

**In the Matter of the Cancellation of: Lake Union Ferry
Company, LLC**

Docket No. TS-230613 - Vol. I

February 27, 2024



1325 Fourth Avenue, Suite 1840, Seattle, Washington 98101
Bellingham | Everett | Tacoma | Olympia | Yakima | Spokane
Seattle 206.287.9066 Tacoma 253.235.0111 Eastern Washington 509.624.3261

www.buellrealtime.com
email: audio@buellrealtime.com

Page 1

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Cancellation)
of Commercial Ferry Certificate)
BC068215)
Held by)
)
LAKE UNION FERRY COMPANY,)
) Docket No. TS-230613
Complainant,)
)
)
)
Pursuant to WAC 480-51-150(1)(d).)
) PAGES 1 - 44

BRIEF ADJUDICATIVE PROCEEDING - VOL. I
BEFORE ADMINISTRATIVE LAW JUDGE BIJAN HUGHES
FEBRUARY 27, 2024

Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, Washington 98504

TRANSCRIBED BY: ELIZABETH PATTERSON HARVEY, FAPR, RPR

Page 2

A P P E A R A N C E S

FOR COMMISSION STAFF:

Josephine Strauss
Josephine.Strauss@atg.wa.gov
Attorney General of Washington
PO Box 40128
Olympia, Washington 98504
360.709.4850

FOR THE APPLICANT:

David Stroble
david.stroble@gmail.com
Lake Union Ferry Company, LLC
506 Second Avenue, Suite 2300
Seattle, Washington 98104
360.790.5108

ALSO PRESENT:

Esther Neal
Rachel Stark

Page 3

I N D E X

WITNESSES

ALL WITNESSES:	PAGE
ESTHER NEAL	
Examination by Attorney Strauss	7
Questions by the Judge	13
RACHEL STARK	
Examination by Attorney Strauss	15
Questions by the Judge	30
DAVID STROBLE	
Narrative Testimony	36

EXHIBITS

EXHIBIT	PAGE
EN-1 Lake Union Administrative Dissolution Of Secretary of State Dated February 6, 2024	12
RS-1 Operations Certificate Dated May 17, 2018	18
RS-2 Transfer of Authority Application Dated January 10, 2020	19
RS-3 Order Authorizing Transfer Ated March 3, 2020	20

Page 4

February 27, 2024 - 1:30 p.m.
-o0o-

JUDGE HUGHES: Good afternoon.
ATTORNEY STRAUSS: Good afternoon, your Honor.
DAVID STROBLE: Hello.
ESTHER NEAL: Good afternoon.
JUDGE HUGHES: The time is 1:30. This is Docket TS-230613. The time set for the hearing, for hearing the commission's complaint, was 1:30 today against Lake Union Ferry Company, LLC, which I may refer to as the company through the course of this hearing.
Before we (inaudible) the proposed cancellation of the company's commercial ferry certificate of the alleged violation of WAC 480-51-150(1)(d).
My name is Bijan Hughes, and I'm an administrative law judge with the Washington Utilities and Transportation Commission.
Okay. Let us start by taking short appearances. Staff?
ATTORNEY STRAUSS: Good afternoon, your Honor. Josephine Strauss with the Washington State

Page 5

1 Attorney General's Office representing commission
 2 staff.
 3 I have with me today two staff witnesses,
 4 Esther Neal and Rachel Stark.
 5 JUDGE HUGHES: Very good.
 6 And the company?
 7 DAVID STROBLE: Good afternoon, your
 8 Honor. David Stroble representing the company.
 9 JUDGE HUGHES: And just to confirm for
 10 the record, the company is?
 11 DAVID STROBLE: Formerly Lake Union Ferry
 12 Company, LLC, which is part of the issue that we'll be
 13 talking about today because it was administratively
 14 terminated, which was a wholly owned subsidiary of my
 15 holding company, Eden Valley Investments, LLC.
 16 JUDGE HUGHES: Very good. Thank you.
 17 DAVID STROBLE: Which was also the
 18 original permit holder.
 19 JUDGE HUGHES: All right. We've got a
 20 storied history, it looks like.
 21 DAVID STROBLE: Yes.
 22 JUDGE HUGHES: Okay. So any motions
 23 before we jump into testimony?
 24 ATTORNEY STRAUSS: No, your Honor.
 25 JUDGE HUGHES: Great. And let's see.

Page 6

1 For the record, I want to confirm the company's aware
 2 of its right to have counsel present at this
 3 proceeding, and that it's comfortable proceeding pro
 4 ceed?
 5 DAVID STROBLE: Yes. Aware of the right,
 6 and comfortable proceeding.
 7 JUDGE HUGHES: Very good.
 8 Okay. Let us progress to the merits.
 9 Staff, I can swear in the first witness
 10 and they may testify.
 11 ATTORNEY STRAUSS: Yes, your Honor.
 12 Staff's first witness is Esther Neal.
 13 JUDGE HUGHES: All right. There you are.
 14 Can you please raise your right hand.
 15 Do you swear or affirm that the testimony
 16 you give today will be the truth, the whole truth and
 17 knowing but the truth?
 18 THE WITNESS: I do.
 19 JUDGE HUGHES: Thank you.
 20 Please proceed, Counselor.
 21
 22 ESTHER NEAL, witness herein, having been first
 23 duly sworn on oath, was examined
 24 and testified as follows:
 25

Page 7

1 EXAMINATION
 2 BY ATTORNEY STRAUSS:
 3 **Q Good morning -- or good afternoon, I guess.**
 4 **Good afternoon, Ms. Neal. Would you please state your**
 5 **name and spell your last for the record.**
 6 A Good afternoon. My name is Esther Neal,
 7 N-E-A-L.
 8 **Q And what is your current occupation?**
 9 A I'm a Regulatory Analyst 2 for the Utilities
 10 and Transportation Commission.
 11 **Q And how long have you been in that position?**
 12 A Since December of 2022.
 13 **Q And what are your responsibilities within**
 14 **that position?**
 15 A My duties include reviewing and analyzing
 16 financial and operational data reported by
 17 commission-regulated companies.
 18 **Q And what training or education have you**
 19 **received relating to your role as an analyst?**
 20 A In my career as a Washington state employee,
 21 I've gained over 19 years of experience working with
 22 regulated entities, reviewing and analyzing policies,
 23 laws, rules and regulations, and as well as over eight
 24 years of accounting experience.
 25 **Q Thank you. I want to turn to the current**

Page 8

1 **matter. Are you familiar with Lake Union Ferry**
 2 **Company, LLC?**
 3 A Yes.
 4 **Q Can you please tell us how you're familiar**
 5 **with this company?**
 6 A Lake Union Ferry Company is regulated by the
 7 commission.
 8 **Q Okay. And what do you know about this**
 9 **company?**
 10 A I reviewed their annual reports. And I know
 11 that this company has not filed -- has not reported any
 12 intrastate operating revenue for the past few years.
 13 **Q Okay. And why were you looking at this**
 14 **company's annual report?**
 15 A As part of my duties, I was reviewing their
 16 financial and operational data reported for the
 17 previous reporting year.
 18 **Q And what did this annual report tell you?**
 19 A It just showed that the company had no
 20 operating revenue.
 21 **Q Okay. And was this the first report that the**
 22 **company had submitted that showed no operating revenue?**
 23 A No.
 24 **Q How many annual reports have shown no**
 25 **operating revenue?**

Page 9

1 A Four.

2 **Q And for how many years has the company been**

3 **filing annual reports?**

4 A For the past four years.

5 **Q Okay. And at the beginning of this,**

6 **Mr. Stroble mentioned that the prior holder of the**

7 **certificate was Eden Valley Investments, LLC. Has that**

8 **company ever filed an annual report?**

9 A Yes.

10 **Q Did that company's annual reports ever show**

11 **operating revenue?**

12 A No, they did not.

13 **Q Okay. What did you do with this information?**

14 A I sent a notice of intent to cancel to the

15 company.

16 **Q And when did you first send the notice of**

17 **intent to cancel?**

18 A On July 27 of 2023.

19 **Q And was that notice received?**

20 A No, that notice was not received.

21 **Q Okay. Why was that notice not received?**

22 A That notice was submitted to the docket

23 unsigned.

24 **Q Okay. And how many times did you send the**

25 **notice of intent to cancel after this?**

Page 10

1 A Three additional times.

2 **Q And why was that?**

3 A The second and third attempt, the notice was

4 sent to the company's previous e-mail address in error.

5 And the fourth attempt was successful.

6 **Q Okay. And when was the last time you sent**

7 **this notice?**

8 A That was on January 2 of 2024.

9 **Q And did anyone respond to that notice?**

10 A Yes. David Stroble of Lake Union Ferry

11 Company did respond.

12 **Q Okay. And do you know, did you review that**

13 **response?**

14 A Yes, I did.

15 **Q And do you remember what it said?**

16 A David's response included reasons why the

17 company had not initiated service, and a request to

18 extend their certification with the commission.

19 **Q Okay. And what did you do after receiving**

20 **this response?**

21 A I reached out to industry staff to verify the

22 company had indeed not initiated service.

23 **Q And what did you learn from industry staff?**

24 A I learned that the company did not initiate

25 service or had not initiated service, and as well as

Page 11

1 they had not followed some of the requirements for the

2 certification.

3 **Q Okay. Did you look at any other resources**

4 **regarding your investigation of this company?**

5 A Yes, I did.

6 **Q What else have you reviewed regarding Lake**

7 **Union Ferry Company?**

8 A I reviewed the company's information on the

9 Secretary of State's website.

10 **Q And what did the Secretary of State website**

11 **show?**

12 A The website showed that the company had been

13 administratively dissolved.

14 **Q Okay. So I'm going to share my screen. Let**

15 **me -- sorry. I'm showing you a document that's been**

16 **previously marked as proposed Exhibit EN-1. Can you**

17 **see that on your screen?**

18 A Yes, I can.

19 **Q Ms. Neal, what is proposed Exhibit EN-1?**

20 A So that is the Secretary of State's

21 explanation of why the company is being

22 administratively dissolved.

23 **Q Okay. Do you have any changes you would like**

24 **to make to this exhibit at this time?**

25 A No.

Page 12

1 **Q And is this a true and accurate copy of the**

2 **business information readout of Lake Union Ferry**

3 **Company, LLC from the Washington Secretary of State**

4 **website?**

5 A Yes, it is.

6 ATTORNEY STRAUSS: Your Honor, at this

7 time I'd like to offer proposed Exhibit EN-1 into

8 evidence.

9 I apologize, your Honor. You're still

10 muted.

11 JUDGE HUGHES: Sorry. The three screens.

12 Any objection from the company in

13 admitting this piece of evidence?

14 DAVID STROBLE: No objection.

15 JUDGE HUGHES: All right. It is entered

16 as EN-1.

17 (Exhibit EN-1 admitted into evidence)

18 ATTORNEY STRAUSS: Thank you.

19 **Q (By Attorney Strauss) Ms. Neal, when was**

20 **Lake Union Ferry Company dissolved?**

21 A On August 3 of 2023.

22 **Q Okay. And do you know why the company was**

23 **dissolved?**

24 A Yes.

25 **Q Why was the company dissolved?**

Page 13

1 A The company was dissolved for not filing an
 2 annual report last year that was required by the
 3 Secretary of State's office.
 4 **Q Okay. And how do you know that this was the**
 5 **reason for dissolution?**
 6 A The reason for the dissolution was provided
 7 on the Secretary of State's website.
 8 **Q Okay. And do you know if, prior to the**
 9 **company being dissolved in August 2023, if the**
 10 **certificate that was granted to Lake Union Ferry**
 11 **Company was transferred to any other company?**
 12 A No, not to my knowledge.
 13 ATTORNEY STRAUSS: Okay. Ms. Neal, that
 14 is all my questions for you this afternoon.
 15 THE WITNESS: Thank you.
 16 JUDGE HUGHES: Mr. Stroble, do you have
 17 any questions for this witness?
 18 DAVID STROBLE: No, no questions.
 19 JUDGE HUGHES: Okay. Thanks.
 20
 21 QUESTIONS BY THE JUDGE
 22 JUDGE HUGHES: So while I have you, I'll
 23 ask one of mine instead of waiting to the end.
 24 Scrolling.
 25 I believe you said that the company has

Page 14

1 not initiated service?
 2 You're muted if you answered.
 3 THE WITNESS: Sorry.
 4 JUDGE HUGHES: No worries.
 5 THE WITNESS: That's correct, your Honor.
 6 JUDGE HUGHES: And can you -- what WAC
 7 citation was in the NOIC?
 8 THE WITNESS: I don't have that handy
 9 right here. But I can pull that up.
 10 JUDGE HUGHES: I'll wait.
 11 THE WITNESS: Okay. Thank you.
 12 It's WAC 480-51-150.
 13 JUDGE HUGHES: And that's Subsection
 14 (d)?
 15 THE WITNESS: Sorry. Just a minute.
 16 How did I just close that?
 17 That is correct.
 18 JUDGE HUGHES: Okay. It's my
 19 understanding that that subsection calls for the filing
 20 of annual reports after service has been initiated.
 21 THE WITNESS: That's correct. That's my
 22 understanding as well, your Honor.
 23 JUDGE HUGHES: But service was never
 24 initiated?
 25 THE WITNESS: That is correct.

Page 15

1 JUDGE HUGHES: Okay. So is the
 2 regulation in the NOIC applicable?
 3 THE WITNESS: No. Not as filed.
 4 JUDGE HUGHES: Okay. Then I will wait
 5 for the next witness, then. Thank you.
 6 THE WITNESS: Thank you.
 7 ATTORNEY STRAUSS: Your Honor, staff
 8 would like to call Rachel Stark.
 9 JUDGE HUGHES: Okay. Can you please
 10 raise your right hand.
 11 Do you swear or affirm to tell the truth
 12 the whole truth and nothing but the truth?
 13 THE WITNESS: Yes.
 14 JUDGE HUGHES: Good. Thank you. Please
 15 proceed.
 16
 17 RACHEL STARK, witness herein, having been first
 18 duly sworn on oath, was examined
 19 and testified as follows:
 20
 21 EXAMINATION
 22 BY ATTORNEY STRAUSS:
 23 **Q Good afternoon, Ms. Stark. Could you please**
 24 **state your name and spell your last name for the**
 25 **record?**

Page 16

1 A Rachel Stark, S-T-A-R-K.
 2 **Q And Ms. Stark, what is your current**
 3 **occupation?**
 4 A Regulatory Analyst 3.
 5 **Q And how long have you been in that position?**
 6 A Since March 2023.
 7 **Q And what are your responsibilities in that**
 8 **position?**
 9 A I review and analyze company filings for
 10 changes to any company tariffs or rules in compliance
 11 with commission rules and laws.
 12 I'm also the backup for any annual report
 13 questions that may arise.
 14 **Q Okay. And have you received any training or**
 15 **education that relates to your role as an analyst?**
 16 A Yes.
 17 **Q And what is that training or education?**
 18 A I received training from senior staff members
 19 and trainers and our supervisor in our division, as
 20 well as I attended the National Association of
 21 Regulatory Commissioners week-long rates school.
 22 **Q I want to turn to the current matter at**
 23 **issue. Are you familiar with Lake Union Ferry Company,**
 24 **LLC?**
 25 A Yes.

Page 17

1 **Q And how are you familiar with that company?**
 2 A Lake Union Ferry Company, LLC is a company
 3 that the commission has regulatory authority over.
 4 **Q And do you know if this company has a**
 5 **commission-granted certificate to operate ferry**
 6 **service?**
 7 A Yes.
 8 **Q When was the certificate granted?**
 9 A May 17, 2018.
 10 **Q Okay. I'm going to share my screen as soon**
 11 **as I can find my mouse. There it is.**
 12 **Ms. Stark, I'm showing you a document that**
 13 **has been previously marked as proposed Exhibit RS-1.**
 14 **Are you familiar with this document?**
 15 A Yes.
 16 **Q And what is RS-1?**
 17 A This is the certificate that was granted to
 18 Eden Valley Investments, LLC, d/b/a Lake Union Ferry
 19 Company on May 17, 2018.
 20 **Q Okay. Do you have any changes you would like**
 21 **to make to this exhibit?**
 22 A No.
 23 **Q Is this a true and accurate copy of the**
 24 **certificate granted by the commission to the best of**
 25 **your knowledge?**

Page 18

1 A Yes.
 2 ATTORNEY STRAUSS: Your Honor, at this
 3 time I'd like to offer proposed Exhibit RS-1 into
 4 evidence.
 5 JUDGE HUGHES: Any objection?
 6 DAVID STROBLE: None.
 7 JUDGE HUGHES: Thank you. Okay. RS-1 is
 8 admitted.
 9 (Exhibit RS-1 admitted into evidence)
 10 **Q (By Attorney Strauss) Ms. Stark, according**
 11 **to RS-1, who was the original grantee of the**
 12 **certificate?**
 13 A Eden Valley Investments, LLC, d/b/a Lake
 14 Union Ferry Company.
 15 **Q Okay. And was this certificate ever**
 16 **transferred?**
 17 A Yes.
 18 **Q And have you seen the application**
 19 **transferring the certificate to Lake Union Ferry**
 20 **Company?**
 21 A Yes.
 22 **Q Okay. I'm now showing you proposed Exhibit**
 23 **RS 2.**
 24 **Ms. Stark, what is proposed Exhibit RS-2?**
 25 A This is the application for the ferry company

Page 19

1 to transfer their certificate from Eden Valley
 2 Investments, LLC, d/b/a Lake Union Ferry Company, to
 3 Lake Union Ferry Company, LLC.
 4 **Q Okay. And do you have any changes you would**
 5 **like to make to this exhibit?**
 6 A No.
 7 **Q Okay. And Ms. Stark, to the best of your**
 8 **knowledge, is this a true and accurate copy of the**
 9 **application to transfer the certificate?**
 10 A Yes.
 11 ATTORNEY STRAUSS: Your Honor, at this
 12 time I'd like to offer RS-2 into evidence.
 13 JUDGE HUGHES: Any objection?
 14 DAVID STROBLE: No objection.
 15 JUDGE HUGHES: Okay. Thank you. RS-2 is
 16 admitted. Please proceed.
 17 (Exhibit RS-2 admitted into evidence)
 18 **Q (By Attorney Strauss) Ms. Stark, was this**
 19 **application to transfer the certificate granted?**
 20 A Yes.
 21 **Q And have you seen the order transferring that**
 22 **certificate?**
 23 A Yes, I have.
 24 **Q Okay. And I'm now showing you what has been**
 25 **previously marked as proposed RS-3.**

Page 20

1 **Is this the order that was granting the**
 2 **authorization of transfer of that certificate?**
 3 A Yes.
 4 **Q And do you have any changes you would like to**
 5 **make to this exhibit?**
 6 A No.
 7 **Q And to the best of your knowledge, is this a**
 8 **true and accurate copy of that order transferring the**
 9 **certificate?**
 10 A Yes.
 11 ATTORNEY STRAUSS: And your Honor, at
 12 this time I'd like to offer RS-3 into evidence.
 13 JUDGE HUGHES: Any objection?
 14 DAVID STROBLE: No objection.
 15 JUDGE HUGHES: Okay. RS-3 is entered
 16 into evidence. Please proceed.
 17 (Exhibit RS-3 entered into evidence)
 18 **Q (By Attorney Strauss) Ms. Stark, going back**
 19 **to Exhibit RS-2, I'm going to scroll down to page 6,**
 20 **eventually.**
 21 **Who was the principal of Eden Valley**
 22 **Investment, LLC?**
 23 A David Stroble.
 24 **Q And who is the principal of Lake Union Ferry**
 25 **Company, LLC?**

1 A David Stroble.
 2 **Q Okay. Ms. Stark, is a certificate holder**
 3 **required to file progress reports prior to initiating**
 4 **service?**
 5 A Yes.
 6 **Q And did Eden Valley Investment ever file a**
 7 **progress report while it held the certificate?**
 8 A No.
 9 **Q Did Lake Union Ferry Company, LLC ever file a**
 10 **progress report?**
 11 A No.
 12 **Q And did staff ever follow up with Lake Union**
 13 **Ferry Company about the lack of progress report?**
 14 A Yes.
 15 **Q When did staff follow up with the company?**
 16 A May 25, 2021.
 17 **Q And can you describe that conversation?**
 18 A Yes. It was an e-mail that went to the
 19 company from -- excuse me; let me get to it -- from a
 20 staff member, Scott Sevall, asking the company if
 21 there's any updates, that the company was last told by
 22 commission staff that they're working on agreements
 23 with Seattle to lock in access points for the company
 24 stops, and if they were pursuing contracts to be able
 25 to build their boats, and if the company put things on

1 expected a resolution in a month or so, and this would
 2 allow the company to move forward with their city
 3 permits, which would then take an additional 6 to 12
 4 months.
 5 They then stated they would expect to be able
 6 to build boats within a year and then operate after
 7 that time.
 8 **Q Ms. Stark, are you familiar with WAC**
 9 **480-51-120?**
 10 A Yes.
 11 **Q What is your understanding of that provision?**
 12 A The rules are that -- the rule states that
 13 failure for a company to initiate service, they need to
 14 file for an extension of time to initiate service and
 15 provide progress reports.
 16 Paragraph (1)(a) within WAC 481 -- excuse me;
 17 480-51-120 states if the certificate holder has not yet
 18 initiated any or all of the portion of their route or
 19 routes that are granted in their certificate, that
 20 during the first five years after obtaining that
 21 certificate, the certificate holder may petition the
 22 commission to extend the certificate on a 12-month
 23 basis for up to three years.
 24 Additionally, WAC 480-51-120(4)(a)(i) states
 25 that the petition for an extension of time to initiate

1 hold.
 2 **Q Okay. And then since 2021, has Lake Union**
 3 **filed any other progress reports?**
 4 A No. But they did respond to that e-mail.
 5 **Q Okay. And what was their response to that**
 6 **e-mail?**
 7 A They responded on the same day.
 8 Mr. Stroble responded. He indicated that the
 9 company did have some challenging points for the year
 10 due to trying to get those permits with the City of
 11 Seattle, as well with the Muckleshoot Tribe opposition
 12 to be able to get their permits. The opposition
 13 stopped the company from being able to work on anything
 14 until the Muckleshoot oppositions were -- concerns were
 15 resolved.
 16 The company also had indicated that COVID --
 17 and the Muckleshoot Tribe shut down during COVID for 12
 18 months, and that the company was unable to get any
 19 responses from the tribe to be able to move forward due
 20 to the shutdown.
 21 The company also stated that they have been
 22 in contact with the tribe in the past two months from
 23 that May 25 date, and that they were working on a broad
 24 resolution.
 25 The company also stated that they had

1 service, a certificate holder must file a petition with
 2 the commission seeking an extension of time to initiate
 3 service no later than 90 days prior to the date upon
 4 which that five-year period following the granting of
 5 the certificate expires.
 6 **Q And Ms. Stark, when was the certificate at**
 7 **issue here granted?**
 8 A May 17, 2018.
 9 **Q And when did the five-year time frame to**
 10 **initiate service expire?**
 11 A May 17, 2023.
 12 **Q Did Lake Union initiate service prior to May**
 13 **2023?**
 14 A No.
 15 **Q Did Mr. Stroble or any representative of Lake**
 16 **Union Ferry Company apply for extension of the**
 17 **certificate within the appropriate time frame under the**
 18 **WAC?**
 19 A No.
 20 **Q Ms. Stark, I now want to turn your attention**
 21 **to WAC 480-51-150(1)(a) -- or (1)(b); apologies. Are**
 22 **you familiar with that subsection?**
 23 A Let me get to it so I can familiarize myself.
 24 **Q Take your time.**
 25 A 1(b). Okay. Yes.

1 **Q And what is that subsection?**

2 A It's a failure for a certificate -- or to
3 initiate service by the conclusion of the fifth year
4 after the certificate holder, to initiate service by
5 the conclusion of the fifth year after the certificate
6 has been granted.

7 **Q And is that regarding cancellation?**

8 A Yes.

9 **Q Do you know the basis for staff's issuance of**
10 **the notice of intent to cancel on January 2, 2024?**

11 A Yes.

12 **Q And do you know Lake Union Ferry Company's**
13 **response to that notice?**

14 A Yes.

15 **Q Have you spoken to Mr. Stroble about the**
16 **company's failure to initiate service?**

17 A Yes.

18 **Q And when did you speak to him?**

19 A I spoke to him twice. The first time was on
20 February 14 on the phone stating that the notice of
21 intent to cancel by the commission that was initiated
22 by Esther Neal was due to the company's failure to
23 initiate service, and also that their annual reports
24 were reporting zero operating -- excuse me; zero
25 intrastate operating revenue for more than five years.

1 would have due to now COVID, and he would need to do
2 that.

3 He also said that he -- part of his permits
4 that were stopping him was that he would need to
5 rebuild the floats or the docks that his boats would
6 come to to be able to load and unload his passengers,
7 and that he thinks now at this point, that he wouldn't
8 need to rebuild anything. So he believes that the
9 permit process would be easier for his company to
10 receive at this point, because the current docks or
11 floats there on the water, on Lake Union, would suffice
12 with his boats getting his customers on and off; and
13 that at this point he would really need to do some land
14 permits with various City of Seattle customers. What
15 that entails I don't know. I would let Mr. Stroble be
16 able to be able to expand on that, but that also that
17 he feels that the City of Seattle would be easier to
18 work with with just getting the land permits.

19 He did indicate -- I asked him if he would
20 send me the document for the timeline, because I told
21 him I did take some notes, but I would rather have it
22 in his writing.

23 And he said he would do that for me, and also
24 he would give, you know, a better timeline, that he
25 would do that.

1 **Q Okay. And what did you learn from that**
2 **conversation with Mr. Stroble?**

3 A Mr. Stroble and I talked about, again, what
4 he had responded to in the e-mail from Scott Sevall;
5 that the Muckleshoot Tribe were dragging their feet and
6 that COVID had shut down the tribe so he was not
7 receiving any responses from the tribe, which stopped
8 him being able to do anything.

9 He indicated that the tribe and the company
10 had come to an agreement prior to shutting down due to
11 COVID-19, but that there was no signed agreement
12 between the tribe and himself.

13 He also indicated that when the tribe came
14 back from being shut down, that there was a new person
15 in that position, and the new person had indicated that
16 they were denying any agreement and would not sign any
17 agreement. Mr. Stroble did indicate to me that that
18 wasn't just their company, but any companies. So it
19 was kind of a broad no to everyone to be able to run on
20 Lake Union.

21 He did indicate that he was also looking at
22 what his ridership would be at this point because
23 before COVID -- the ridership had changed after COVID,
24 and he didn't understand -- he didn't fully have a
25 comprehension of how many customers or riders that he

1 And then I spoke to him on the 15th. We kind
2 of talked over things again, same type of things. He
3 did say -- he didn't send me the e-mail yet because he
4 was thinking about things more. He started doing it,
5 but he was thinking about what he should do at this
6 point.

7 I did confirm that the Secretary of State's
8 office shows that his company was administratively
9 dissolved, and if he was aware of that.

10 And he said yes, he was aware of that because
11 that was an intentional action by Lake Union Ferry
12 Company because his company wasn't doing business under
13 Lake Union Ferry Company, but instead he was doing
14 things under his investment company, Eden Valley
15 Investments, LLC. So he didn't send me an e-mail.

16 But I also discussed with him the parameters
17 of WAC 480-51-120. He also indicated during that
18 conversation that he now understands the rules, under
19 the WAC rules, that he should have provided progress
20 reports and had not.

21 **Q Thank you.**

22 **And so outside of the certificate from the**
23 **commission, does -- is it your understanding, does**
24 **Mr. Stroble have any other permits he needs to operate?**

25 A Muckleshoot Tribe, you mean? The Muckleshoot

1 Tribe and City of Seattle.
 2 **Q Is there --**
 3 A He said that he had to do individual land use
 4 permits for people that he would utilize that area in
 5 the city. But he may be able to explain that better
 6 than I could.
 7 **Q And based on your understanding, does he have**
 8 **any of those other permits?**
 9 A No.
 10 **Q Ms. Stark, does staff have a recommendation**
 11 **on if this request for extension of the certificate**
 12 **should be granted?**
 13 A Yes.
 14 **Q And what is staff's recommendation?**
 15 A Staff would recommend that we deny the
 16 extension of this certificate because the company does
 17 not have a signed agreement with the Muckleshoot Tribe,
 18 nor do they have an anticipated agreement date.
 19 The company also does not have any permits
 20 with the City of Seattle and has no anticipation of
 21 dates of when they would obtain those.
 22 The company also does not have any permits
 23 for individual land use, and no anticipation date for
 24 when they'll be able to obtain those.
 25 And also the company states that they need to

1 LLC.
 2 JUDGE HUGHES: Okay. Are you familiar
 3 with the definition of a person under the
 4 regulations?
 5 THE WITNESS: No, sir. If you would
 6 direct me, I could --
 7 JUDGE HUGHES: Sure. WAC 480-51-020(10).
 8 THE WITNESS: 480 what?
 9 JUDGE HUGHES: 51-020.
 10 THE WITNESS: Thank you.
 11 And it's specifically which paragraph?
 12 JUDGE HUGHES: 10.
 13 THE WITNESS: 10. Thank you.
 14 The term person means any natural persons
 15 or persons by the entity legally capable of taking
 16 action. I would say yes, I'm familiar with that. I
 17 would say it's --
 18 JUDGE HUGHES: Okay. My question is, is
 19 a dissolved company capable of taking any legal action?
 20 So does staff consider Lake Union Ferry
 21 Company to be a person?
 22 THE WITNESS: I would say yes under the
 23 definition. Because they're not able to do anything.
 24 JUDGE HUGHES: But the -- okay.
 25 THE WITNESS: No person -- any natural

1 do a new ridership analysis. And they have not
 2 provided it. They have not provided an anticipated
 3 date of when they would complete that.
 4 **Q Okay. And does staff have a recommendation**
 5 **for cancellation under WAC had 80-51-150(1)(b)?**
 6 A Yes. The company has failed to -- yeah. We
 7 would recommend cancellation of their certificate
 8 because the company has not initiated service, nor have
 9 they provided any progress reports of financials or
 10 when they anticipate beginning service.
 11 ATTORNEY STRAUSS: Okay. Thank you, Ms.
 12 Stark. That's all my questions for you this afternoon.
 13 JUDGE HUGHES: Mr. Stroble, do you have
 14 any questions for this witness?
 15 DAVID STROBLE: No questions. Thank you.
 16 And thank you, Ms. Stark, for your
 17 summary of our conversations without my e-mail notes.
 18 THE WITNESS: Quite all right.
 19 JUDGE HUGHES: Okay. Then I suppose I do
 20 have a question or some questions.
 21
 22 QUESTIONS BY THE JUDGE
 23 JUDGE HUGHES: Who does staff consider to
 24 be the certificate holder right now?
 25 THE WITNESS: Lake Union Ferry Company,

1 persons of any -- oh, no. Lake Union Ferry -- excuse
 2 me, your Honor. No. I would say a company is not a
 3 person.
 4 JUDGE HUGHES: I believe it does include
 5 companies, but it doesn't include dissolved companies
 6 because -- perhaps this question would be better
 7 directed to your attorney.
 8 Ms. Strauss, do you have any thoughts on
 9 this?
 10 ATTORNEY STRAUSS: Yes, your Honor.
 11 Staff views Lake Union Ferry Company as a person for
 12 the context of wrapping up business since it does have
 13 an outstanding certificate that needs to be actively
 14 canceled by the commission, even though the company
 15 itself is dissolved.
 16 JUDGE HUGHES: Is the ability to wind
 17 down business the same as being capable of taking any
 18 action?
 19 ATTORNEY STRAUSS: I believe being able
 20 to wind down business is a part of a company's ability
 21 to take action, even if the company cannot -- is no
 22 longer in existence for the purpose of effectuating
 23 business, it still exists so long as it can wind down
 24 its business actions.
 25 JUDGE HUGHES: It does say take any

Page 33

1 action. But there are -- you'd acknowledge there's
 2 actions they can take?
 3 ATTORNEY STRAUSS: Correct, your Honor.
 4 JUDGE HUGHES: Okay. Okay. So staff
 5 doesn't think there's a need for an exemption to
 6 include -- change the definition of person?
 7 ATTORNEY STRAUSS: No, your Honor. Not
 8 at this point.
 9 JUDGE HUGHES: Shoot. Sorry. I was way
 10 too excited to ask that question. So thank you for
 11 indulging me.
 12 ATTORNEY STRAUSS: -- your Honor.
 13 JUDGE HUGHES: Very good. I asked that.
 14 On the five years, let me ask Ms. Strauss
 15 again. In this construction where the certificate
 16 holder has been a single entity, it seems like is how
 17 the case has been presented, that the five years
 18 started at the beginning.
 19 So my question is, is that because he
 20 transferred it to another company he controls, or would
 21 the reasoning be if he had transferred it to a third
 22 party, would staff have reset the five-year clock or
 23 kept the original, is --
 24 ATTORNEY STRAUSS: Sorry, your Honor. I
 25 apologize.

Page 34

1 Your Honor, so staff used the five-year
 2 clock as starting when the certificate is first
 3 granted.
 4 This five-year clock does not restart
 5 upon transfer. And the reasoning behind that is if the
 6 clock resets every time a certificate is transferred,
 7 that five-year clock would never run out. It could be
 8 perpetually extended for each transfer. And they would
 9 never need to apply for a transfer, but rather could
 10 just continually transfer the certificate between LLC's
 11 every time the clock got near to running out or at this
 12 point in time during that five years.
 13 So staff's view is that that five-year
 14 time really begins when the certificate is granted, and
 15 does not reset upon transfer.
 16 JUDGE HUGHES: Would a company be able to
 17 perpetually move it?
 18 Would they not need to seek permission to
 19 transfer it?
 20 Wouldn't that be an opportunity to say
 21 no?
 22 ATTORNEY STRAUSS: Your Honor, it could
 23 be an opportunity to say no.
 24 However, in certain situations, it could
 25 very easily explain why the transfer would be needed,

Page 35

1 and at least in the short term, be used as a way to get
 2 around the five-year regulation.
 3 JUDGE HUGHES: Okay. Then back to Ms.
 4 Stark. So I believe -- how many reports did the
 5 company fail to make that it was required to make?
 6 THE WITNESS: I would say with the rule
 7 -- so the company, in -- let's see. They didn't file
 8 any extension or any progress reports.
 9 (Overlapping speech)
 10 THE WITNESS: -- WAC 480-51-120. So the
 11 certificate holder, if they don't initiate service
 12 within the first five years, they should file progress
 13 reports yearly.
 14 JUDGE HUGHES: I'm seeing every six
 15 months, Subsection (a)?
 16 THE WITNESS: Thank you, your Honor.
 17 Let's see. A. Here we are. Yes, every six months.
 18 Yes, your Honor.
 19 JUDGE HUGHES: Okay. And so it would be
 20 fair to say that the company has missed at least ten
 21 reports?
 22 THE WITNESS: Yes, sir.
 23 JUDGE HUGHES: Okay. That is all I have.
 24 Any other witnesses?
 25 ATTORNEY STRAUSS: Your Honor, staff has

Page 36

1 no other witnesses at this time.
 2 JUDGE HUGHES: Okay. Thank you,
 3 witnesses, for coming.
 4 Mr. Stroble, would Lake Union Ferry
 5 Company like to present any evidence or testimony?
 6 And you can proceed by testifying in
 7 narrative form if that's what you'd like.
 8
 9 DAVID STROBLE, witness herein, having been duly
 10 sworn on oath at the conclusion of
 11 testimony, testified as follows:
 12
 13 NARRATIVE TESTIMONY BY DAVID STROBLE
 14 DAVID STROBLE: I don't have any
 15 evidence. I thought I would make more of a statement
 16 testimony rather than a defense.
 17 It's clear, given staff's presentation
 18 today, the -- you know, between the termination of Lake
 19 Union Ferry Company and that turn of events essentially
 20 forfeiting my permit, which was an unfortunate
 21 oversight on my part, as well as deficient progress
 22 reports and five years of no revenue, I don't have much
 23 of a leg to stand on, other than to say I feel as
 24 though over the last five years, I've become a subject
 25 matter expert in starting a ferry on Lake Union and

Page 37

1 that body of water.
 2 I'm a Seattle resident. I use that body
 3 of water, and incredibly familiar with it. I've gotten
 4 to know every property owner around the perimeter of
 5 the lake.
 6 Over the course of the five years, I've
 7 met with every single Seattle City Council member,
 8 which had almost 100 percent turnover during that
 9 period of time. So it felt like a bit of an exercise
 10 in futility.
 11 I met with almost every single city
 12 agency and transportation agency in the region.
 13 I did purchase a piece of waterfront
 14 property real estate for a terminal at the base of
 15 University of Washington, which I am still a partner
 16 in.
 17 I accomplished a lot over this five-year
 18 period. What I didn't do was actually put boats on the
 19 water and generate revenue for the company and for UTC.
 20 We had significant permitting challenges.
 21 I would say it was a period of time defined by some
 22 significant and unexpected adversity, COVID being one,
 23 that had the effect of shutting the city down and more
 24 lasting effects on commuter behaviors that drove our
 25 ridership analysis and feasibility that we presented to

Page 38

1 UTC when we first applied.
 2 The second, you know, major piece of
 3 adversity was the city of Seattle unrest and political
 4 distress that is still present today.
 5 Those two major things combined really
 6 created some insurmountable hurdles to get a ferry
 7 started within the five-year period.
 8 That said, we do feel very strongly that
 9 there is a good case for a ferry service on Lake Union.
 10 And we do believe that there is a path forward without
 11 the Muckleshoot Tribe agreement, which is not a
 12 Muckleshoot requirement. It's a requirement -- just to
 13 be clear, it's a requirement that was brought up
 14 through a permit that we desired to obtain through the
 15 Army Corps of Engineers to rebuild a dock. And we see
 16 a path forward without meeting either of those things.
 17 So without going into too much more
 18 detail, I think I would just like to say that, you
 19 know, again, I feel like I'm a subject matter expert
 20 in, you know, developing a ferry service on this body
 21 of water. We do see a path forward, although somewhat
 22 pared back from the original plan, but a path forward
 23 nonetheless.
 24 I do recognize the deficiencies on my
 25 part with the UTC, and will accept should the ruling be

Page 39

1 to cancel the permit.
 2 And so I'll let it lay at that. And just
 3 my final word being to thank staff and their diligence
 4 and patience and communication with me when mine did
 5 not meet theirs. So thank you very much.
 6 JUDGE HUGHES: Thank you, sir.
 7 Well, you know what? I forgot to swear
 8 you in. Okay. Can you raise your right hand?
 9 Do you swear or affirm that the testimony
 10 you give today will be the truth, the whole truth, and
 11 nothing but the truth?
 12 THE WITNESS: I do.
 13 JUDGE HUGHES: And do you affirm all the
 14 things you just said were true?
 15 THE WITNESS: I do affirm that all the
 16 things I just said were true.
 17 JUDGE HUGHES: Okay. Thank you. That's
 18 my bad.
 19 THE WITNESS: No worries.
 20 JUDGE HUGHES: Okay. I got to ask my
 21 person question. So that's exciting.
 22 If -- I guess more of a question for
 23 staff. If Mr. Stroble produced five years' worth of
 24 progress reports detailing his efforts for the past
 25 five years, would that be something staff could work

Page 40

1 with, or the desire is to cancel?
 2 ATTORNEY STRAUSS: Your Honor, I would
 3 have to confer with staff briefly to --
 4 JUDGE HUGHES: Sure.
 5 ATTORNEY STRAUSS: -- actually talk about
 6 that. If we can do a short five-minute recess, I can
 7 give staff a call and ask if that is something they are
 8 interested in.
 9 JUDGE HUGHES: Okay. I guess I'd ask
 10 Mr. Stroble, have you been maintaining records?
 11 Could you create these progress reports
 12 if given the opportunity to?
 13 DAVID STROBLE: I could. It would take
 14 me a few days, but I could certainly do that.
 15 JUDGE HUGHES: Okay. So why don't we
 16 take a five-minute recess just on the off chance
 17 there's a way we can resolve this without a couple more
 18 rounds of things.
 19 Okay. Let us meet back at 2:20. Let us
 20 go off the record.
 21 (Recess.)
 22 JUDGE HUGHES: Okay. Ms. Strauss, did
 23 you have a chance to confer with your client?
 24 ATTORNEY STRAUSS: Yes, your Honor.
 25 So staff has some concerns. You know,

Page 41

1 staff is always very willing to work with companies.
 2 I guess the concern here is that Lake
 3 Union Ferry Company is a dissolved company.
 4 Mr. Stroble would need to figure out how to transfer
 5 that certificate.
 6 But more importantly, staff is really
 7 concerned by the other roadblocks in Lake Union Ferry
 8 Company, Eden Valley Investment Company, whichever
 9 company ends up being the company in this situation.
 10 You know, the lack of permits from other required
 11 entities, potentially this ridership survey, staff
 12 would really need some sort of definitive date of when
 13 these extra road barriers are coming down to really be
 14 okay with not supporting cancellation.
 15 At this point, given the uncertainties,
 16 staff still favors cancellation.
 17 JUDGE HUGHES: Okay. All right. It
 18 seemed like the progress reports would give staff some
 19 of the information needed to --
 20 ATTORNEY STRAUSS: So based on staff's
 21 current understanding --
 22 JUDGE HUGHES: -- evaluate that. But
 23 very good.
 24 ATTORNEY STRAUSS: I apologize, your
 25 Honor. I think the audio is cutting out. I may have

Page 42


1 missed the last bit that you said.
 2 JUDGE HUGHES: Oh, sorry. I was writing
 3 something down. I think my paper just moved or --
 4 sorry.
 5 ATTORNEY STRAUSS: Oh, okay.
 6 JUDGE HUGHES: Please continue.
 7 ATTORNEY STRAUSS: I was just going to
 8 say, you know, in staff's current conversations with
 9 the company, it doesn't sound like there's any dates
 10 definitive that would be revealed in a progress report,
 11 if any, of the existing information there is now. And
 12 because of that, staff is uncertain about supporting an
 13 extension.
 14 If there was some sort of definitive date
 15 of when those other permits would be, you know,
 16 obtained, staff would be willing to reconsider.
 17 But at this point, just given the lack of
 18 certainty, staff has some concerns about that.
 19 JUDGE HUGHES: Okay. That's totally
 20 fair.
 21 Okay. Does anyone else have anything
 22 else to add, or is there any other matters that we
 23 would need to address?
 24 Okay. Hearing nothing, I will take all
 25 of this under advisement, and I will issue an order

Page 43

1 shortly. So thank everyone for coming here today, and
 2 we are adjourned. We can go off the record.
 3 ATTORNEY STRAUSS: Thank you, your Honor.
 4 DAVID STROBLE: Thank you, everyone, for
 5 your time.
 6 (Proceeding concluded at 2:24 p.m.)
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Page 44

1 CERTIFICATE
 2
 3 STATE OF WASHINGTON)
 4) ss
 5 COUNTY OF KING)
 6
 7 I, Elizabeth Patterson Harvey, a Certified
 8 Court Reporter and Registered Professional Reporter
 9 within and for the State of Washington, do hereby
 10 certify under penalty of perjury that the foregoing
 11 legal recordings were transcribed under my direction;
 12 That I received the electronic recording in the
 13 proprietary format; that I am not a relative or
 14 employee of any attorney or counsel employed by the
 15 parties hereto, nor financially interested in its
 16 outcome.
 17 IN WITNESS WHEREOF, I have hereunto
 18 set my hand this 12th day of March, 2024.
 19
 20
 21
 22
 23
 24 ELIZABETH PATTERSON HARVEY, FAPR, RPR
 25



<p style="text-align: center;">A</p> <p>ability 32:16,20 able 21:24 22:12,13 22:19 23:5 26:8 26:19 27:6,16,16 29:5,24 31:23 32:19 34:16 accept 38:25 access 21:23 accomplished 37:17 accounting 7:24 accurate 12:1 17:23 19:8 20:8 acknowledge 33:1 action 28:11 31:16 31:19 32:18,21 33:1 actions 32:24 33:2 actively 32:13 add 42:22 additional 10:1 23:3 Additionally 23:24 address 10:4 42:23 adjourned 43:2 ADJUDICATIVE 1:12 administrative 1:13 3:17 4:20 administratively 5:13 11:13,22 28:8 admitted 12:17 18:8,9 19:16,17 admitting 12:13 adversity 37:22 38:3 advisement 42:25 affirm 6:15 15:11 39:9,13,15 afternoon 4:4,5,8 4:24 5:7 7:3,4,6 13:14 15:23 30:12 agency 37:12,12</p>	<p>agreement 26:10 26:11,16,17 29:17 29:18 38:11 agreements 21:22 alleged 4:17 allow 23:2 analysis 30:1 37:25 analyst 7:9,19 16:4 16:15 analyze 16:9 analyzing 7:15,22 annual 8:10,14,18 8:24 9:3,8,10 13:2 14:20 16:12 25:23 answered 14:2 anticipate 30:10 anticipated 29:18 30:2 anticipation 29:20 29:23 apologies 24:21 apologize 12:9 33:25 41:24 appearances 4:23 applicable 15:2 APPLICANT 2:8 application 3:21 18:18,25 19:9,19 applied 38:1 apply 24:16 34:9 appropriate 24:17 area 29:4 Army 38:15 asked 27:19 33:13 asking 21:20 Association 16:20 Ated 3:23 attempt 10:3,5 attended 16:20 attention 24:20 attorney 2:5 3:8,11 4:5,24 5:1,24 6:11 7:2 12:6,18,19 13:13 15:7,22 18:2,10 19:11,18</p>	<p>20:11,18 30:11 32:7,10,19 33:3,7 33:12,24 34:22 35:25 40:2,5,24 41:20,24 42:5,7 43:3 44:14 audio 41:25 August 12:21 13:9 authority 3:21 17:3 authorization 20:2 Authorizing 3:22 Avenue 2:11 aware 6:1,5 28:9,10</p> <hr/> <p style="text-align: center;">B</p> <p>b 24:21 back 20:18 26:14 35:3 38:22 40:19 backup 16:12 bad 39:18 barriers 41:13 base 37:14 based 29:7 41:20 basis 23:23 25:9 BC068215 1:5 beginning 9:5 30:10 33:18 begins 34:14 behaviors 37:24 believe 13:25 32:4 32:19 35:4 38:10 believes 27:8 best 17:24 19:7 20:7 better 27:24 29:5 32:6 Bijan 1:13 4:19 bit 37:9 42:1 boats 21:25 23:6 27:5,12 37:18 body 37:1,2 38:20 Box 2:6 BRIEF 1:12 briefly 40:3 broad 22:23 26:19 brought 38:13</p>	<p>build 21:25 23:6 business 12:2 28:12 32:12,17,20,23,24</p> <hr/> <p style="text-align: center;">C</p> <p>C 2:1 44:1,1 call 15:8 40:7 calls 14:19 cancel 9:14,17,25 25:10,21 39:1 40:1 canceled 32:14 cancellation 1:4 4:16 25:7 30:5,7 41:14,16 capable 31:15,19 32:17 career 7:20 case 33:17 38:9 certain 34:24 certainly 40:14 certainty 42:18 certificate 1:4 3:19 4:17 9:7 13:10 17:5,8,17,24 18:12,15,19 19:1 19:9,19,22 20:2,9 21:2,7 23:17,19 23:21,21,22 24:1 24:5,6,17 25:2,4,5 28:22 29:11,16 30:7,24 32:13 33:15 34:2,6,10 34:14 35:11 41:5 certification 10:18 11:2 Certified 44:7 certify 44:10 challenges 37:20 challenging 22:9 chance 40:16,23 change 33:6 changed 26:23 changes 11:23 16:10 17:20 19:4 20:4</p>	<p>citation 14:7 city 22:10 23:2 27:14,17 29:1,5 29:20 37:7,11,23 38:3 clear 36:17 38:13 client 40:23 clock 33:22 34:2,4 34:6,7,11 close 14:16 combined 38:5 come 26:10 27:6 comfortable 6:3,6 coming 36:3 41:13 43:1 commercial 1:4 4:16 commission 1:2,16 2:3 4:21 5:1 7:10 8:7 10:18 16:11 17:3,24 21:22 23:22 24:2 25:21 28:23 32:14 commission's 4:11 commission-gran... 17:5 commission-regu... 7:17 Commissioners 16:21 communication 39:4 commuter 37:24 companies 7:17 26:18 32:5,5 41:1 company 1:6 2:10 4:12,13 5:6,8,10 5:12,15 8:2,5,6,9 8:11,19,22 9:2,8 9:15 10:11,17,22 10:24 11:4,7,12 11:21 12:3,12,20 12:22,25 13:1,9 13:11,11,25 16:9 16:10,23 17:1,2,2</p>
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<p>17:4,19 18:14,20 18:25 19:2,3 20:25 21:9,13,15 21:19,20,21,23,25 22:9,13,16,18,21 22:25 23:2,13 24:16 26:9,18 27:9 28:8,12,12 28:13,14 29:16,19 29:22,25 30:6,8 30:25 31:19,21 32:2,11,14,21 33:20 34:16 35:5 35:7,20 36:5,19 37:19 41:3,3,8,8,9 41:9 42:9 company's 4:16 6:1 8:14 9:10 10:4 11:8 25:12,16,22 32:20 Complainant 1:7 complaint 4:11 complete 30:3 compliance 16:10 comprehension 26:25 concern 41:2 concerned 41:7 concerns 22:14 40:25 42:18 concluded 43:6 conclusion 25:3,5 36:10 confer 40:3,23 confirm 5:9 6:1 28:7 consider 30:23 31:20 construction 33:15 contact 22:22 context 32:12 continually 34:10 continue 42:6 contracts 21:24 controls 33:20</p>	<p>conversation 21:17 26:2 28:18 conversations 30:17 42:8 copy 12:1 17:23 19:8 20:8 Corps 38:15 correct 14:5,17,21 14:25 33:3 Council 37:7 counsel 6:2 44:14 Counselor 6:20 COUNTY 44:5 couple 40:17 course 4:13 37:6 Court 44:8 COVID 22:16,17 26:6,23,23 27:1 37:22 COVID-19 26:11 create 40:11 created 38:6 current 7:8,25 16:2 16:22 27:10 41:21 42:8 customers 26:25 27:12,14 cutting 41:25</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>d 3:1 14:14 d/b/a 17:18 18:13 19:2 data 7:16 8:16 date 22:23 24:3 29:18,23 30:3 41:12 42:14 Dated 3:18,20,21 dates 29:21 42:9 David 2:9 3:13 4:7 5:7,8,11,17,21 6:5 10:10 12:14 13:18 18:6 19:14 20:14 20:23 21:1 30:15 36:9,13,14 40:13 43:4</p>	<p>David's 10:16 david.stroble@g... 2:10 day 22:7 44:18 days 24:3 40:14 December 7:12 defense 36:16 deficiencies 38:24 deficient 36:21 defined 37:21 definition 31:3,23 33:6 definitive 41:12 42:10,14 deny 29:15 denying 26:16 describe 21:17 desire 40:1 desired 38:14 detail 38:18 detailing 39:24 developing 38:20 diligence 39:3 direct 31:6 directed 32:7 direction 44:11 discussed 28:16 dissolution 3:17 13:5,6 dissolved 11:13,22 12:20,23,25 13:1 13:9 28:9 31:19 32:5,15 41:3 distress 38:4 division 16:19 dock 38:15 docket 1:7 4:10 9:22 docks 27:5,10 document 11:15 17:12,14 27:20 doing 28:4,12,13 dragging 26:5 drove 37:24 due 22:10,19 25:22</p>	<p>26:10 27:1 duly 6:23 15:18 36:9 duties 7:15 8:15</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>E 2:1,1 3:1 44:1,1 e-mail 10:4 21:18 22:4,6 26:4 28:3 28:15 30:17 easier 27:9,17 easily 34:25 Eden 5:15 9:7 17:18 18:13 19:1 20:21 21:6 28:14 41:8 education 7:18 16:15,17 effect 37:23 effects 37:24 effectuating 32:22 efforts 39:24 eight 7:23 either 38:16 electronic 44:12 Elizabeth 1:23 44:7 44:24 employed 44:14 employee 7:20 44:14 EN-1 3:17 11:16,19 12:7,16,17 ends 41:9 Engineers 38:15 entails 27:15 entered 12:15 20:15,17 entities 7:22 41:11 entity 31:15 33:16 error 10:4 essentially 36:19 estate 37:14 Esther 2:14 3:7 4:8 5:4 6:12,22 7:6 25:22 evaluate 41:22</p>	<p>events 36:19 eventually 20:20 evidence 12:8,13 12:17 18:4,9 19:12,17 20:12,16 20:17 36:5,15 Examination 3:8 3:11 7:1 15:21 examined 6:23 15:18 excited 33:10 exciting 39:21 excuse 21:19 23:16 25:24 32:1 exemption 33:5 exercise 37:9 exhibit 3:16 11:16 11:19,24 12:7,17 17:13,21 18:3,9 18:22,24 19:5,17 20:5,17,19 EXHIBITS 3:15 existence 32:22 existing 42:11 exists 32:23 expand 27:16 expect 23:5 expected 23:1 experience 7:21,24 expert 36:25 38:19 expire 24:10 expires 24:5 explain 29:5 34:25 explanation 11:21 extend 10:18 23:22 extended 34:8 extension 23:14,25 24:2,16 29:11,16 35:8 42:13 extra 41:13</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>F 44:1 fail 35:5 failed 30:6 failure 23:13 25:2</p>
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<p>25:16,22 fair 35:20 42:20 familiar 8:1,4 16:23 17:1,14 23:8 24:22 31:2 31:16 37:3 familiarize 24:23 FAPR 1:23 44:24 favors 41:16 feasibility 37:25 February 1:14 3:18 4:1 25:20 feel 36:23 38:8,19 feels 27:17 feet 26:5 felt 37:9 ferry 1:4,6 2:10 4:12,16 5:11 8:1,6 10:10 11:7 12:2 12:20 13:10 16:23 17:2,5,18 18:14 18:19,25 19:2,3 20:24 21:9,13 24:16 25:12 28:11 28:13 30:25 31:20 32:1,11 36:4,19 36:25 38:6,9,20 41:3,7 fifth 25:3,5 figure 41:4 file 21:3,6,9 23:14 24:1 35:7,12 filed 8:11 9:8 15:3 22:3 filing 9:3 13:1 14:19 filings 16:9 final 39:3 financial 7:16 8:16 financially 44:15 financials 30:9 find 17:11 first 6:9,12,22 8:21 9:16 15:17 23:20 25:19 34:2 35:12</p>	<p>38:1 five 23:20 25:25 33:14,17 34:12 35:12 36:22,24 37:6 39:23,25 five-minute 40:6,16 five-year 24:4,9 33:22 34:1,4,7,13 35:2 37:17 38:7 floats 27:5,11 follow 21:12,15 followed 11:1 following 24:4 follows 6:24 15:19 36:11 foregoing 44:10 forfeiting 36:20 forgot 39:7 form 36:7 format 44:13 Formerly 5:11 forward 22:19 23:2 38:10,16,21,22 four 9:1,4 fourth 10:5 frame 24:9,17 fully 26:24 futility 37:10</p> <hr/> <p style="text-align: center;">G</p> <p>gained 7:21 General 2:5 General's 5:1 generate 37:19 getting 27:12,18 give 6:16 27:24 39:10 40:7 41:18 given 36:17 40:12 41:15 42:17 go 40:20 43:2 going 11:14 17:10 20:18,19 38:17 42:7 good 4:4,5,8,24 5:5 5:7,16 6:7 7:3,3,4 7:6 15:14,23</p>	<p>33:13 38:9 41:23 gotten 37:3 granted 13:10 17:8 17:17,24 19:19 23:19 24:7 25:6 29:12 34:3,14 grantee 18:11 granting 20:1 24:4 Great 5:25 guess 7:3 39:22 40:9 41:2</p> <hr/> <p style="text-align: center;">H</p> <p>hand 6:14 15:10 39:8 44:18 handy 14:8 Harvey 1:23 44:7 44:24 hearing 4:10,11,14 42:24 held 1:5 21:7 Hello 4:7 hereto 44:15 hereunto 44:17 history 5:20 hold 22:1 holder 5:18 9:6 21:2 23:17,21 24:1 25:4 30:24 33:16 35:11 holding 5:15 Honor 4:6,25 5:8 5:24 6:11 12:6,9 14:5,22 15:7 18:2 19:11 20:11 32:2 32:10 33:3,7,12 33:24 34:1,22 35:16,18,25 40:2 40:24 41:25 43:3 Hughes 1:13 4:4,9 4:19 5:5,9,16,19 5:22,25 6:7,13,19 12:11,15 13:16,19 13:22 14:4,6,10 14:13,18,23 15:1 15:4,9,14 18:5,7</p>	<p>19:13,15 20:13,15 30:13,19,23 31:2 31:7,9,12,18,24 32:4,16,25 33:4,9 33:13 34:16 35:3 35:14,19,23 36:2 39:6,13,17,20 40:4,9,15,22 41:17,22 42:2,6 42:19 hurdles 38:6</p> <hr/> <p style="text-align: center;">I</p> <p>importantly 41:6 inaudible 4:15 include 7:15 32:4,5 33:6 included 10:16 incredibly 37:3 indicate 26:17,21 27:19 indicated 22:8,16 26:9,13,15 28:17 individual 29:3,23 indulging 33:11 industry 10:21,23 information 9:13 11:8 12:2 41:19 42:11 initiate 10:24 23:13 23:14,25 24:2,10 24:12 25:3,4,16 25:23 35:11 initiated 10:17,22 10:25 14:1,20,24 23:18 25:21 30:8 initiating 21:3 insurmountable 38:6 intent 9:14,17,25 25:10,21 intentional 28:11 interested 40:8 44:15 intrastate 8:12 25:25</p>	<p>investigation 11:4 investment 20:22 21:6 28:14 41:8 Investments 5:15 9:7 17:18 18:13 19:2 28:15 issuance 25:9 issue 5:12 16:23 24:7 42:25</p> <hr/> <p style="text-align: center;">J</p> <p>January 3:21 10:8 25:10 Josephine 2:4 4:25 Josephine.Straus... 2:5 judge 1:13 3:8,11 4:4,9,20 5:5,9,16 5:19,22,25 6:7,13 6:19 12:11,15 13:16,19,21,22 14:4,6,10,13,18 14:23 15:1,4,9,14 18:5,7 19:13,15 20:13,15 30:13,19 30:22,23 31:2,7,9 31:12,18,24 32:4 32:16,25 33:4,9 33:13 34:16 35:3 35:14,19,23 36:2 39:6,13,17,20 40:4,9,15,22 41:17,22 42:2,6 42:19 July 9:18 jump 5:23</p> <hr/> <p style="text-align: center;">K</p> <p>kept 33:23 kind 26:19 28:1 KING 44:5 know 8:8,10 10:12 12:22 13:4,8 17:4 25:9,12 27:15,24 36:18 37:4 38:2 38:19,20 39:7</p>
---	--	--	---	--

40:25 41:10 42:8 42:15 knowing 6:17 knowledge 13:12 17:25 19:8 20:7	look 11:3 looking 8:13 26:21 looks 5:20 Loop 1:17 lot 37:17	name 4:19 7:5,6 15:24,24 narrative 3:14 36:7 36:13 National 16:20 natural 31:14,25 Neal 2:14 3:7 4:8 5:4 6:12,22 7:4,6 11:19 12:19 13:13 25:22 near 34:11 need 23:13 27:1,4,8 27:13 29:25 33:5 34:9,18 41:4,12 42:23 needed 34:25 41:19 needs 28:24 32:13 never 14:23 34:7,9 new 26:14,15 30:1 NOIC 14:7 15:2 notes 27:21 30:17 notice 9:14,16,19 9:20,21,22,25 10:3,7,9 25:10,13 25:20	10:19 11:3,14,23 12:22 13:4,8,13 13:19 14:11,18 15:1,4,9 16:14 17:10,20 18:7,15 18:22 19:4,7,15 19:24 20:15 21:2 22:2,5 24:25 26:1 30:4,11,19 31:2 31:18,24 33:4,4 35:3,19,23 36:2 39:8,17,20 40:9 40:15,19,22 41:14 41:17 42:5,19,21 42:24 Olympia 2:6 operate 17:5 23:6 28:24 operating 8:12,20 8:22,25 9:11 25:24,25 operational 7:16 8:16 Operations 3:19 opportunity 34:20 34:23 40:12 opposition 22:11 22:12 oppositions 22:14 order 3:22 19:21 20:1,8 42:25 original 5:18 18:11 33:23 38:22 outcome 44:16 outside 28:22 outstanding 32:13 Overlapping 35:9 oversight 36:21 owned 5:14 owner 37:4	paper 42:3 paragraph 23:16 31:11 parameters 28:16 pared 38:22 part 5:12 8:15 27:3 32:20 36:21 38:25 parties 44:15 partner 37:15 party 33:22 passengers 27:6 path 38:10,16,21 38:22 patience 39:4 Patterson 1:23 44:7 44:24 penalty 44:10 people 29:4 percent 37:8 perimeter 37:4 period 24:4 37:9,18 37:21 38:7 perjury 44:10 permission 34:18 permit 5:18 27:9 36:20 38:14 39:1 permits 22:10,12 23:3 27:3,14,18 28:24 29:4,8,19 29:22 41:10 42:15 permitting 37:20 perpetually 34:8,17 person 26:14,15 31:3,14,21,25 32:3,11 33:6 39:21 persons 31:14,15 32:1 petition 23:21,25 24:1 phone 25:20 piece 12:13 37:13 38:2 plan 38:22 please 6:14,20 7:4
L	M			
Lacey 1:18 lack 21:13 41:10 42:17 lake 1:6 2:10 3:17 4:12 5:11 8:1,6 10:10 11:6 12:2 12:20 13:10 16:23 17:2,18 18:13,19 19:2,3 20:24 21:9 21:12 22:2 24:12 24:15 25:12 26:20 27:11 28:11,13 30:25 31:20 32:1 32:11 36:4,18,25 37:5 38:9 41:2,7 land 27:13,18 29:3 29:23 lasting 37:24 law 1:13 4:20 laws 7:23 16:11 lay 39:2 learn 10:23 26:1 learned 10:24 leg 36:23 legal 31:19 44:11 legally 31:15 let's 5:25 35:7,17 LLC 2:10 4:12 5:12 5:15 8:2 9:7 12:3 16:24 17:2,18 18:13 19:2,3 20:22,25 21:9 28:15 31:1 LLC's 34:10 load 27:6 lock 21:23 long 7:11 16:5 32:23 longer 32:22	maintaining 40:10 major 38:2,5 March 3:23 16:6 44:18 marked 11:16 17:13 19:25 matter 1:4 8:1 16:22 36:25 38:19 matters 42:22 mean 28:25 means 31:14 meet 39:5 40:19 meeting 38:16 member 21:20 37:7 members 16:18 mentioned 9:6 merits 6:8 met 37:7,11 mine 13:23 39:4 minute 14:15 missed 35:20 42:1 month 23:1 months 22:18,22 23:4 35:15,17 morning 7:3 motions 5:22 mouse 17:11 move 22:19 23:2 34:17 moved 42:3 Muckleshoot 22:11 22:14,17 26:5 28:25,25 29:17 38:11,12 muted 12:10 14:2	O		
	N	o0o- 4:2 oath 6:23 15:18 36:10 objection 12:12,14 18:5 19:13,14 20:13,14 obtain 29:21,24 38:14 obtained 42:16 obtaining 23:20 occupation 7:8 16:3 offer 12:7 18:3 19:12 20:12 office 5:1 13:3 28:8 oh 32:1 42:2,5 okay 4:22 5:22 6:8 8:8,13,21 9:5,13 9:21,24 10:6,12		
		P		
		P 2:1,1 p.m 4:1 43:6 page 3:5,16 20:19 PAGES 1:10		

<p>8:4 15:9,14,23 19:16 20:16 42:6 PO 2:6 point 26:22 27:7,10 27:13 28:6 33:8 34:12 41:15 42:17 points 21:23 22:9 policies 7:22 political 38:3 portion 23:18 position 7:11,14 16:5,8 26:15 potentially 41:11 present 2:13 6:2 36:5 38:4 presentation 36:17 presented 33:17 37:25 previous 8:17 10:4 previously 11:16 17:13 19:25 principal 20:21,24 prior 9:6 13:8 21:3 24:3,12 26:10 pro 6:3 proceed 6:20 15:15 19:16 20:16 36:6 proceeding 1:12 6:3,3,6 43:6 process 27:9 produced 39:23 Professional 44:8 progress 6:8 21:3,7 21:10,13 22:3 23:15 28:19 30:9 35:8,12 36:21 39:24 40:11 41:18 42:10 property 37:4,14 proposed 4:15 11:16,19 12:7 17:13 18:3,22,24 19:25 proprietary 44:13 provide 23:15</p>	<p>provided 13:6 28:19 30:2,2,9 provision 23:11 pull 14:9 purchase 37:13 purpose 32:22 Pursuant 1:9 pursuing 21:24 put 21:25 37:18</p> <hr/> <p style="text-align: center;">Q</p> <p>question 30:20 31:18 32:6 33:10 33:19 39:21,22 questions 3:8,11 13:14,17,18,21 16:13 30:12,14,15 30:20,22 Quite 30:18</p> <hr/> <p style="text-align: center;">R</p> <p>R 2:1 44:1 Rachel 2:15 3:10 5:4 15:8,17 16:1 raise 6:14 15:10 39:8 rates 16:21 reached 10:21 readout 12:2 real 37:14 really 27:13 34:14 38:5 41:6,12,13 reason 13:5,6 reasoning 33:21 34:5 reasons 10:16 rebuild 27:5,8 38:15 receive 27:10 received 7:19 9:19 9:20,21 16:14,18 44:12 receiving 10:19 26:7 recess 40:6,16,21 recognize 38:24</p>	<p>recommend 29:15 30:7 recommendation 29:10,14 30:4 reconsider 42:16 record 5:10 6:1 7:5 15:25 40:20 43:2 recording 44:12 recordings 44:11 records 40:10 refer 4:13 regarding 11:4,6 25:7 region 37:12 Registered 44:8 regulated 7:22 8:6 regulation 15:2 35:2 regulations 7:23 31:4 regulatory 7:9 16:4 16:21 17:3 relates 16:15 relating 7:19 relative 44:13 remember 10:15 report 8:14,18,21 9:8 13:2 16:12 21:7,10,13 42:10 reported 7:16 8:11 8:16 Reporter 44:8,8 reporting 8:17 25:24 reports 8:10,24 9:3 9:10 14:20 21:3 22:3 23:15 25:23 28:20 30:9 35:4,8 35:13,21 36:22 39:24 40:11 41:18 representative 24:15 representing 5:1,8 request 10:17 29:11</p>	<p>required 13:2 21:3 35:5 41:10 requirement 38:12 38:12,13 requirements 11:1 reset 33:22 34:15 resets 34:6 resident 37:2 resolution 22:24 23:1 resolve 40:17 resolved 22:15 resources 11:3 respond 10:9,11 22:4 responded 22:7,8 26:4 response 10:13,16 10:20 22:5 25:13 responses 22:19 26:7 responsibilities 7:13 16:7 restart 34:4 revealed 42:10 revenue 8:12,20,22 8:25 9:11 25:25 36:22 37:19 review 10:12 16:9 reviewed 8:10 11:6 11:8 reviewing 7:15,22 8:15 riders 26:25 ridership 26:22,23 30:1 37:25 41:11 right 5:19 6:2,5,13 6:14 12:15 14:9 15:10 30:18,24 39:8 41:17 road 41:13 roadblocks 41:7 role 7:19 16:15 rounds 40:18 route 23:18</p>	<p>routes 23:19 RPR 1:23 44:24 RS 18:23 RS-1 3:19 17:13,16 18:3,7,9,11 RS-2 3:21 18:24 19:12,15,17 20:19 RS-3 3:22 19:25 20:12,15,17 rule 23:12 35:6 rules 7:23 16:10,11 23:12 28:18,19 ruling 38:25 run 26:19 34:7 running 34:11</p> <hr/> <p style="text-align: center;">S</p> <p>S 2:1 S-T-A-R-K 16:1 school 16:21 Scott 21:20 26:4 screen 11:14,17 17:10 screens 12:11 scroll 20:19 Scrolling 13:24 se 1:17 6:4 Seattle 2:11 21:23 22:11 27:14,17 29:1,20 37:2,7 38:3 second 2:11 10:3 38:2 Secretary 3:18 11:9 11:10,20 12:3 13:3,7 28:7 see 5:25 11:17 35:7 35:17 38:15,21 seeing 35:14 seek 34:18 seeking 24:2 seen 18:18 19:21 send 9:16,24 27:20 28:3,15 senior 16:18 sent 9:14 10:4,6</p>
---	---	--	---	---

<p>service 10:17,22,25 10:25 14:1,20,23 17:6 21:4 23:13 23:14 24:1,3,10 24:12 25:3,4,16 25:23 30:8,10 35:11 38:9,20 set 4:10 44:18 Sevall 21:20 26:4 share 11:14 17:10 Shoot 33:9 short 4:22 35:1 40:6 shortly 43:1 show 9:10 11:11 showed 8:19,22 11:12 showing 11:15 17:12 18:22 19:24 shown 8:24 shows 28:8 shut 22:17 26:6,14 shutdown 22:20 shutting 26:10 37:23 sign 26:16 signed 26:11 29:17 significant 37:20 37:22 single 33:16 37:7 37:11 sir 31:5 35:22 39:6 situation 41:9 situations 34:24 six 35:14,17 somewhat 38:21 soon 17:10 sorry 11:15 12:11 14:3 33:9,24 42:2 42:4 sort 41:12 42:14 sound 42:9 speak 25:18 specifically 31:11 speech 35:9</p>	<p>spell 7:5 15:24 spoke 25:19 28:1 spoken 25:15 Square 1:17 ss 44:4 staff 2:3 4:23 5:2,3 6:9 10:21,23 15:7 16:18 21:12,15,20 21:22 29:10,15 30:4,23 31:20 32:11 33:4,22 34:1 35:25 39:3 39:23,25 40:3,7 40:25 41:1,6,11 41:16,18 42:12,16 42:18 staff's 6:12 25:9 29:14 34:13 36:17 41:20 42:8 stand 36:23 Stark 2:15 3:10 5:4 15:8,17,23 16:1,2 17:12 18:10,24 19:7,18 20:18 21:2 23:8 24:6,20 29:10 30:12,16 35:4 start 4:22 started 28:4 33:18 38:7 starting 34:2 36:25 state 3:18 4:25 7:4 7:20 11:10 12:3 15:24 44:3,9 State's 11:9,20 13:3 13:7 28:7 stated 22:21,25 23:5 statement 36:15 states 23:12,17,24 29:25 stating 25:20 stopped 22:13 26:7 stopping 27:4 stops 21:24</p>	<p>storied 5:20 Strauss 2:4 3:8,11 4:5,24,25 5:24 6:11 7:2 12:6,18 12:19 13:13 15:7 15:22 18:2,10 19:11,18 20:11,18 30:11 32:8,10,19 33:3,7,12,14,24 34:22 35:25 40:2 40:5,22,24 41:20 41:24 42:5,7 43:3 Stroble 2:9 3:13 4:7 5:7,8,11,17,21 6:5 9:6 10:10 12:14 13:16,18 18:6 19:14 20:14 20:23 21:1 22:8 24:15 25:15 26:2 26:3,17 27:15 28:24 30:13,15 36:4,9,13,14 39:23 40:10,13 41:4 43:4 strongly 38:8 subject 36:24 38:19 submitted 8:22 9:22 subsection 14:13 14:19 24:22 25:1 35:15 subsidiary 5:14 successful 10:5 suffice 27:11 Suite 2:11 summary 30:17 supervisor 16:19 supporting 41:14 42:12 suppose 30:19 Sure 31:7 40:4 survey 41:11 swear 6:9,15 15:11 39:7,9 sworn 6:23 15:18</p>	<p>36:10 <hr/>T T 44:1,1 take 23:3 24:24 27:21 32:21,25 33:2 40:13,16 42:24 talk 40:5 talked 26:3 28:2 talking 5:13 tariffs 16:10 tell 8:4,18 15:11 ten 35:20 term 31:14 35:1 terminal 37:14 terminated 5:14 termination 36:18 testified 6:24 15:19 36:11 testify 6:10 testifying 36:6 testimony 3:14 5:23 6:15 36:5,11 36:13,16 39:9 thank 5:16 6:19 7:25 12:18 13:15 14:11 15:5,6,14 18:7 19:15 28:21 30:11,15,16 31:10 31:13 33:10 35:16 36:2 39:3,5,6,17 43:1,3,4 Thanks 13:19 theirs 39:5 things 21:25 28:2,2 28:4,14 38:5,16 39:14,16 40:18 think 33:5 38:18 41:25 42:3 thinking 28:4,5 thinks 27:7 third 10:3 33:21 thought 36:15 thoughts 32:8 three 10:1 12:11</p>	<p>23:23 time 4:9,10 10:6 11:24 12:7 18:3 19:12 20:12 23:7 23:14,25 24:2,9 24:17,24 25:19 34:6,11,12,14 36:1 37:9,21 43:5 timeline 27:20,24 times 9:24 10:1 today 4:11 5:3,13 6:16 36:18 38:4 39:10 43:1 told 21:21 27:20 totally 42:19 trainers 16:19 training 7:18 16:14 16:17,18 transcribed 1:23 44:11 transfer 3:21,22 19:1,9,19 20:2 34:5,8,9,10,15,19 34:25 41:4 transferred 13:11 18:16 33:20,21 34:6 transferring 18:19 19:21 20:8 transportation 1:2 1:16 4:21 7:10 37:12 tribe 22:11,17,19 22:22 26:5,6,7,9 26:12,13 28:25 29:1,17 38:11 true 12:1 17:23 19:8 20:8 39:14 39:16 truth 6:16,16,17 15:11,12,12 39:10 39:10,11 trying 22:10 TS-230613 1:7 4:10 turn 7:25 16:22</p>
---	---	---	---	--

<p>24:20 36:19 turnover 37:8 twice 25:19 two 5:3 22:22 38:5 type 28:2</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>unable 22:18 uncertain 42:12 uncertainties 41:15 understand 26:24 understanding 14:19,22 23:11 28:23 29:7 41:21 understands 28:18 unexpected 37:22 unfortunate 36:20 Union 1:6 2:10 3:17 4:12 5:11 8:1,6 10:10 11:7 12:2,20 13:10 16:23 17:2,18 18:14,19 19:2,3 20:24 21:9,12 22:2 24:12,16 25:12 26:20 27:11 28:11,13 30:25 31:20 32:1,11 36:4,19,25 38:9 41:3,7 University 37:15 unload 27:6 unrest 38:3 unsigned 9:23 updates 21:21 use 29:3,23 37:2 UTC 37:19 38:1,25 Utilities 1:2,16 4:20 7:9 utilize 29:4</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>Valley 5:15 9:7 17:18 18:13 19:1 20:21 21:6 28:14 41:8</p>	<p>various 27:14 verify 10:21 view 34:13 views 32:11 violation 4:17 VOL 1:12</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>WAC 1:9 4:17 14:6 14:12 23:8,16,24 24:18,21 28:17,19 30:5 31:7 35:10 wait 14:10 15:4 waiting 13:23 want 6:1 7:25 16:22 24:20 Washington 1:1,16 1:18 2:5,6,11 4:20 4:25 7:20 12:3 37:15 44:3,9 wasn't 26:18 28:12 water 27:11 37:1,3 37:19 38:21 waterfront 37:13 way 33:9 35:1 40:17 we'll 5:12 We've 5:19 website 11:9,10,12 12:4 13:7 week-long 16:21 went 21:18 WHEREOF 44:17 whichever 41:8 wholly 5:14 willing 41:1 42:16 wind 32:16,20,23 witness 6:9,12,18 6:22 13:15,17 14:3,5,8,11,21,25 15:3,5,6,13,17 30:14,18,25 31:5 31:8,10,13,22,25 35:6,10,16,22 36:9 39:12,15,19 44:17</p>	<p>WITNESS:Sorry 14:15 witnesses 3:4,5 5:3 35:24 36:1,3 Woodland 1:17 word 39:3 work 22:13 27:18 39:25 41:1 working 7:21 21:22 22:23 worries 14:4 39:19 worth 39:23 wouldn't 27:7 34:20 wrapping 32:12 writing 27:22 42:2</p> <hr/> <p style="text-align: center;">X</p> <hr/> <p>X 3:1</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>yeah 30:6 year 8:17 13:2 22:9 23:6 25:3,5 yearly 35:13 years 7:21,24 8:12 9:2,4 23:20,23 25:25 33:14,17 34:12 35:12 36:22 36:24 37:6 39:25 years' 39:23</p> <hr/> <p style="text-align: center;">Z</p> <hr/> <p>zero 25:24,24</p> <hr/> <p style="text-align: center;">0</p> <hr/> <p style="text-align: center;">1</p> <hr/> <p>1 1:10 23:16 24:21 1(b) 24:25 1:30 4:1,9,11 10 3:21 31:12,13 100 37:8 12 3:18 22:17 23:3 12-month 23:22 12th 44:18</p>	<p>13 3:8 14 25:20 15 3:11 15th 28:1 17 3:20 17:9,19 24:8,11 18 3:20 19 3:21 7:21</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>2 7:9 10:8 18:23 25:10 2:20 40:19 2:24 43:6 20 3:23 2018 3:20 17:9,19 24:8 2020 3:21,23 2021 21:16 22:2 2022 7:12 2023 9:18 12:21 13:9 16:6 24:11 24:13 2024 1:14 3:18 4:1 10:8 25:10 44:18 2300 2:11 25 21:16 22:23 27 1:14 4:1 9:18</p> <hr/> <p style="text-align: center;">3</p> <hr/> <p>3 3:23 12:21 16:4 30 3:11 36 3:14 360.709.4850 2:7 360.790.5108 2:12</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>40128 2:6 44 1:10 480 31:8 480-51-020(10) 31:7 480-51-120 23:9,17 28:17 35:10 480-51-120(4)(a)(i) 23:24</p>	<p>480-51-150 14:12 480-51-150(1)(a) 24:21 480-51-150(1)(d) 1:9 4:18 481 23:16</p> <hr/> <p style="text-align: center;">5</p> <hr/> <p>506 2:11 51-020 31:9</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>6 3:18 20:19 23:3 621 1:17</p> <hr/> <p style="text-align: center;">7</p> <hr/> <p>7 3:8</p> <hr/> <p style="text-align: center;">8</p> <hr/> <p>80-51-150(1)(b) 30:5</p> <hr/> <p style="text-align: center;">9</p> <hr/> <p>90 24:3 98104 2:11 98504 1:18 2:6</p>
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