 117/15 125/20 128/28
PARTISAN [1] 159/3	PHOTOCOPY [1] 4/17	POINTED [1] 34/15
PARTNER [1] 98/20	PHOTOGRAPH [2] 79/24 82/1	POINTER [2] 45/14 114/28
PARTNERS [7] 75/20 90/10 90/27 91/2 93/27 96/7 96/17	PHOTOGRAPHIC [1] 139/28	POINTING [1] 48/28
PARTNERSHIP [1] 96/23	PHOTOS [1] 155/23	POINTS [10] 15/10 15/25 45/8 46/1 46/2 48/17 48/17 50/11 52/15 129/3
PARTS [3] 31/21 31/22 113/28	PHRASE [1] 58/8	POND [1] 42/21
PARTY [1] 15/4	PHRASED [1] 30/24	POPULATION [18] 23/24 24/2 31/23 31/27 39/19 39/21 39/28 40/6 40/21 40/25 41/3 41/6 61/19 61/28 62/3 69/9 69/13 128/10
PASSED [1] 56/2	PHYSICAL [5] 97/24 97/25 97/27 98/6 98/18	POPULATIONS [1] 23/22
PAST [6] 49/2 88/13 107/10 122/12 156/19 156/24	PICK [1] 148/20	PORTFOLIO [2] 94/1 94/2
PATTERN [1] 59/8	PIECE [2] 9/22 82/10	PORTION [4] 45/27 81/7 86/8 159/14
PATTERSON [4] 100/4 100/7 103/4 105/6	PILOT [6] 8/8 8/11 8/13 25/19 83/17 83/21	POSITION [3] 71/5 74/12 105/18
PAUSE [22] 9/28 13/27 15/27 16/5 16/12 17/4 17/8 17/12 17/16 17/20 17/24 18/1 19/24 22/18 24/21 43/18 55/17 60/18 64/21 69/24 140/18 153/5	PINON [1] 1/19	POSITIONS [1] 92/3
PAVEMENTS [2] 76/2 106/19	PIVOTS [2] 80/16 80/19	POSSIBILITIES [2] 24/4 24/10
PAY [1] 161/16	PLACE [7] 75/8 90/1 108/11 129/2 135/12 146/18 155/24	POSSIBILITY [2] 40/26 41/1
PAYING [1] 99/12	PLAINTIFF [2] 1/14 1/17	POSSIBLE [3] 33/17 114/19 128/26
PAYMENT [1] 99/20	PLAINTIFF'S [1] 3/2	POSSIBLY [1] 38/6
PAYMENTS [1] 99/12	PLAN [12] 33/19 91/8 91/9 91/11 91/18 105/10 106/15 106/17 133/27 133/28 134/19 160/25	POSTED [1] 14/15
PEAKS [1] 49/23	PLANE [1] 28/15	POSTING [1] 14/11
PEJORATIVE [1] 35/18	PLANES [4] 8/25 83/15 142/2 142/6	POTABLE [8] 54/14 93/7 108/9 110/16 119/7 134/13 145/14 145/16
PENDING [2] 70/17 102/18	PLANNER [1] 33/6	POTENTIAL [4] 33/17 141/3 141/4 142/11
PENTAGON [3] 73/16 80/18 100/4	PLANNING [1] 123/24	POTENTIALLY [2] 33/24 97/8
PEOPLE [6] 41/19 94/19 98/22 105/19 105/21 128/15	PLANS [6] 83/28 88/24 91/13 106/8 111/1 149/26	POWERPOINT [1] 68/19
PER [23] 11/8 31/21 31/22 121/21 121/27 121/28 124/11 125/17 126/8 126/24 127/6 139/12 139/15 139/15 139/16 139/17 146/9 146/11 147/25 147/26 148/5 148/7 149/11	PLANT [156] 2/8 2/24 3/1 5/7 6/8 6/12 6/13 67/2 67/19 71/6 71/8 71/19 71/20 74/13 74/15 74/24 75/3 75/4 75/18 76/9 76/25 76/26 76/27 77/4 77/8 78/9 78/14 78/17 78/21 78/24 79/1 79/4 79/13 80/6 80/8 80/13 80/23 83/8 83/10 83/16 83/19 83/21 83/26 83/28 84/23 84/27 85/6 85/18 85/25 85/26 86/11 86/19 87/6 88/2 89/2 89/4 89/12 89/20 89/21 90/2 90/4 90/14 90/20 91/8 91/15 91/19 91/24 92/26 93/27 95/10 95/18 95/21 95/28 96/4 97/13 97/23 98/26 104/13 104/16 105/27 106/3 106/26 106/27 107/12 107/13 107/19 107/22 108/1 108/2 108/5 108/6 108/7 108/10 108/14 108/15 108/20 108/22 109/3 109/8 109/18 109/21 110/20 110/20 111/4 111/28 112/4 113/24 114/2 114/10 114/11 114/11 114/11 114/12 114/12 114/13 114/14 114/15 114/15 115/23 116/1 116/19 120/24 121/7 122/8 124/14 125/1 125/2 125/11 126/23 126/28 127/20 128/18 134/19 134/21 135/18 135/27 138/20 139/4 139/8 141/14 141/27 142/27 142/28 143/2 143/3 143/17 143/20 144/11 144/21 145/22 152/16 153/12 155/19 155/21 156/5 157/5	PREDICTION [1] 44/2
PERCENT [82] 19/16 25/10 25/13 26/6 26/13 26/16 26/19 26/27 27/9 27/14 44/24 45/22 45/23 49/18 49/22 49/27 50/3 50/3 50/5 50/6 53/6 54/13 54/16 54/19 54/28 56/7 56/9 56/10 56/20 56/28 57/2 57/9 121/21 121/23 121/27 121/28 121/28 134/12 134/14 140/25 141/1 141/10 141/12 141/17 143/23 143/25 146/9 146/11 146/26 146/26 147/22 147/24 147/24 147/25 147/26 148/4 148/5 148/6 148/7 148/8 148/11 148/13 148/16 148/18 148/21 148/23 148/27 149/9 149/11 149/12 149/15 153/8 153/26 154/5 154/18 154/25 155/2 155/6 156/20 156/25 156/26 157/4	PLANT 42'S [1] 96/4	PREFERRED [1] 95/13
PERCENTAGE [7] 54/9 121/11 121/19 143/19 143/25 145/27 146/1	PLANTS [12] 88/4 88/5 88/9 88/17 88/22 88/25 88/26 89/13 106/25 127/12 135/21 153/17	PREMARKED [1] 69/27
PERFORM [1] 94/16	PLANT 42 [33] 2/8 71/6 71/8 71/19 74/13 74/15 74/24 76/26 77/8 79/1 80/6 80/13 80/23 83/10 83/19 83/26 84/23 84/27 85/6 85/18 86/11 89/12 90/14 93/27 95/28 124/14 134/21 139/8 142/27 142/28 143/20 152/16 155/19	PREMISES [1] 99/13
PERFORMANCE [2] 122/16 133/28	PLANTS' [1] 105/24	PREPARE [3] 47/9 62/11 152/14
PERHAPS [3] 4/7 14/17 71/15	PLATFORM [2] 81/4 84/16	PREPARED [19] 15/2 15/9 19/11 32/18 47/8 47/21 47/24 51/5 62/6 62/7 63/16 63/17 63/21 63/23 68/19 114/22 152/9 152/13 153/1
PERIOD [23] 19/9 44/9 45/1 45/2 55/3 55/5 55/28 57/9 61/5 118/9 121/10 123/20 125/22 125/27 126/21 140/7 141/8 148/24 148/25 155/24 155/26 156/6 156/21	PLAY [2] 135/20 149/10	PREPAREDNESS [2] 75/4 75/19
PERIODIC [1] 119/27	PLAYERS [2] 60/16 106/13	PRESENCE [5] 12/1 12/15 12/28 43/6 142/27
PERIODS [2] 115/25 137/1	PLEASE [22] 40/3 40/5 56/27 59/15 62/22 70/14 70/21 70/26 70/28 71/13 72/1 72/28 76/14 79/1 102/15 102/22 102/23 110/10 114/18 125/13 152/11 162/3	PRESENT [9] 2/18 21/19 37/5 56/20 74/12 90/24 91/4 133/19 158/24
PERMISSION [3] 100/6 100/11 161/19		PRESENTATION [2] 160/5 160/27
PERMIT [2] 58/14 158/24		PRESENTED [7] 5/16 7/14 13/22 65/4 65/11 130/23 157/14
PERMITTED [1] 99/28		PRESENTLY [2] 91/12 129/1
PERSONAL [2] 139/27 140/5		PRESIDENTIAL [5] 54/1 54/4 56/1 133/26 134/25
PERSONALITY [1] 26/1		PRESSURE [4] 119/19 120/1 121/18 122/7
PERSONNEL [8] 71/10 71/20 76/5 77/7 79/7 98/17 98/24 150/2		PRESUMABLY [2] 18/26 67/19
PHASE [7] 35/8 64/11 107/9 114/22 158/15 158/16 158/18		PRESUME [1] 99/5
PHASES [1] 84/9		PRETTY [3] 84/2 110/4 125/28
		PREVIOUS [5] 3/13 44/5 123/19 132/2 132/22
		PREVIOUSLY [14] 4/21 4/23 9/9 22/26 49/14 64/11 66/1 67/6 68/1 88/22 92/12 103/13 123/8 123/9
		PRICE [1] 97/6
		PRIMARILY [5] 9/4 73/11 104/26 106/11 150/26
		PRIMARY [4] 80/9 121/14 143/15 150/26
		PRINCIPLES [1] 57/24
		PRINT [1] 4/11
		PRINTED [1] 78/11
		PRIOR [21] 18/18 26/6 33/16 35/2 41/10 44/21 46/6 46/8 46/25 47/13 47/25 47/28 48/24 51/1 52/10 52/11 62/16 62/25 63/6 63/28 91/28

P	93/5 96/11 96/15 107/8 107/10 113/4 119/18 135/6 137/2 161/28 PROVIDED [10] 34/9 51/3 51/25 62/10 92/27 135/3 135/4 135/10 137/14 144/20 PROVIDES [3] 42/2 108/16 112/7 PROVIDING [2] 31/22 44/27 PROXIMITY [2] 78/9 85/7 PUBLIC [1] 113/1 PULL [4] 77/12 79/21 146/12 150/19 PUMP [5] 31/17 34/12 34/27 93/7 94/21 PUMPED [4] 9/13 10/5 10/6 10/15 PUMPING [8] 7/17 30/28 31/10 31/19 44/11 44/15 45/1 136/8 PUMPS [1] 137/17 PURCHASE [1] 93/7 PURCHASED [1] 107/27 PURE [1] 57/15 PURELY [1] 100/14 PURGED [1] 151/6 PURGES [1] 151/12 PURPLE [1] 78/10 PURPOSE [12] 2/22 42/4 43/3 51/28 52/14 116/12 119/18 119/24 120/2 144/13 144/16 144/22 PURPOSES [31] 3/7 13/16 23/6 35/8 38/4 38/7 42/23 42/26 43/22 46/17 46/21 51/16 58/5 60/1 66/26 66/28 67/10 68/26 93/8 93/22 100/1 108/9 110/17 110/17 116/15 119/7 120/4 121/20 124/13 145/3 145/4 PURSUANT [1] 96/26 PURSUE [1] 31/28 PURVIEW [1] 93/3 PUT [11] 45/10 47/23 55/8 97/3 109/15 119/19 121/17 123/6 143/10 148/26 159/24 PUTS [1] 85/11 PUTTING [2] 119/16 146/16	RE [2] 1/4 163/5 REACHED [1] 158/10 REACHING [1] 158/12 READ [5] 2/9 2/10 48/20 50/13 136/22 READING [3] 50/16 136/15 138/12 READINGS [3] 136/12 136/15 136/24 READY [2] 1/14 58/15 REAL [9] 21/18 75/5 75/19 75/26 80/7 90/9 106/12 129/21 151/14 REALIZED [1] 133/13 REALLY [4] 16/17 19/1 110/2 117/24 REARRANGEMENT [1] 109/18 REASON [8] 4/10 14/17 34/27 46/9 89/20 127/5 149/20 159/24 REASONABLE [8] 26/7 28/24 50/6 123/26 124/12 141/2 141/9 143/27 REASONABLY [9] 16/19 17/6 17/10 17/14 17/18 17/22 17/26 18/3 18/19 REASONING [1] 40/12 RECALL [23] 13/20 13/22 15/5 31/24 32/19 35/10 48/18 50/21 54/2 54/12 61/19 63/2 90/22 108/18 108/26 123/17 131/28 132/18 133/5 146/4 152/17 152/21 152/28 RECAP [1] 58/18 RECEIVE [5] 6/27 7/10 108/8 114/16 152/22 RECEIVED [11] 4/2 66/10 67/27 69/6 70/7 72/15 87/19 105/1 105/2 116/20 157/21 RECENT [3] 20/6 152/15 158/1 RECENTLY [3] 53/28 81/18 123/15 RECESS [8] 60/6 60/9 100/20 100/27 101/7 155/13 159/4 160/23 RECHARGE [2] 6/27 7/11 RECITATION [1] 68/7 RECITE [1] 59/14 RECOGNITION [1] 105/1 RECOGNIZE [1] 45/4 RECOGNIZED [1] 3/8 RECONNAISSANCE [4] 73/18 81/3 84/6 84/13 RECONTOURING [1] 146/16 RECONVENING [1] 158/23 RECORD [16] 2/10 3/14 36/26 44/10 48/20 53/9 56/13 56/27 58/12 58/21 64/2 69/3 70/22 102/24 114/5 114/8 RECORDED [1] 139/18 RECORDS [2] 32/13 115/23 RECREATIONAL [4] 11/3 11/7 42/21 111/15 RECROSS [2] 3/2 61/15 RECROSS-EXAMINATION [1] 61/15 RED [12] 45/12 45/18 52/25 53/4 53/6 53/10 54/22 80/6 110/14 110/18 110/19 110/25 REDDIX [4] 2/28 1/5 102/5 163/11 REDIRECT [8] 3/2 36/19 36/24 43/14 61/21 97/20 157/11 157/13 REDUCED [2] 6/4 31/21 REDUCING [1] 54/18 REDUCTION [9] 54/9 54/27 56/21 56/28 57/2 57/9 134/12 134/14 135/3 REDUCTIONS [1] 27/25 REDUNDANCY [1] 145/24 REFER [7] 76/17 76/19 89/11 91/2 96/17 96/18 134/3 REFERENCE [3] 41/14 42/20 80/16 REFERENCED [2] 32/21 32/23 REFERENCES [3] 6/1 42/17 42/21 REFERENCING [2] 67/1 77/16 REFERRED [9] 48/15 48/18 75/24 81/13 89/3 89/4 91/27 125/16 133/26 REFERRING [7] 6/21 23/7 31/3 31/4 97/26 98/6 134/4 REFLECT [2] 56/14 72/8	
PRIVATE [5] 81/21 81/22 92/11 96/18 96/23 PROBABLY [4] 30/23 63/28 104/5 113/27 PROBLEM [6] 31/10 31/16 31/18 46/23 83/26 85/21 PROBLEMS [2] 31/1 85/17 PROCEEDING [4] 46/24 47/27 58/1 63/4 PROCEEDINGS [25] 1/10 9/28 13/27 15/27 16/5 16/12 17/4 17/8 17/12 17/16 17/20 17/24 18/1 19/24 22/18 24/21 43/18 55/17 60/18 64/21 69/24 140/18 153/5 162/8 163/15 PROCESS [1] 153/25 PROCESSES [3] 104/26 107/13 121/17 PROCURING [1] 93/5 PRODUCE [4] 104/20 113/6 125/12 152/19 PRODUCED [6] 2/4 4/12 23/9 46/20 51/17 142/19 PRODUCERS [1] 85/10 PRODUCING [1] 81/7 PRODUCT [1] 115/13 PRODUCTION [57] 10/3 10/13 10/19 10/22 10/24 10/25 14/19 17/26 18/4 20/10 20/26 26/11 51/8 51/26 52/4 52/7 52/10 77/1 79/2 84/8 84/8 84/17 87/1 89/14 90/11 96/14 96/28 104/15 104/19 104/19 105/27 107/12 107/26 108/2 108/10 108/15 108/21 111/24 112/3 113/26 113/28 114/1 117/22 117/23 119/23 122/10 122/11 123/7 151/21 153/3 153/20 153/21 153/23 154/1 154/9 155/8 156/27 PRODUCTS [2] 2/10 142/25 PROFESSIONAL [1] 72/19 PROFFER [1] 107/1 PROFICIENCY [2] 83/18 83/22 PROFIT [1] 97/12 PROGRAM [20] 28/1 28/2 28/3 28/4 28/6 31/3 53/28 73/27 96/26 104/17 105/9 106/15 106/17 123/4 128/8 129/10 154/10 154/12 154/13 154/22 PROGRAM'S [1] 145/10 PROGRAMS [15] 27/26 73/20 104/15 105/12 106/9 107/11 109/4 109/12 117/21 117/27 135/24 135/25 145/9 154/22 154/23 PROGRESSED [2] 73/12 73/27 PROJECT [5] 109/9 120/5 127/1 127/2 128/14 PROJECTED [7] 131/1 131/2 131/17 133/15 141/16 145/25 146/23 PROJECTION [4] 107/13 132/19 133/7 140/24 PROJECTIONS [5] 37/10 48/28 120/21 121/10 146/7 PROJECTOR [1] 156/15 PROJECTS [5] 106/16 106/18 128/18 129/2 153/18 PROMOTED [2] 73/7 73/22 PROOF [4] 3/20 3/22 5/5 48/25 PROPERTIES [3] 1/21 81/26 99/18 PROPERTY [22] 75/5 75/19 75/27 77/4 80/25 81/20 81/21 81/23 81/27 81/28 82/13 83/11 83/14 90/10 99/7 99/21 106/12 125/4 127/20 143/1 143/13 143/14 PROPOSE [1] 103/11 PROPOSED [1] 135/19 PROPULSION [1] 9/6 PROTECT [1] 85/24 PROTECTION [6] 76/1 86/21 86/25 92/27 93/6 114/3 PROVE [1] 92/19 PROVIDE [15] 64/7 77/5 86/20 86/21 86/26	Q Q-4 [1] 117/22 QUALIFIED [2] 74/26 107/5 QUALITY [1] 120/1 QUANTIFICATION [1] 151/14 QUANTITY [1] 114/26 QUESTION [34] 3/15 3/16 4/1 6/18 7/13 7/21 20/8 28/28 33/20 35/23 38/18 39/27 40/2 40/18 40/20 48/6 49/17 50/17 50/23 50/28 52/21 59/5 59/25 60/13 61/3 62/22 63/5 71/14 97/17 99/5 111/22 148/1 149/20 152/10 QUESTIONING [4] 21/2 48/12 100/17 113/9 QUESTIONS [24] 30/9 30/13 36/15 41/22 52/11 61/9 63/26 68/6 88/1 91/22 93/12 93/14 94/28 99/4 108/28 124/16 124/25 125/16 136/5 140/22 141/19 157/7 157/9 157/12 QUICKLY [1] 30/15 QUITE [4] 2/21 66/27 90/3 114/5 QUOTE [4] 3/5 23/19 23/19 89/12 QUOTING [1] 3/13		
R	RAISE [2] 70/15 102/15 RAISED [1] 39/26 RAMP [4] 38/1 38/28 132/5 132/6 RAMPED [1] 28/1 RAMPING [1] 127/1 RANCH [1] 2/3 RANGE [4] 82/14 117/2 125/24 132/10 RATE [1] 98/5 RATHER [2] 25/24 48/10 RATIONALE [1] 89/20 RAW [3] 115/24 136/28 136/28		

R		
REFLECTION [1] 43/23	REQUIREMENTS [17] 44/18 73/19 76/3 105/11 107/14 109/13 112/16 112/20 117/26 119/27 120/22 122/11 123/5 151/18 152/5 152/26 154/15	ROUGH [1] 140/28
REFLECTS [1] 47/25	REQUIRES [4] 15/4 119/27 123/12 154/10	ROUND [1] 156/10
REFURBISHED [1] 79/18	REQUIRING [1] 150/12	ROUTINELY [1] 114/7
REGARD [28] 14/19 18/23 35/7 37/9 39/17 39/27 41/13 41/23 44/1 49/8 52/3 52/11 53/28 55/23 56/1 57/11 58/18 58/26 60/23 65/6 65/14 66/13 67/11 108/27 114/6 123/14 125/1 158/1	RESCHEDULE [1] 159/18	ROW [1] 116/18
REGARDING [7] 30/20 31/13 39/18 72/27 88/19 100/13 104/9	RESEARCH [6] 8/15 8/17 8/21 8/22 9/4 50/20	RPR [2] 2/28 163/23
REGARDLESS [1] 57/23	RESERVATION [2] 58/3 58/4	RQ [1] 142/18
REGION [1] 2/19	RESERVE [2] 4/7 14/25	RQ-4 [1] 142/18
REGRADE [1] 120/6	RESERVOIRS [1] 3/7	RULE [1] 15/3
REHABILITATE [1] 111/1	RESIDENCE [1] 72/21	RULES [2] 14/27 95/20
RELATE [1] 78/24	RESOLUTION [2] 4/18 158/12	RUN [2] 20/17 83/11
RELATED [5] 31/4 38/8 94/16 111/24 124/26	RESOURCE [4] 87/4 106/21 106/23 107/2	RUNNING [1] 106/18
RELATES [2] 2/28 57/20	RESOURCES [6] 1/15 85/4 85/15 87/3 89/19 89/28	RUNS [4] 46/19 110/1 110/1 138/9
RELATIONSHIP [1] 78/28	RESPECT [5] 18/10 62/15 69/8 89/27 95/27	RUNWAY [7] 82/3 82/8 82/17 82/19 109/28 110/1 146/15
RELATIONSHIPS [1] 89/26	RESPOND [1] 143/12	RUNWAYS [16] 38/2 39/1 76/1 76/28 77/6 80/9 83/8 83/9 83/12 83/16 83/19 85/6 109/28 120/6 120/7 146/22
RELATIVE [1] 78/22	RESPONSE [2] 2/5 143/15	S
RELATIVELY [4] 117/5 123/2 125/24 141/7	RESPONSIBILITY [1] 128/24	S-C-O-T-T [1] 102/28
RELEVANCE [4] 19/2 57/3 57/27 57/28	RESPONSIBLE [3] 93/4 96/25 105/23	SAFER [1] 146/17
RELEVANT [2] 3/23 43/9	REST [2] 116/21 160/9	SAFETY [1] 86/27
RELIANCE [2] 25/4 25/7	RESTATE [2] 40/20 56/27	SAID [25] 27/23 29/4 29/13 29/17 34/20 34/22 35/11 36/4 36/4 38/17 48/16 50/6 50/7 50/8 60/28 61/2 84/20 90/13 91/15 92/27 94/19 122/3 124/28 126/20 150/1
RELIED [4] 50/7 50/8 115/23 152/20	RESTING [1] 160/14	SALE [1] 143/20
RELY [7] 49/13 50/4 85/1 96/12 96/14 115/21 156/24	RESTORATION [1] 31/3	SALES [3] 142/8 142/12 142/26
REMAIN [2] 86/11 106/9	RESTRAINTS [3] 95/25 96/1 96/2	SAME [16] 15/11 17/14 17/18 42/27 43/7 53/11 59/3 79/27 86/24 92/17 92/22 110/13 116/26 129/5 131/8 151/12
REMAINED [1] 125/28	RESTRICTED [1] 47/13	SAN [1] 104/21
REMAINING [4] 84/11 89/12 110/6 125/23	RESTRICTIONS [1] 112/23	SANDS [1] 2/9
REMAINS [1] 108/11	RESULT [2] 49/22 54/28	SATISFIES [1] 44/17
REMEMBER [5] 125/18 126/5 133/25 135/8 147/21	RESULTING [1] 58/20	SAUDI [1] 142/14
REMRY [1] 2/6	RESUME [7] 1/13 5/28 103/14 103/18 104/5 157/16 159/6	SAVAGE [1] 2/7
RENOVATIONS [2] 146/21 146/24	RETAINING [1] 89/20	SAVE [1] 14/1
RENT [2] 75/26 99/20	RETIRED [1] 142/23	SAW [3] 132/5 132/6 141/6
RENTAL [1] 99/13	RETIREMENT [1] 76/21	SAY [25] 8/10 24/23 25/6 25/6 33/4 33/10 53/7 54/26 62/22 74/17 88/16 90/9 94/21 95/14 98/5 98/20 113/17 114/11 116/13 129/9 130/16 131/27 141/1 147/2 150/6
RENTS [1] 80/25	RETURN [3] 1/18 159/14 160/18	SAYING [2] 69/8 94/13
REPEAT [2] 6/18 114/8	REVERSE [1] 128/5	SAYS [6] 34/6 34/11 116/18 130/14 130/17 156/19
REPHRASE [2] 35/23 74/28	REVIEW [3] 14/23 69/19 69/22	SCALMANINI [1] 64/3
REPLACE [1] 111/1	REVIEWED [3] 32/14 127/16 127/17	SCAN [1] 155/9
REPLACED [1] 151/17	REVIEWING [1] 104/14	SCATTERED [1] 105/25
REPLACEMENT [4] 105/28 151/24 151/28 152/16	REVISED [1] 46/9	SCHOOL [8] 8/7 8/9 8/12 8/13 12/28 13/4 13/7 72/21
REPORT [11] 34/11 62/6 62/8 62/8 63/7 63/8 63/9 63/24 64/5 64/17 71/10	RHONA [4] 2/28 1/5 102/5 163/11	SCHOOLS [1] 42/22
REPORT'S [1] 64/5	RICHARD [2] 1/17 1/21	SCHRECK [1] 1/22
REPORTED [2] 2/28 22/9	RIGHT [102] 1/10 1/11 1/17 2/14 4/8 4/19 4/27 5/19 7/12 9/12 10/12 15/12 22/7 28/5 36/6 36/18 43/16 44/20 45/18 45/26 47/7 49/9 53/2 53/20 54/19 54/19 54/20 54/21 54/21 54/23 54/23 55/13 56/3 56/10 56/11 57/8 60/5 60/20 61/11 64/23 65/21 66/23 67/23 68/27 70/3 70/9 70/15 72/13 74/25 77/11 77/28 78/20 78/24 79/26 80/17 82/2 82/22 83/6 87/10 87/15 87/22 93/13 94/27 95/2 98/28 100/16 101/4 102/10 102/13 102/15 103/5 103/15 107/4 108/2 109/21 111/17 120/5 120/20 122/27 123/16 123/28 124/17 125/4 126/7 126/9 126/16 129/24 131/2 132/11 141/19 150/19 152/2 152/18 155/15 156/18 157/1 157/11 158/4 158/7 159/4 161/10 162/6	SCIENCES [1] 103/26
REPORTER [9] 2/28 1/5 38/20 50/26 70/26 75/16 102/5 163/11 163/23	RIGHTS [5] 3/6 3/7 3/8 32/15 161/1	SCIENCES [1] 103/27
REPORTER'S [2] 1/10 163/8	RISE [1] 161/24	SCOPE [9] 7/1 37/20 39/24 42/9 49/15 53/23 59/20 59/23 80/15
REPORTS [1] 48/1	RISK [3] 26/13 26/19 97/4	SCOTT [10] 3/8 102/12 102/27 102/27 103/23 107/1 114/27 124/21 141/24 155/18
REPRESENT [1] 19/8	RIVETED [1] 122/13	SCOTT'S [1] 103/18
REPRESENTATION [5] 16/19 18/20 23/16 37/24 48/7	RMR [2] 2/28 163/23	SCREEN [2] 78/10 78/11
REPRESENTATIVE [5] 16/22 16/24 16/26 53/11 104/13	ROBERT [1] 2/3	SCRUTINY [1] 92/17
REPRESENTED [1] 159/2	ROBINS [2] 73/10 73/15	SEALANTS [1] 122/15
REPRESENTS [6] 45/18 48/26 49/27 53/4 53/5 53/20	ROCK [1] 2/10	SEAT [1] 102/22
REPURPOSE [1] 98/20	ROLE [2] 71/8 73/23	SECOND [6] 14/20 19/15 47/20 60/15 113/27 121/16
REQUEST [5] 5/4 68/11 100/23 158/20 160/12	ROOF [2] 153/2 154/14	SECONDARY [1] 120/2
REQUESTED [2] 32/18 41/19	ROOFS [1] 106/19	SECRETARIAL [1] 112/25
REQUIRE [9] 39/22 64/9 105/11 112/13 112/25 122/20 123/10 150/28 151/12	ROOM [3] 109/15 109/26 162/2	SECRETARY [2] 100/10 112/27
REQUIRED [8] 41/19 89/15 92/18 104/20 106/16 119/28 121/18 122/19	ROOMS [3] 150/13 153/21 162/1	SECTION [2] 40/23 81/8
REQUIREMENT [3] 34/11 113/4 155/7		SECURITY [6] 71/22 85/27 92/6 144/19 161/28 162/4

S		
SEE... [32] 84/10 85/4 94/7 102/7 104/5 109/27 115/3 117/13 117/17 118/10 118/11 118/14 119/6 121/21 121/22 123/21 126/13 129/23 130/4 130/16 130/26 132/22 144/7 148/20 150/8 150/11 151/20 156/19 161/4 161/6 161/12 162/3	111/3 116/19 117/5 120/21 126/20 154/11 SHUT [4] 6/15 6/17 6/19 6/22 SIC [2] 44/28 91/21 SIDE [10] 48/5 82/6 83/10 107/28 110/27 111/2 111/5 111/8 130/12 161/25 SIERRA [1] 82/5 SIGNIFICANCE [2] 21/18 43/12 SIGNIFICANT [2] 111/27 131/25 SIGNIFICANTLY [1] 128/11 SIMILAR [2] 88/17 128/2 SIMPLE [4] 4/10 146/5 149/5 149/11 SIMPLY [4] 15/5 15/10 144/5 149/22 SIMULTANEOUSLY [3] 47/16 118/20 153/14 SINCE [5] 25/2 56/5 64/10 72/27 127/14 SINGLE [3] 118/12 138/2 142/2 SIR [181] SIT [2] 51/4 98/22 SITE [133] 4/11 80/25 81/1 81/15 81/16 82/24 82/24 82/25 83/2 83/4 91/2 93/6 94/23 104/23 108/1 108/2 108/5 108/6 108/7 108/10 108/14 108/15 108/28 109/8 109/21 110/6 110/9 112/4 114/10 114/11 114/11 114/12 114/13 114/13 114/14 114/15 114/15 114/23 114/25 114/26 115/26 116/17 116/19 116/21 117/8 117/8 117/12 117/15 117/21 117/23 117/24 117/25 117/27 118/14 118/15 118/16 118/17 118/18 118/18 120/23 120/27 121/23 121/23 121/25 121/26 122/23 122/27 122/27 123/4 123/8 123/10 123/20 125/27 125/27 126/3 127/3 127/6 128/9 128/10 128/13 128/25 129/12 129/12 129/13 129/13 131/6 131/7 131/7 131/7 131/8 131/11 131/12 131/21 131/25 131/26 132/12 132/12 132/13 132/13 135/28 135/28 137/28 138/1 138/3 138/7 138/9 138/10 138/11 138/14 139/4 144/15 144/17 144/17 144/23 144/26 145/2 145/6 145/7 145/10 147/14 147/14 147/15 147/19 148/21 149/17 150/6 151/20 151/21 153/1 154/8 154/12 154/16 154/25 SITE 1 [2] 80/25 131/8 SITE 2 [1] 108/2 SITE 3 [1] 114/13 SITE 4 [1] 153/1 SITE 5 [1] 116/17 SITE 6 [1] 144/26 SITE 7 [5] 123/4 138/9 138/14 144/15 145/10 SITE 8 [1] 81/16 SITE ONE [1] 82/24 SITE SIX [1] 83/2 SITE THREE [1] 82/25 SITE'S [2] 118/28 128/1 SITE-BY-SITE [2] 132/13 147/14 SITE-SPECIFIC [1] 131/6 SITES [50] 80/12 81/5 87/6 90/19 90/24 91/4 93/3 93/10 106/14 107/25 107/26 108/19 109/12 109/26 110/15 110/20 111/23 111/26 114/7 115/16 115/22 116/15 117/7 117/11 118/1 118/9 118/11 118/19 120/24 121/15 122/11 123/15 123/23 123/24 126/28 127/21 128/24 128/27 129/1 129/4 131/4 131/23 136/7 144/15 146/11 149/19 149/27 150/9 150/21 154/23 SITTING [4] 29/9 68/2 75/8 152/24 SITUATED [3] 84/12 84/24 84/27 SIX [7] 32/7 82/27 82/28 83/2 90/28 158/16 158/18 SIZE [3] 23/28 98/9 127/26 SKILLS [1] 72/24 SKUNK [1] 81/21 SLIDE [1] 45/25 120/10 SLOAN [1] 2/15	SLOPING [1] 120/6 SMALL [7] 76/4 80/13 81/26 91/25 91/28 97/17 98/23 SO [193] SOLD [1] 142/3 SOLELY [4] 86/1 90/4 90/6 93/21 SOLEMNLY [2] 70/16 102/17 SOLVED [1] 73/21 SOME [41] 34/6 34/22 41/22 41/23 49/12 60/16 77/5 88/17 88/21 90/13 94/15 96/28 97/1 97/1 100/27 108/26 111/12 111/22 121/9 121/22 125/16 126/27 133/25 136/26 136/26 136/27 137/27 142/5 142/9 142/15 142/25 145/11 146/10 146/20 146/23 150/24 150/25 153/2 158/1 158/23 160/13 SOMEBODY [2] 29/14 143/20 SOMEBODY'S [1] 18/27 SOMETHING [6] 21/25 22/5 43/8 109/17 147/22 151/27 SOMETIMES [1] 160/21 SOMEWHAT [2] 29/23 35/12 SOMEWHERE [1] 139/19 SORRY [39] 6/17 9/17 10/16 19/20 20/9 22/1 22/15 24/12 29/8 29/10 30/22 35/19 38/13 45/14 45/15 50/22 50/27 53/18 55/1 55/12 62/20 63/12 65/10 68/4 68/23 82/3 83/26 86/3 88/9 95/18 99/23 114/19 114/27 124/1 129/8 134/7 140/22 140/23 161/24 SORT [1] 76/25 SOTTO [2] 67/5 116/24 SOURCE [8] 62/16 62/24 63/5 63/6 114/25 115/20 150/27 150/27 SOURCES [1] 116/23 SOURCING [2] 91/28 92/2 SOUTH [10] 110/3 111/2 111/5 111/5 111/7 111/7 137/16 137/23 140/13 161/20 SOUTHEASTERN [1] 83/13 SOUTHERN [3] 80/12 85/13 95/10 SPACE [23] 28/20 38/1 38/28 42/2 42/3 73/4 73/23 95/17 95/18 95/19 95/19 105/27 108/27 109/6 109/10 109/13 109/16 109/23 109/25 110/2 110/6 110/8 128/2 SPACE-BASED [1] 73/23 SPACES [2] 94/20 151/21 SPAN [1] 61/27 SPARK [1] 160/22 SPEAK [3] 29/11 70/26 71/12 SPEAKING [2] 47/16 153/14 SPECIALIZE [3] 73/2 90/8 90/11 SPECIFIC [4] 84/11 113/21 131/6 137/24 SPECIFICALLY [4] 107/2 117/21 132/3 138/16 SPECIFY [1] 113/4 SPECULATION [5] 57/15 86/5 118/21 144/3 144/9 SPECULATIVE [1] 98/15 SPELL [2] 70/21 102/23 SPENDING [1] 21/17 SPOKE [2] 67/5 116/24 SPOKEN [1] 80/27 SPREAD [1] 118/12 SPREADSHEET [3] 32/17 136/27 148/3 SPRINKLER [2] 86/22 119/22 SQUADRON [4] 72/20 73/10 74/9 74/10 SQUARE [12] 81/16 98/1 98/1 98/14 105/26 108/19 108/21 108/21 109/10 127/20 127/27 128/7 ST [1] 2/10 STABLE [3] 132/6 132/6 148/21 STAFF [7] 27/15 41/19 72/22 115/11 115/21 120/18 136/21 STALE [1] 21/4 STAND [8] 1/19 11/26 12/6 36/27 45/16

S	123/24 127/9 135/25 143/14 145/11 146/27 147/11 152/20 153/22	15/19 22/13 22/26 23/1 32/24 33/21 43/15 45/6 66/3 66/4 66/13 69/15 69/16 69/19 69/22 69/27 70/6 70/7 70/7
STAND... [3] 47/26 70/14 113/10	SUPPORTED [3] 107/12 117/10 123/9	TEJON 4 [1] 66/4
STANDS [1] 36/28	SUPPORTING [3] 84/4 154/12 154/13	TEJON 5-3 [1] 32/24
START [4] 32/8 52/24 97/27 101/1	SUPPORTS [3] 117/27 137/26 144/20	TEJON'S [1] 160/13
STARTED [4] 1/26 73/5 104/12 147/13	SUPPRESSION [5] 137/10 138/20 143/6 143/7 143/9	TEJON-4 [1] 13/23
STARTING [4] 20/3 44/7 76/24 80/24	SURE [13] 2/21 4/6 20/25 21/18 22/7 28/20 66/27 67/16 106/24 109/5 114/5 119/28 125/5	TEJON-5 [3] 4/28 5/1 5/14
STATE [16] 1/1 2/11 2/11 32/1 43/10 70/16 70/21 72/16 82/5 82/6 88/27 102/17 102/23 152/10 163/1 163/12	SURETY [1] 125/10	TELL [15] 20/20 26/5 51/7 51/11 66/24 72/26 77/28 83/27 104/8 130/5 130/28 147/10 152/4 152/26 154/4
STATED [2] 52/6 135/10	SURFACE [1] 7/18	TELLING [3] 33/8 33/9 153/24
STATEMENT [5] 18/19 42/11 47/26 51/16 96/6	SURROUNDED [1] 85/19	TEMPERATURE [3] 122/14 122/20 150/14
STATEMENTS [1] 23/12	SURROUNDS [1] 78/17	TEN [5] 61/27 130/6 136/15 148/21 155/6
STATES [10] 1/14 2/5 5/7 33/23 67/9 68/12 94/20 96/10 96/20 130/10	SURVEILLANCE [4] 73/17 81/3 84/5 84/12	TEN PERCENT [2] 148/21 155/6
STATES' [1] 102/12	SUSTAIN [3] 75/28 86/6 145/9	TEN-YEAR [1] 61/27
STATIC [1] 98/9	SUSTAINABILITY [1] 133/28	TENANT [1] 127/2
STAYING [1] 132/9	SUSTAINED [4] 35/23 59/24 60/4 144/3	TENANTS [5] 82/22 83/6 83/7 84/2 96/4
STEADILY [1] 25/5	SWING [1] 28/4	TEND [3] 25/22 25/22 34/25
STEALTH [1] 145/8	SWORN [3] 70/13 102/14 102/16	TERM [6] 11/18 35/13 42/18 88/20 89/16 96/7
STEP [3] 64/27 76/7 157/23	SYSTEM [36] 6/7 86/22 104/6 105/12 109/4 110/14 110/15 110/19 110/23 110/26 114/4 119/20 119/26 120/3 123/3 123/5 123/11 123/11 123/13 137/10 139/4 139/6 139/9 139/21 140/6 150/7 150/18 151/3 151/4 151/9 152/1 152/6 152/14 152/27 154/14 154/21	TERMS [16] 25/21 31/10 62/3 92/25 93/20 94/4 99/14 112/2 112/11 120/20 125/7 128/18 132/16 134/18 137/10 147/11
STILL [12] 1/15 1/19 29/17 39/14 46/23 66/27 69/2 92/16 126/13 136/16 144/9 161/1	SYSTEMS [44] 8/4 73/3 73/4 73/4 73/20 73/24 74/7 74/20 76/1 77/2 84/13 90/12 90/14 104/6 104/10 104/27 107/2 111/6 112/17 113/6 116/3 119/22 119/22 122/12 122/13 122/17 122/18 123/9 125/12 143/6 143/8 143/10 145/12 150/13 150/20 150/22 150/23 150/25 150/26 151/9 151/16 151/25 153/27 154/13	TEST [18] 7/28 8/3 8/6 8/8 8/11 8/11 8/13 73/2 73/9 73/14 73/25 77/1 79/5 79/19 80/26 83/18 84/18 85/8
STOP [1] 22/3		TESTIFIED [23] 7/5 18/28 21/6 28/21 37/9 43/27 44/1 46/4 46/25 47/9 48/10 49/6 53/28 57/7 58/26 60/23 65/15 66/7 68/21 103/11 108/24 132/7 147/8
STOPPED [1] 22/2	T	TESTIFY [15] 2/23 5/11 5/12 8/28 15/8 38/6 46/8 47/12 47/23 50/2 50/10 52/9 52/14 74/26 107/6
STORAGE [3] 119/13 137/12 139/13	TABLE [17] 9/10 46/11 52/7 62/15 64/4 64/16 116/26 130/26 132/1 132/5 133/10 146/5 146/6 149/17 149/21 152/23 156/18	TESTIFYING [2] 99/6 147/21
STRAIGHT [4] 139/1 148/22 149/3 149/7	TABULATED [1] 62/19	TESTIMONY [41] 5/17 8/24 8/26 27/12 32/28 37/19 40/7 41/8 41/9 43/24 46/13 47/27 49/8 49/16 49/21 49/26 52/2 52/18 53/27 54/2 54/4 54/25 57/21 58/14 58/16 61/19 64/10 65/4 65/6 65/12 67/8 70/16 79/10 89/4 102/17 107/8 108/26 122/4 133/20 133/23 159/24
STRATEGIC [5] 84/4 84/15 96/10 133/27 135/7	TAKE [23] 2/28 3/25 3/27 4/19 15/23 18/8 20/20 22/27 55/2 60/6 63/27 66/17 76/7 96/4 100/20 133/12 135/12 137/27 141/13 143/4 154/16 155/10 162/2	TESTING [11] 8/25 8/28 9/1 9/4 28/5 73/6 73/11 74/19 80/28 89/14 90/12
STRATEGY [2] 96/10 96/11	TAKEN [2] 101/7 163/15	TESTS [1] 8/21
STREET [3] 103/4 161/25 161/26	TAKING [7] 7/18 9/12 25/28 26/11 74/5 109/15 129/2	THAN [17] 19/19 25/24 35/24 39/22 40/13 92/11 93/25 98/5 121/22 130/2 133/2 133/14 143/21 143/23 146/25 146/26 154/24
STRICKEN [1] 29/19	TALK [11] 75/12 76/24 89/19 111/11 111/20 115/20 119/4 121/9 143/25 144/26 161/5	THANK [37] 8/13 9/8 30/7 35/22 36/16 36/17 55/19 59/2 64/19 64/26 64/28 65/1 67/24 77/21 77/25 87/21 93/12 94/27 95/3 97/15 98/28 99/2 100/16 100/19 101/3 102/11 103/1 103/5 155/16 157/10 157/24 157/25 158/5 158/7 160/28 161/11 162/6
STRICTLY [1] 75/22	TALKED [8] 29/14 32/17 88/18 90/19 126/1 126/26 126/26 139/22	THANKS [1] 55/11
STRIKE [16] 4/20 24/13 28/4 28/25 28/27 35/17 37/21 42/7 43/8 52/17 76/21 81/8 83/25 86/7 126/18 140/16	TALKING [14] 8/25 44/10 44/11 58/2 90/18 97/22 97/23 97/27 115/6 127/19 129/25 151/24 152/1 154/10	THAT [712]
STRIKING [1] 160/2	TANK [29] 111/6 111/7 111/8 119/13 137/15 137/16 137/17 137/20 137/21 137/23 137/25 137/27 138/10 138/13 138/17 138/28 139/2 139/11 139/11 139/13 139/14 139/18 139/22 139/26 140/3 140/6 140/8 140/12 140/13	THAT'S [84] 4/1 4/21 6/28 9/9 9/20 21/20 29/17 29/25 32/1 32/23 34/12 34/14 38/27 43/8 46/8 46/27 47/6 47/25 49/17 50/1 52/18 55/13 55/23 58/8 58/9 62/19 64/3 68/17 68/28 72/19 77/16 81/28 82/14 83/23 86/26 87/13 90/3 94/18 100/3 105/18 108/17 109/17 112/17 112/18 113/20 117/25 119/14 119/23 122/6 123/4 123/25 125/26 126/21 127/13 128/4 128/20 129/6 130/6 130/7 131/19 132/8 134/16 136/11 136/23 137/6 137/25 138/13 140/5 140/8 140/28 141/18 142/1 143/25 144/18 144/24 145/8 145/24 148/20 148/22 150/15 151/17 152/1 156/8 156/22
STRING [1] 41/14	TANKS [3] 137/11 137/12 140/15	THEIR [32] 2/6 12/26 15/4 28/24 49/2 73/21 77/4 87/3 93/5 93/7 93/9 94/1 94/2 94/22 94/23 105/10 108/8 108/16 109/24 112/7
STRUCTURE [1] 134/25	TASKS [2] 92/21 92/22	
STRUCTURES [1] 108/28	TAUGHT [1] 105/5	
STYLE [2] 11/15 11/17	TAXIWAY [3] 83/10 83/12 143/2	
SUBASSEMBLIES [1] 79/6	TEACH [2] 105/6 105/8	
SUBCONTRACTOR [1] 92/1	TEAM'S [1] 129/16	
SUBJECT [7] 3/5 4/20 5/9 14/26 67/11 152/23 152/25	TECHNICIANS [2] 5/26 6/4	
SUBMISSION [1] 65/3	TECHNOLOGY [1] 74/7	
SUBMIT [3] 14/28 15/4 66/26	TEJON [34] 2/3 3/17 3/18 3/19 3/20 3/21 1/28 2/3 2/16 4/28 5/1 5/14 13/23 14/3 14/6	
SUBMITTED [3] 14/28 15/1 48/25		
SUBSEQUENT [1] 66/6		
SUBSIDENCE [3] 34/23 34/24 34/26		
SUBSTANTIAL [1] 27/20		
SUBSTITUTE [1] 4/21		
SUBTRACT [4] 137/28 138/4 138/7 138/11		
SUCH [8] 3/8 42/20 42/21 84/8 92/6 92/6 152/21 152/22		
SUFFICIENT [1] 21/13		
SUGGESTED [2] 33/22 61/21		
SUITABLE [3] 106/10 125/6 125/8		
SUITED [2] 84/15 91/15		
SUMMARIZE [2] 59/7 113/16		
SUMMARY [7] 62/8 64/4 64/5 64/17 68/19 69/9 69/13		
SUMMATION [1] 131/3		
SUPERIOR [3] 1/1 163/1 163/12		
SUPERVISE [2] 105/19 105/22		
SUPERVISORY [2] 105/14 105/18		
SUPPLEMENTAL [1] 14/10		
SUPPLIED [1] 111/8		
SUPPLIES [3] 6/11 111/3 144/14		
SUPPLY [4] 31/27 110/16 145/24 156/6		
SUPPORT [20] 27/16 57/20 74/9 76/28 77/5 84/12 84/15 105/11 109/11 110/20 113/28		

T	105/25 107/25 112/6 119/8 133/2 135/2 136/14 138/28 139/20	TOO [2] 38/24 50/25
THEIR... [12] 114/2 115/24 118/4 123/1 123/5 128/19 129/3 131/23 136/25 139/4 145/9 154/14	THING [4] 85/22 145/24 160/17 161/7	TOOK [4] 136/15 136/28 137/3 152/17
THELEN [1] 2/5	THINGS [7] 23/20 42/20 42/21 58/10 85/13 86/20 149/16	TOOLING [1] 104/20
THEM [19] 19/21 23/14 23/15 30/14 37/5 37/5 60/11 68/12 74/6 83/17 93/5 96/25 106/13 112/7 132/20 134/11 142/20 142/24 150/1	THINK [58] 3/27 7/6 7/12 9/6 9/20 9/20 16/25 19/2 21/16 21/20 21/21 21/28 32/12 35/18 38/5 38/9 38/11 38/19 39/21 41/15 46/20 49/3 49/4 49/11 57/20 60/6 61/5 68/13 68/25 71/14 75/14 77/18 77/19 79/12 82/23 82/26 89/3 91/14 106/1 109/14 116/10 120/11 122/3 122/4 123/13 123/25 124/28 125/15 125/20 126/14 127/5 127/24 143/27 147/2 147/10 159/19 160/19 161/17	TOP [9] 51/11 66/4 78/10 103/12 113/25 115/4 124/1 124/3 134/11
THEMSELVES [3] 34/24 112/2 114/6	THIRD [7] 19/16 31/28 46/2 61/1 61/2 78/11 114/2	TOTAL [38] 9/13 10/12 10/16 10/28 13/14 15/21 16/7 16/9 16/22 17/26 18/4 18/16 18/20 20/25 56/12 56/12 56/15 56/16 58/23 88/9 88/10 105/26 108/18 108/18 108/21 118/28 120/24 125/17 126/8 129/19 140/15 140/22 140/24 141/3 141/3 147/1 149/14 149/15
THEN [51] 10/25 19/16 27/8 28/10 50/10 51/20 52/13 53/13 56/5 61/21 74/8 74/11 75/6 75/20 75/28 76/2 76/24 78/17 79/4 79/19 81/12 82/27 87/1 104/10 104/17 105/10 106/15 108/15 110/18 111/2 113/16 115/7 120/9 120/23 121/27 123/2 126/1 128/12 134/16 134/27 136/28 138/19 138/26 139/15 148/13 149/8 156/7 157/16 160/14 160/17 160/26	THIRDS [1] 36/12	TOTALED [2] 118/26 120/23
THERE [118] 3/16 4/14 14/22 14/27 19/18 20/8 27/18 28/20 30/11 30/19 31/16 31/19 32/3 32/14 33/18 33/28 34/2 34/10 34/13 34/22 34/26 34/28 36/5 36/19 37/18 41/7 41/25 42/14 42/17 42/19 42/20 46/6 48/4 48/13 48/19 52/13 52/19 53/2 54/19 56/3 56/10 56/11 56/11 57/9 57/17 61/11 64/23 65/26 68/2 68/9 71/17 73/7 73/9 73/12 73/15 73/16 73/22 73/25 73/26 74/11 74/25 75/8 80/23 80/28 85/7 85/8 87/1 88/3 88/5 88/8 88/12 88/15 88/21 88/22 88/26 93/21 93/21 95/20 97/9 98/13 99/25 99/25 100/17 107/4 108/2 108/26 109/1 109/26 111/12 111/15 111/17 111/23 112/11 112/22 120/1 127/5 128/6 128/12 128/14 129/7 129/21 129/21 129/24 131/24 132/12 133/13 134/6 136/10 137/20 142/17 143/12 145/11 149/24 151/10 151/10 153/3 154/24 158/21	THIS [237]	TOTALY [1] 79/18
THERE IS [1] 129/7	THOSE [72] 19/19 19/20 19/21 23/21 34/7 34/8 34/23 43/2 48/1 51/13 52/5 77/6 77/6 79/5 80/18 82/19 84/9 84/10 84/18 85/13 86/27 87/15 88/17 90/24 91/19 93/10 96/15 97/10 99/17 100/13 106/3 106/14 108/6 110/27 112/5 112/12 112/19 115/24 115/26 116/14 120/8 121/20 122/18 123/23 123/24 123/25 123/27 130/9 131/5 131/20 132/25 133/2 134/9 134/18 137/4 137/8 137/13 139/18 141/16 142/2 146/24 146/27 147/11 149/25 150/22 150/28 151/9 154/14 154/23 158/10 158/21 161/18	TOTALS [2] 126/3 136/8
THERE'D [1] 161/8	THOUGH [4] 24/1 38/9 90/2 157/10	TOUCHES [1] 18/11
THERE'S [40] 11/3 11/11 13/9 14/17 18/24 19/2 24/1 26/19 28/20 31/18 40/26 40/28 46/23 47/26 49/4 52/18 57/13 65/14 67/10 75/8 82/9 88/16 91/7 100/12 111/14 111/25 111/27 117/7 121/11 126/21 128/17 137/22 138/3 138/10 142/14 142/14 146/25 149/16 156/18 159/24	THOUGHT [3] 24/27 50/6 131/24	TOUR [1] 74/5
THEREABOUTS [1] 25/3	THOUGHTS [3] 34/6 34/7 34/8	TOWARD [1] 75/12
THESE [55] 42/25 50/4 50/4 50/7 58/5 80/16 94/19 94/20 96/22 96/23 96/24 97/12 103/10 106/5 106/9 106/16 106/18 106/25 107/26 108/19 108/19 108/28 110/3 111/22 111/23 111/26 112/21 112/25 112/26 113/3 113/6 114/7 114/9 116/9 116/12 117/11 117/28 118/3 118/9 118/19 118/26 121/10 121/13 122/23 123/15 123/22 129/15 130/27 135/18 135/21 142/5 142/25 149/27 152/20 153/27	THREE [13] 6/15 6/20 19/14 19/20 19/20 19/21 31/24 61/8 64/11 82/25 108/5 108/6 141/26	TRACK [1] 13/17
THEY [73] 4/12 8/21 12/20 13/2 29/16 29/17 34/9 43/5 47/22 48/18 48/19 48/23 48/25 53/11 57/21 57/22 57/23 57/27 80/26 81/6 81/7 81/9 82/18 82/21 83/17 83/17 85/25 86/2 87/3 90/26 92/8 93/28 94/16 94/21 94/22 99/15 99/28 100/6 100/9 105/11 105/12 105/25 108/8 109/10 112/12 112/19 115/24 118/4 118/12 119/8 122/20 123/6 127/19 128/24 132/27 138/6 138/14 139/1 139/1 142/3 142/20 142/20 142/28 143/1 143/2 143/4 143/5 143/7 143/11 145/22 147/15 147/17 151/12	THREW [1] 36/5	TRANSACTION [1] 67/2
THEY'LL [1] 157/17	THROUGH [48] 4/16 5/15 14/4 15/7 15/20 16/20 20/1 20/4 24/2 30/15 48/8 48/27 49/27 55/24 61/4 69/16 69/19 69/22 70/6 72/18 73/7 73/7 73/12 73/27 76/18 79/7 79/17 79/20 83/10 89/1 89/1 91/27 92/2 100/3 106/11 114/24 114/24 115/7 118/8 130/15 137/14 142/16 156/7 156/13 158/10 161/5 162/4 163/14	TRANSFER [1] 5/6
THEY'RE [21] 7/17 7/17 12/18 12/19 37/4 80/17 81/2 87/16 93/21 94/24 96/25 99/12	THROUGHOUT [2] 85/4 118/13	TRANSFERRED [1] 142/24
	TIE [1] 5/14	TRANSITIONED [1] 73/28
	TIED [1] 86/24	TRANSPORTATION [1] 95/14
	TIGHT [4] 122/14 125/24 125/28 126/2	TRANSPPOSED [1] 24/28
	TIGHTER [4] 153/19 153/19 155/7 155/8	TRAVELED [1] 159/17
	TIME [62] 1/6 4/6 4/15 5/7 13/24 14/1 14/16 15/6 18/9 20/5 21/17 23/13 24/14 28/19 30/3 30/23 30/26 32/15 34/24 35/4 37/6 39/10 39/12 40/25 41/3 48/27 50/7 53/13 55/24 60/6 88/10 95/24 96/1 96/4 100/28 102/6 104/11 106/28 115/25 117/17 121/11 123/20 125/27 126/21 127/12 128/28 129/5 137/1 140/7 142/26 145/22 146/5 148/3 149/6 150/17 152/28 155/11 155/24 155/26 158/20 159/21 160/3	TREATED [2] 119/8 120/3
	TIMES [3] 59/11 96/8 149/12	TREATISES [1] 27/13
	TINY [1] 129/21	TREATMENT [1] 82/14
	TITLE [6] 1/7 102/7 105/13 105/14 135/9 160/13	TREND [15] 16/14 16/15 18/19 18/20 18/23 19/7 19/8 125/22 132/4 132/8 132/23 153/10 153/12 153/28 157/5
	TODAY [10] 52/2 84/28 88/6 94/9 98/8 103/12 116/6 124/26 157/14 159/2	TRENDED [1] 117/2
	TOGETHER [6] 10/24 85/14 97/3 118/27 122/13 139/5	TRENDING [1] 132/8
	TOILETS [1] 145/1	TRENDS [7] 19/3 132/12 132/14 156/26 156/28 157/1 157/2
	TOLD [4] 21/1 25/16 32/26 32/28	TRIAL [3] 1/11 107/9 159/15
	TOM [2] 63/22 63/23	TRIGGER [1] 97/18
	TOMORROW [6] 159/6 159/27 160/24 160/25 161/5 161/12	TRITON [2] 81/11 84/7
		TROUBLE [4] 38/20 38/22 38/24 52/26
		TRUE [10] 6/3 23/13 33/25 34/3 34/14 93/22 93/23 94/3 96/6 163/14
		TRUNCATED [1] 15/9
		TRUTH [8] 23/16 29/4 70/18 70/18 70/19 102/19 102/19 102/20
		TRY [1] 70/26
		TRYING [10] 7/8 21/3 49/5 49/12 58/2 59/21 85/24 144/7 149/21 154/7
		TUESDAY [1] 133/19
		TURN [5] 34/10 65/8 75/12 102/25 158/3
		TURNUED [1] 25/23
		TWELVE [3] 130/19 130/21 130/24
		TWELVE-MONTH [3] 130/19 130/21 130/24
		TWENTY [1] 61/8
		TWENTY-THREE [1] 61/8
		TWICE [1] 27/6
		TWO [28] 18/6 36/12 38/6 60/2 76/27 76/27 80/9 81/26 82/24 94/10 108/2 108/3 108/6 108/7 108/15 110/26 114/10 114/11 114/13 114/13 114/15 121/14 123/27 130/9 132/18 137/12 142/17 146/21
		TYPE [2] 125/2 129/21
		TYPES [3] 84/9 135/25 146/27
		TYPICALLY [2] 27/27 75/21
		U
		U-2 [2] 81/3 84/6
		U.S [11] 1/14 2/18 2/6 9/9 23/10 61/24 68/8 68/15 142/3 142/12 143/21
		U.S.A.F [2] 65/13 65/18
		U.S.G.S [4] 63/7 63/9 63/13 63/24

<p>U</p> <p>UH [3] 40/11 84/22 90/21</p> <p>UH-HUH [3] 40/11 84/22 90/21</p> <p>ULTIMATE [3] 119/18 119/24 121/3</p> <p>ULTIMATELY [1] 100/4</p> <p>UNCERTAINTY [6] 26/14 26/19 35/1 35/2 35/4 35/6</p> <p>UNDER [10] 1/19 4/13 14/27 29/15 54/1 93/2 95/21 99/25 120/17 141/1</p> <p>UNDERESTIMATED [1] 26/20</p> <p>UNDERGRADUATE [1] 103/24</p> <p>UNDERNEATH [2] 6/26 156/18</p> <p>UNDERSTAND [16] 7/8 20/8 27/12 33/20 40/9 49/16 54/25 58/13 80/1 85/25 96/22 116/3 141/26 144/6 148/1 149/21</p> <p>UNDERSTANDING [5] 6/25 8/20 8/23 33/18 135/15</p> <p>UNDERSTANDINGS [1] 158/11</p> <p>UNDERSTANDS [1] 86/5</p> <p>UNDERSTOOD [3] 18/18 20/25 88/15</p> <p>UNDERTAKE [1] 125/3</p> <p>UNDERTAKEN [1] 92/21</p> <p>UNIFIED [1] 112/15</p> <p>UNION [3] 161/22 161/23 161/23</p> <p>UNIT [1] 82/26</p> <p>UNITED [11] 2/8 1/12 2/5 5/7 33/23 67/8 68/12 94/20 96/9 96/20 102/12</p> <p>UNITES [1] 1/14</p> <p>UNITS [2] 83/20 150/9</p> <p>UNIVERSITY [1] 72/16</p> <p>UNLESS [2] 5/16 148/8</p> <p>UNMANNED [3] 81/9 84/13 142/18</p> <p>UNPOPULATED [2] 82/4 82/8</p> <p>UNREASONABLE [1] 49/1</p> <p>UNRELATED [2] 42/25 43/3</p> <p>UNTIL [7] 5/15 100/24 100/26 101/7 121/25 160/24 162/9</p> <p>UP [49] 24/3 25/27 26/16 26/17 26/18 28/10 29/11 35/28 36/28 43/14 45/24 45/26 49/12 50/5 50/9 53/6 58/10 72/11 77/12 79/22 83/8 90/20 100/3 105/26 106/18 111/21 113/10 120/12 120/13 120/23 123/28 124/9 125/14 126/3 127/1 132/4 132/5 132/8 138/9 138/19 138/21 138/22 142/25 146/9 146/14 146/18 147/19 159/15 162/5</p> <p>UPGRADE [1] 150/8</p> <p>UPGRADES [1] 153/2</p> <p>UPON [8] 30/28 37/10 54/26 58/19 59/8 60/2 115/21 152/20</p> <p>UPPER [1] 80/24</p> <p>US [16] 2/14 14/22 32/6 32/26 32/28 35/27 85/5 85/11 96/11 104/11 115/4 138/14 154/8 158/20 158/24 158/25</p> <p>USABLE [3] 127/20 127/27 128/7</p> <p>USAF [1] 4/7</p> <p>USAGE [10] 52/1 56/4 57/19 115/16 120/27 133/15 137/1 141/8 156/20 156/24</p> <p>USE [138] 2/24 9/10 9/24 13/23 14/4 14/7 15/7 15/20 15/22 16/19 18/15 18/20 19/8 20/21 21/9 25/8 25/9 25/26 25/26 32/13 33/17 35/7 36/10 36/11 37/13 37/15 37/23 44/9 44/11 45/2 46/4 46/8 46/12 46/19 46/24 47/3 47/13 47/27 48/7 48/11 48/26 49/5 49/28 51/1 51/6 52/18 54/16 54/26 56/25 57/12 57/23 57/27 57/28 58/3 60/24 61/4 62/12 62/18 64/6 82/9 82/19 83/16 83/17 83/21 83/28 84/24 88/20 93/10 98/13 99/13 99/19 107/11 111/12 113/17 113/25 113/27 116/11 116/11 117/1 117/11 117/18 118/1 118/11 118/14 118/15 118/16 119/1 119/17 119/25 120/3 120/4 120/4 120/7 123/15 123/20 126/23 126/27 127/6 128/9 128/15</p>	<p>128/19 128/26 129/4 129/10 131/24 131/27 135/1 135/27 136/1 136/7 138/7 138/11 138/20 139/6 141/3 141/9 143/3 143/4 143/5 143/7 143/9 144/22 145/26 145/27 145/27 146/8 146/12 147/22 147/27 149/3 150/4 150/27 151/15 156/4 157/2 157/5 159/21</p> <p>USED [38] 3/7 20/10 21/4 21/7 25/10 25/18 26/3 28/15 35/13 35/28 36/8 42/19 50/2 61/18 62/24 87/5 90/15 90/25 96/7 97/10 98/3 99/17 108/12 114/1 114/7 114/26 119/7 123/19 123/21 128/27 129/15 131/8 133/5 133/9 139/11 144/27 149/7 153/27</p> <p>USEFUL [1] 97/28</p> <p>USES [11] 41/23 42/19 43/2 83/9 83/11 111/19 113/21 113/22 114/9 121/5 144/25</p> <p>USING [14] 19/19 20/1 20/17 20/22 27/8 33/6 39/23 40/8 40/9 40/10 40/13 83/8 145/13 145/16</p> <p>USUALLY [1] 27/25</p> <p>UTILIZATION [5] 117/24 121/15 121/27 149/17 149/27</p> <p>UTILIZED [5] 117/17 121/25 122/28 128/25 154/12</p> <p>UTILIZES [1] 83/19</p> <p>V</p> <p>VAGUE [5] 30/22 30/23 78/26 98/15 118/22</p> <p>VALIDATE [1] 136/16</p> <p>VALIDATION [1] 136/18</p> <p>VALIDITY [1] 38/11</p> <p>VALLEY [11] 1/6 1/22 1/2 83/23 85/11 87/27 89/23 89/25 102/2 124/22 163/6</p> <p>VALUE [14] 97/1 105/28 117/3 117/3 117/4 119/5 119/11 119/14 119/16 124/10 126/10 131/8 137/3 148/4</p> <p>VALUES [5] 116/9 118/9 118/26 123/22 136/14</p> <p>VARIABILITY [3] 55/24 117/7 118/18</p> <p>VARIABLE [1] 135/23</p> <p>VARIANCE [1] 26/27</p> <p>VARIANCES [1] 27/4</p> <p>VARIANT [1] 81/11</p> <p>VARIATION [1] 117/8</p> <p>VARIES [1] 129/10</p> <p>VARIETY [1] 150/24</p> <p>VARIOUS [2] 80/12 99/6</p> <p>VARIOUSLY [1] 133/26</p> <p>VASTLY [1] 98/23</p> <p>VEHICLE [3] 81/10 97/2 142/18</p> <p>VEHICLES [1] 97/9</p> <p>VENTILATION [1] 122/9</p> <p>VERACITY [1] 48/22</p> <p>VERIFICATION [1] 136/20</p> <p>VERIFY [5] 28/23 136/12 136/15 136/19 137/4</p> <p>VERSUS [2] 13/15 152/27</p> <p>VERY [15] 7/27 31/25 37/4 54/21 64/26 69/17 80/19 98/23 100/19 119/25 122/28 124/3 147/11 151/6 157/25</p> <p>VETTED [4] 28/18 39/8 39/9 39/13</p> <p>VIA [2] 2/4 143/2</p> <p>VIEW [1] 19/1</p> <p>VILLAGE [2] 98/6 98/22</p> <p>VIRTUALLY [1] 34/16</p> <p>VISUAL [1] 119/12</p> <p>VOCE [2] 67/5 116/24</p> <p>VOICE [1] 160/22</p> <p>VOIR [2] 74/25 107/4</p> <p>VOLUME [1] 119/19</p> <p>W</p> <p>WAGE [1] 96/11</p>	<p>WAIT [3] 5/10 5/15 60/15</p> <p>WAITING [1] 68/18</p> <p>WANG [2] 1/27 162/4</p> <p>WANT [20] 3/28 4/20 5/13 7/19 16/18 18/8 20/25 21/19 53/7 60/11 64/8 66/24 96/22 144/27 151/23 151/27 151/28 159/4 159/5 159/5</p> <p>WANTED [7] 1/27 10/21 66/25 98/19 98/20 107/24 111/20</p> <p>WANTS [1] 100/5</p> <p>WAR [5] 72/22 74/3 96/11 113/6 155/24</p> <p>WAREHOUSE [3] 81/16 82/26 109/22</p> <p>WARNER [2] 73/10 73/15</p> <p>WAS [258]</p> <p>WASN'T [8] 4/5 52/14 59/10 66/17 79/14 117/15 117/16 147/8</p> <p>WASTE [1] 57/24</p> <p>WASTED [1] 160/19</p> <p>WATER [318]</p> <p>WATERLINES [1] 110/19</p> <p>WATERWORKS [2] 1/26 158/8</p> <p>WAVERIDER [1] 80/26</p> <p>WAY [14] 6/8 9/25 14/1 36/12 45/11 47/3 49/4 50/25 75/13 76/18 100/10 149/5 151/12 159/3</p> <p>WAYS [1] 136/26</p> <p>WE [274]</p> <p>WE'D [2] 68/15 100/28</p> <p>WE'LL [14] 5/14 37/21 58/15 81/12 100/20 103/12 120/11 157/13 160/17 160/25 161/4 161/19 162/2 162/4</p> <p>WE'RE [35] 2/26 14/19 21/16 23/7 37/18 44/27 49/12 49/14 56/11 58/2 60/12 78/6 105/20 109/9 109/20 109/22 110/4 110/28 120/5 121/24 122/6 122/8 122/16 123/3 123/24 146/16 151/24 152/1 153/10 153/28 154/10 159/21 160/28 161/14 161/18</p> <p>WE'VE [13] 14/2 14/16 15/18 22/12 27/27 40/8 67/16 68/8 100/27 121/17 123/15 153/20 156/27</p> <p>WEAPON [15] 8/3 74/19 104/6 105/12 109/4 113/6 122/17 123/3 123/5 123/9 123/11 125/12 145/12 154/14 154/21</p> <p>WEAPONS [2] 9/4 86/12</p> <p>WEATHER [3] 83/23 85/12 89/23</p> <p>WEB [1] 4/11</p> <p>WEEK [13] 13/18 32/22 35/15 36/2 41/15 44/1 46/14 48/5 48/22 63/1 63/3 80/27 133/19</p> <p>WEEKEND [2] 4/16 15/9</p> <p>WEEKS [1] 160/20</p> <p>WELL [116] 1/15 3/15 3/23 4/19 5/10 7/5 7/7 7/12 7/19 9/6 14/24 15/12 16/10 16/27 21/6 21/16 26/8 26/21 27/15 27/23 28/24 28/27 31/18 33/21 34/17 35/24 36/7 36/9 38/9 39/26 40/16 42/10 43/23 45/7 45/12 47/1 48/9 48/12 49/15 49/16 51/18 52/11 57/5 57/6 57/17 58/2 58/15 59/10 61/26 64/7 65/23 66/25 67/18 69/17 70/27 72/21 73/4 73/12 74/28 81/10 82/20 83/11 83/23 84/7 84/11 84/15 84/16 84/24 84/27 85/11 86/6 87/2 91/15 94/3 94/21 97/11 100/1 108/10 111/1 114/9 114/12 114/14 116/13 116/16 116/23 124/5 127/8 128/23 133/23 136/14 137/13 137/15 137/17 137/26 138/4 139/2 140/9 143/24 144/26 145/16 145/21 148/1 148/6 148/16 149/11 150/8 150/19 151/26 152/25 154/4 158/6 159/10 159/25 160/1 160/15 160/16</p> <p>WELL-SITUATED [2] 84/24 84/27</p> <p>WELL-SUITED [2] 84/15 91/15</p> <p>WELLS [41] 6/11 6/16 6/17 6/20 6/22 7/17 10/6 10/7 10/15 10/16 10/16 44/12 94/22</p>
--	---	---

W	128/5 128/6 128/8 128/10 128/18 131/23 132/12 144/18 145/8 147/15 147/17 161/18	151/14
WELLS... [28] 107/26 108/1 108/2 108/5 108/7 108/16 110/26 110/28 112/8 112/10 114/6 114/10 114/12 114/13 114/14 114/15 116/14 116/16 119/5 119/7 119/10 119/15 136/10 137/7 137/8 138/2 138/28 161/26	WHETHER [21] 12/12 16/18 29/16 29/17 32/14 38/4 47/12 47/22 57/17 57/21 57/22 63/23 91/7 111/25 112/26 131/24 133/5 137/7 144/8 149/21 149/22	WOULD [112] 1/23 4/2 5/8 10/28 15/23 16/26 18/5 18/9 18/10 20/20 20/28 21/8 23/28 25/26 25/26 27/2 28/5 29/21 31/19 33/24 33/26 34/2 34/24 35/20 35/23 37/24 45/26 46/7 51/10 54/28 59/3 63/27 65/3 65/5 65/12 65/13 67/2 67/13 69/15 70/15 71/24 76/20 76/20 76/23 79/6 79/19 80/14 80/18 82/4 82/8 83/13 83/21 88/20 89/7 89/17 89/18 93/7 93/28 94/3 94/5 98/4 98/22 100/8 100/9 110/6 112/28 113/27 114/2 114/3 117/4 117/12 119/1 124/8 125/24 126/4 126/10 126/11 126/11 127/6 127/26 128/21 128/21 130/8 130/23 132/1 132/4 132/20 132/21 132/21 133/15 135/6 135/10 135/20 135/20 135/24 141/1 143/5 143/12 143/15 143/27 146/8 148/22 148/26 148/27 149/27 158/11 158/14 158/19 158/20 158/24 159/7 159/12
WENDY [1] 1/27	WHICH [42] 3/13 4/10 5/8 5/14 10/7 13/23 15/9 15/19 15/24 28/22 31/21 31/25 39/17 49/13 49/14 51/28 53/6 53/28 58/5 58/9 59/27 64/4 65/13 66/13 68/9 79/13 81/12 81/13 82/28 95/20 112/8 112/10 112/16 130/8 130/23 131/28 132/18 140/8 143/13 147/26 150/6 152/20	WOULDN'T [5] 25/6 25/6 127/27 143/9 150/28
WENT [11] 35/12 73/9 73/16 73/23 74/4 91/27 104/17 104/21 130/4 156/9 156/11	WHILE [5] 127/1 158/21 159/20 160/2 160/28	WRIGHT [4] 100/4 100/7 103/4 105/6
WERE [75] 1/15 4/10 4/17 5/3 8/26 10/5 10/6 10/14 13/7 13/18 14/12 15/5 23/12 24/7 26/22 27/18 30/21 34/8 39/17 40/15 41/22 42/25 43/2 47/23 48/17 52/23 62/6 65/11 68/9 73/20 76/24 79/9 82/7 82/28 88/12 88/22 92/5 97/22 97/23 104/15 107/8 108/23 117/14 118/8 118/12 121/13 123/9 125/17 127/19 127/21 128/14 129/15 130/5 130/26 131/5 131/17 131/20 131/25 133/12 133/19 133/22 135/18 136/8 136/9 136/13 136/16 137/1 137/4 142/19 142/20 142/20 143/20 147/17 152/26 162/8	WHO [9] 39/10 58/7 63/16 63/21 68/20 94/15 97/4 135/6 142/5	WRIGHT-PATTERSON [4] 100/4 100/7 103/4 105/6
WEREN'T [1] 79/10	WHOLE [6] 19/2 23/25 48/15 70/18 102/19 150/24	WRITE [2] 9/15 9/18
WESLEY [1] 1/19	WHY [27] 4/6 5/10 7/3 22/5 35/13 35/27 37/13 37/23 37/28 38/12 38/17 39/20 40/5 40/12 40/21 47/25 58/28 68/2 130/1 130/9 130/22 145/19 145/19 149/4 155/10 159/20 160/16	WRITING [1] 34/1
WEST [6] 81/26 81/28 82/2 83/10 161/21 161/23	WIDE [2] 135/26 135/28	WRITTEN [3] 3/17 113/3 152/22
WESTERN [1] 2/19	WIDELY [1] 135/23	WRONG [2] 24/19 43/28
WHAT [162] 3/19 3/21 5/5 7/8 9/8 10/2 11/22 12/7 12/26 13/6 13/12 14/24 16/17 18/9 18/23 20/21 21/9 21/16 22/25 23/7 24/7 24/7 25/16 25/24 27/27 29/4 29/17 34/12 36/26 37/2 39/26 40/15 41/28 42/18 44/26 45/23 46/18 47/6 48/22 49/26 51/7 52/19 54/12 54/16 57/6 57/8 57/19 57/20 58/3 59/21 60/2 61/7 64/7 66/6 66/17 66/18 66/23 66/25 66/27 68/8 68/8 68/17 68/28 69/20 74/28 75/3 76/13 76/22 77/28 80/4 80/23 83/27 85/1 86/2 86/4 88/17 88/18 89/7 91/2 92/11 92/13 93/2 93/21 94/4 96/8 96/22 97/2 97/2 98/2 99/5 100/25 103/2 103/28 105/13 106/6 107/8 107/16 109/25 113/22 114/21 115/6 115/21 115/27 116/11 116/25 118/8 119/17 120/20 122/6 123/17 123/22 123/23 124/6 124/8 124/10 125/7 126/1 126/4 126/5 129/24 129/26 130/4 130/16 131/21 131/21 131/22 131/27 132/3 133/14 134/3 134/22 138/25 139/21 139/25 141/6 142/12 143/19 143/27 144/13 144/16 144/22 144/27 145/13 145/26 146/1 147/16 147/18 147/25 148/16 149/25 151/26 152/1 152/4 152/25 154/7 154/18 154/22 154/22 155/25 156/24 158/13 161/6	WIDGET [1] 76/19	WROTE [1] 34/13
WHAT'S [21] 11/6 40/27 45/9 49/11 57/26 57/27 57/28 59/7 62/27 63/8 71/4 71/8 75/23 78/11 81/28 91/27 108/18 121/19 151/17 155/18 161/21	WILL [30] 1/18 26/12 28/1 43/12 43/23 57/22 67/23 70/3 70/27 70/27 74/10 75/24 75/27 76/20 81/10 83/18 84/10 86/11 86/25 90/14 91/26 96/10 97/18 99/17 102/13 121/22 135/15 141/9 159/27 161/15	WYNDER [1] 1/19
WHATEVER [7] 5/11 27/5 50/11 76/19 95/13 97/8 125/2	WILLIAM [2] 1/25 2/15	X
WHATSOEVER [1] 50/5	WILLIAMS [2] 2/12 2/18	X-51 [1] 80/26
WHEN [46] 4/13 7/17 7/17 13/18 15/1 15/5 20/11 24/8 29/8 32/3 32/3 32/8 36/4 37/3 44/10 47/11 48/5 50/17 50/19 55/28 56/28 65/8 90/18 91/14 91/23 108/24 125/15 127/18 130/26 131/27 132/19 133/7 133/8 133/19 134/3 135/18 138/5 138/5 145/22 145/25 147/8 149/27 152/8 152/12 156/9 162/3	WINDED [2] 35/12 35/18	XS [1] 9/1
WHEN'S [1] 150/17	WINDOW [1] 153/19	XS-1 [1] 9/1
WHENEVER [4] 79/16 90/9 96/17 97/27	WING [24] 7/28 8/3 9/1 19/17 28/13 28/17 29/28 30/4 33/14 33/17 33/19 33/25 33/27 34/2 34/5 37/10 37/11 37/13 37/23 37/27 38/5 39/4 39/11 73/24	Y
WHERE [38] 11/9 21/1 22/20 27/16 34/6 44/28 46/18 47/10 53/2 55/6 56/2 56/9 63/13 73/10 75/25 80/13 81/2 81/6 93/28 97/6 98/22 104/18 104/22 104/24 109/18 116/18	WISH [1] 50/12	YEAH [28] 20/1 52/26 68/25 105/6 106/23 109/27 110/13 113/25 115/5 115/7 116/13 118/10 118/28 122/6 122/25 123/18 124/7 125/5 126/6 126/10 126/15 131/2 133/8 145/5 149/13 152/3 155/4 160/1
	WITHIN [24] 97/24 98/13 108/28 109/12 112/7 112/9 112/18 117/6 119/21 119/23 122/10 123/6 125/21 125/24 125/28 126/27 132/9 141/8 148/2 149/16 150/15 153/19 154/9 155/6	YEAR [65] 6/16 6/19 10/2 10/13 11/8 19/15 19/28 24/25 24/26 26/21 26/24 32/13 33/7 44/2 44/5 45/13 45/19 46/14 54/15 61/27 117/1 117/6 117/6 117/8 117/8 117/14 118/12 118/18 118/18 120/22 121/22 121/27 121/28 121/28 124/11 125/17 125/22 126/8 126/24 127/7 127/7 127/11 129/10 129/10 131/26 132/3 132/5 139/16 139/17 141/8 146/9 146/11 147/19 147/25 147/26 147/26 148/5 148/7 148/24 148/25 149/11 154/17 155/18 156/11 156/21
	WITHOUT [4] 45/7 83/24 98/18 107/18	YEARS [45] 10/23 15/20 16/20 20/1 20/3 20/11 20/14 20/21 21/10 27/28 32/7 44/21 46/6 47/25 49/2 60/24 61/4 61/8 62/25 88/28 103/28 114/23 115/6 118/13 124/9 125/21 125/22 126/4 126/21 132/22 136/16 141/10 146/23 148/5 148/6 148/14 148/14 148/17 148/19 148/19 148/22 149/1 149/8 155/7 156/12
	WITNESS [58] 1/14 1/18 1/21 1/22 2/22 2/24 2/27 5/3 5/11 5/15 5/16 7/13 15/6 15/7 18/28 21/22 22/20 23/9 28/21 30/12 38/3 38/7 38/7 43/21 44/26 45/3 46/4 46/18 46/22 46/25 47/9 47/12 47/22 47/23 48/27 50/2 52/21 56/14 57/6 63/27 68/20 70/10 70/11 70/12 74/26 87/8 99/2 100/18 100/18 102/12 102/13 103/7 107/5 114/20 157/9 159/16 159/16 159/25	YEP [2] 132/26 138/8
	WITNESS'S [2] 46/7 47/24	YES [226]
	WITNESSES [5] 3/2 7/10 38/6 88/18 160/7	YET [1] 77/20
	WONDERFUL [1] 85/12	YORK [1] 88/27
	WOOD [1] 1/17	YOU [638]
	WORD [13] 25/18 25/26 26/3 28/15 35/18 35/28 36/5 36/8 36/9 36/11 40/28 51/23 58/4	YOU'D [4] 79/21 148/14 149/7 149/8
	WORDS [1] 29/16	YOU'LL [5] 13/22 48/18 121/21 138/12 152/17
	WORK [9] 26/5 35/4 77/4 86/23 87/3 90/3 96/20 105/12 137/4	YOU'RE [40] 1/17 3/23 3/24 4/3 6/21 9/25 19/4 21/1 21/25 29/9 33/8 37/3 37/7 40/8 40/9 40/10 40/13 44/10 44/11 50/25 53/2 53/18 55/4 56/19 65/1 66/23 70/1 74/17 75/7
	WORKED [7] 32/26 41/16 73/17 104/18 104/18 104/22 139/5	
	WORKERS [1] 114/2	
	WORKING [14] 26/22 88/28 89/1 104/12 109/9 109/13 109/20 109/22 122/25 123/3 130/3 130/25 139/7 154/21	
	WORKS [2] 55/9 81/21	
	WORLD [5] 81/23 82/8 143/1 143/12	

Y		
YOU'RE... [11] 88/2 96/3 97/11 99/6 115/6 119/28 129/25 136/24 148/8 153/24 160/9 YOU'VE [12] 27/3 27/5 32/14 35/21 55/22 55/22 56/20 56/28 105/5 127/10 127/15 154/28 YOUR [298]		
Z		
ZERO [3] 151/21 151/23 151/27 ZIMMER [7] 1/21 30/12 35/17 36/17 49/3 59/1 157/9		