

Pages: 1-45

1
2
3
4
5
6
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8
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Town of Brookline

Zoning Board of Appeals Public Hearing

Tuesday, August 20, 2019

7:00 p.m.

In Re: 1180 Boylston Street c.40B

Town of Brookline Town Hall

333 Washington Street

Sixth Floor - Select Board's Hearing Room

Brookline, Massachusetts 02445

Stenographer: Catherine L. Zelinski, CSR

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A P P E A R A N C E S:

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Board of Zoning Appeals Panel:

MARK ZUROFF, Chairman

JOHANNA SCHNEIDER, Board Member

LARK PALERMO, Board Member

RANDOLPH MEIKLEJOHN, Board Member

MARIA MORELLI, Senior Planner, Planning Department

Participants:

MICHAEL T. FLYNN, P.E., GEI Consultant

DAN LAFRANCE, P.E., LSP, Fuss & O'Neill

HARIL PANDYA, CBT Architect

RAJ DHANDA, Applicant

1 P R O C E E D I N G S

2 CHAIR MARK ZUROFF: Can I ask the crowd
3 to please settle down?

4 Thank you very much.

5 Good evening, ladies and gentlemen. I am
6 calling to order this meeting of the Zoning Board
7 of Appeals. We are here on a 40B application for
8 1180 Boylston Street.

9 My name is Mark Zuroff. I am sitting as
10 chair tonight. Serving with me on the Board
11 tonight is to my left Randolph Meiklejohn. To my
12 right Johanna Schneider. And to her right Lark
13 Palermo. We are the Board and constituted for
14 this particular hearing.

15 Tonight we are hearing from the
16 geotechnical peer reviewer, based on the report
17 that had been submitted by the Applicant.

18 Maria, would you like to tell us where we
19 stand with the staff?

20 MARIA MORELLI: Sure, okay.

21 Maria Morelli, Senior Planner, Planning
22 Department.

23 Our last meeting was June 19th, and we had
24 three peer reviews: That was architecture,

1 parking, and traffic.

2 This evening we have geotechnical, which
3 is, which is typical when we do have below grade
4 construction for a separated garage.

5 In this case, the site of 1180 Boylston,
6 it's a remediation site. It's a site of a former
7 gas station. We certainly want to look into not
8 only the bedrock issues, the groundwater issues,
9 the soil characteristics, but should be there be
10 any hazardous materials. In this case, because
11 the Applicant has purchased the site, the former
12 sushi site at 612 and 614 Hammond Street, we are
13 concerned about protecting abutting structures.
14 And that's something that Commissioner Bennett --
15 Building Commissioner Dan Bennett, who is not here
16 this evening, just wanted to convey to the ZBA
17 that it would be helpful, as we did for 1299
18 Beacon, that 40B project, to look at a little bit
19 more than we typical would at construction means
20 and methods and foundation methods. And I think
21 you'll also hear that addressed this evening
22 amongst the peer reviewers.

23 So the ZBA charge last time was regarding
24 the south facade which is, you know, obviously

1 where the sushi site is now. And we will be
2 hearing -- we will be seeing revised plans
3 September 11th. I do have those revised plans to
4 distribute.

5 CHAIR MARK ZUROFF: Okay, are they on
6 the website?

7 MARIA MORELLI: They're not on the
8 website yet. I'm just reviewing them for any
9 questions, but I will be posting them in about a
10 day.

11 CHAIR MARK ZUROFF: Okay. Thank you.

12 All right. So we are now going to call
13 upon the peer reviewer to present his findings and
14 his report. And then --

15 MARIA MORELLI: Excuse me.

16 CHAIR MARK ZUROFF: Yes.

17 MARIA MORELLI: I just wanted to point
18 out that since it's been a while, Mr. Flynn of
19 GEI, who is the Applicant's consultant, did a
20 pretty extensive follow-up report for this
21 modified comprehensive permit. He has about seven
22 slides. So maybe if we could just go through
23 those before our peer reviewer, would that be
24 okay?

1 CHAIR MARK ZUROFF: It doesn't matter to
2 me who goes first.

3 MARIA MORELLI: Okay. Thank you.

4 CHAIR MARK ZUROFF: Just identify
5 yourself for the record and you can go ahead.

6 MICHAEL FLYNN: Thank you.

7 For the record, Michael Flynn, GEI
8 Consultants. I'm the geotechnical engineer for
9 1180 Boylston.

10 As Maria mentioned, you know, this and as
11 most of you are aware, this is a project that was
12 approved by the Board in 2017 with conditions.
13 However, there have been changes, and with those
14 changes, we've made some revisions to
15 recommendations that we've made and just updated
16 the report accordingly.

17 I'll try to keep this quick because it's
18 really a recap and just kind of a summary of the
19 changes.

20 But, so in 2015 we prepared a geotechnical
21 report. We recently updated that report and
22 provided to the -- to Brookline. And, you know,
23 the changes in that report were some trivial, you
24 know, since the 2015 Mass. Building Code had been

1 updated. So we made revisions to update that.

2 We've included some supplemental
3 explorations that we've prepared to understand the
4 adjacent foundations a little bit better. But the
5 bulk of the revision is to address the revised
6 exterior foundation layout. And this is including
7 the 612-614 Hammond Street location.

8 With that change, also the depth of the
9 basement, most particularly in areas where there
10 are pits for parking levels reduced to 25 feet.
11 We'll go through that in a little bit more detail.

12 Overall, our geotechnical recommendations
13 haven't significantly changed as part of this
14 report. It's really been an update of what we
15 previously recommended.

16 So I think you guys have seen this on other
17 meetings, but just to give a rough layout. The
18 left is the 2017 level -- parking level, and on
19 the right is the new level. And you can see on
20 the bottom left where the main change is. And
21 what this has allowed -- what you might not
22 necessarily see here, and what this has allowed,
23 is on the 2017 version there were some deep pits
24 associated to benefit parking. We've been able to

1 eliminate those and essentially do two levels all
2 even across the site. This eliminates some
3 complexities, it eliminates the deeper pits that
4 have been going around 33 feet deep, and has
5 overall simplified the job some.

6 But what did we see back then? You know,
7 the site typical to sites in this area has urban
8 fill at the ground surface and at the near
9 surface. And a little bit unique to this is, as
10 Maria indicated, is we've got bedrock that is two
11 to 24 feet below grade. And what that means when
12 we perform excavations, we're going to be
13 encountering that bedrock and removing it. And in
14 addition, groundwater is around eight to eleven
15 feet below ground surface.

16 As far as structures on the site there is
17 -- or adjacent to the site, there's 517 Heath
18 Street and 521 Heath Street. Each of those have
19 garages on the back side, the south side of the
20 site. I don't have a pointer here, but here we
21 go.

22 Here and here (indicating). And those are
23 slab on grade garages that are almost abutting the
24 property line.

1 In addition, 1162-1164 Boylston, way back
2 when we originally did the geotechnical report, we
3 were able to get into that basement. It's got a
4 partial basement. It's half, I think it's three
5 or four feet deep. And we assume that's on
6 shallow foundations. That's likely the case
7 considering the building size. And the most
8 conservative assumption.

9 And then similarly the 16 -- the 616 and
10 624 Hammond Street -- so now, this is south of the
11 612-614 Hammond. We were recently able to get
12 into that basement to understand it's a one-level
13 basement. And similar to Boylston, we assume it's
14 on shallow foundations. It's just a building that
15 size, that's what it's going to be.

16 So what did we recommend? We recommended a
17 structural mat foundation. Facing what it is,
18 is a big concrete slab that bears on the soil and
19 takes the load from the building and transfers it
20 into the soil or rock. We're recommending that it
21 bears on the glacial tills or bedrock, and that
22 it's thick enough to resist a hydrostatic
23 pressures, counter to making it thick enough to
24 resist hydrostatic pressures, which is like 17

1 feet of water, you could do tie down anchors to
2 help resist the uplift.

3 On the exterior, we're -- you know, it's
4 likely going secant pile walls, which would be a
5 support of excavation and the foundation. I've
6 been before this Board before and talked about
7 secant pile walls and what they were, but it's
8 overlapping the shaft. Essentially it's creating
9 a continuous wall around the site. In some areas,
10 particularly along the Route 9 side, it may be
11 impractical to actually install that in that area,
12 and so we might end up with a micro pile lagging
13 and support of excavation and then just do typical
14 cast-in-place foundation wall.

15 And then the support, the excavation will
16 be raised internally. What that means is struts,
17 big pipes, and I-beams, rails in the excavation
18 help with that. In the middle picture you can
19 kind of see the corner braces, what that kind of
20 looks like. This is a site that had a similar
21 excavation depth 25 feet, a building right next to
22 it that we performed in the past. And so this is
23 a good example of kind of what you would expect to
24 see associated with that excavation.

1 And then as I mentioned, rock is shallow so
2 there's going to be a pretty significant amount of
3 rock excavation associated with this site. A
4 previous condition was that no blasting could
5 occur, and so that's gonna remain as part of this
6 project. So that means rock excavation is going
7 to be limited to hoe ramping and jackhammering, or
8 they could also predrill and split the rock, or it
9 could be some combination of the two.

10 So as Maria mentioned, whenever we're
11 performing excavations next to adjacent
12 structures, we need full monitoring and we need to
13 be considerate of how to protect and limit
14 movement. And there's a couple of ways we can do
15 this. The first, for the internal bracing, when
16 we've got long spans, we jack load into them. We
17 basically force load into the pipes early. What
18 that does is it takes movement out initially so
19 that when you load from the soil, comes on to the
20 wall, it doesn't have any initial movements.
21 Similarly we're going to do some monitoring. That
22 would include some pre and post-construction
23 surveys.

24 Vibration monitoring at the existing

1 structures, the nearby structures.

2 And moderate movements on the excavation
3 and the structure. So we monitor the movements
4 with monitoring points. You can kind of see it on
5 the top right here. Basically survey prisms that
6 we can monitor on how X, Y and Z of how the walls,
7 the wall and the building are moving.

8 And similarly this is what a vibration
9 monitor essentially looks like when it's out in
10 the field.

11 And then finally we monitor groundwater
12 inside and outside the excavation.

13 That's -- again, to keep it short, that's
14 what I've got for you tonight. That's kind of a
15 recap of what this project is and the summary of
16 the changes that have occurred. With that, I'll
17 turn it over to you guys or your peer reviewer if
18 you guys have questions.

19 CHAIR MARK ZUROFF: I have a couple of
20 questions --

21 MICHAEL FLYNN: Yeah.

22 CHAIR MARK ZUROFF: -- not being a
23 scientist.

24 If I'm not mistaken, the prior plan had --

1 and I may be using the wrong terms, reservoirs for
2 retainage of water that accumulates underneath or
3 aside.

4 MICHAEL FLYNN: Sumps. I think you're
5 referring to sumps in the basement?

6 Yeah, so it's likely that sumps still
7 exist. Sumps are generally a two-by-two size
8 excavation out.

9 HARIL PANDYA: Are you referring to
10 sumps or the groundwater recharge?

11 CHAIR MARK ZUROFF: Maybe both.

12 HARIL PANDYA: There are groundwater
13 recharge tanks previously, and that will still
14 remain the case. The overall treatment of the
15 site remains the same from that perspective.

16 CHAIR MARK ZUROFF: All right.

17 So in other words, there are facilities
18 there to hold the ground -- the rainwater until
19 it's dissipated?

20 HARIL PANDYA: We're required to do so.

21 MICHAEL FLYNN: Correct.

22 CHAIR MARK ZUROFF: And is your plan
23 since you're building this basically waterproof
24 vessel to keep the building, how does this affect

1 the neighboring properties? Because all of that
2 displaced groundwater is going to have to go
3 somewhere, right?

4 MICHAEL FLYNN: No. And in fact that's,
5 it's the opposite. What we're doing by
6 waterproofing and creating a bathtub is preventing
7 water from getting in. When we allow water to get
8 in, what you can get is drawdown. Essentially the
9 neighboring properties can -- the site wants to
10 act similarly to a well and start drawing down
11 everything nearby. The procedure that we have
12 here with waterproofing and a slab and
13 hydraulically resisting the load is essentially
14 creating the bathtub you talk about in preventing
15 that drawdown.

16 CHAIR MARK ZUROFF: So will the flow of
17 water affect the neighboring properties in any
18 way?

19 MICHAEL FLYNN: We shouldn't see any
20 changes in the neighboring property in the
21 groundwater conditions.

22 CHAIR MARK ZUROFF: All right. That's
23 my question.

24 Thank you.

1 LARK PALERMO: I have a question. Are
2 you planning to de-water the site during
3 construction?

4 MICHAEL FLYNN: Yes, yeah. So --

5 LARK PALERMO: Are you concerned about
6 the impact that might have on the neighboring
7 properties?

8 MICHAEL FLYNN: So it's something that
9 we're going to monitor. And particularly on the
10 side of the shallow structure -- of the shallow
11 foundations that the buildings, which is why we're
12 considering secant pile walls on that side, for
13 two reasons:

14 A, they're just a more rigid wall system.
15 They help prevent movement.

16 And, B, they provide a better cutoff than
17 most systems.

18 We are going to monitor the water levels as
19 well and make sure that it's not drawing down,
20 but, you know, any time to get down temporarily
21 you're going to have to dewater, so....

22 MARK ZUROFF: Anything else?

23 RANDOLPH MEIKELJOHN: I just have one
24 sort of related -- I was looking for a -- I

1 couldn't find a site plan in my packet. But you
2 talked about the -- the different -- oh, how about
3 that? The different -- the abutting buildings
4 along the south side, the ones on Hammond Street,
5 the other ones with little garages. Do you know
6 how close the foundation wall, the one-story
7 building is of the one on Hammond Street, is it so
8 close that you're going to be exposing it, for
9 example, during construction operations?

10 MICHAEL FLYNN: So, it's -- we do have
11 it. I believe it's a couple of feet off the
12 property line.

13 RANDOLPH MEIKELJOHN: Right.

14 MICHAEL FLYNN: When it was 612, it was
15 right on the line. And we've actually --

16 RANDOLF MEIKELJOHN: Right.

17 MICHAEL FLYNN: -- done some test pits
18 on the edge of that to understand where the
19 foundation was because we were going to be
20 exposing it. This I believe -- you know, I don't
21 know the exact line. So there's an alley in
22 between, I think the property line --

23 RANDOLPH MEIKELJOHN: Like you could
24 walk from a little slot, you can walk through.

1 MICHAEL FLYNN: Yeah, exactly. So I
2 believe that there's a couple feet. It's a couple
3 of feet off.

4 RANDOLPH MEIKELJOHN: Okay, thanks.

5 MICHAEL FLYNN: Yeah.

6 CHAIR MARK ZUROFF: Thank you.

7 Now we'll hear from our peer reviewer.

8 DAN LaFRANCE: Good evening.

9 Dan LaFrance from Fuss & O'Neill.

10 So I reviewed a couple of different
11 documents in the course of my peer review.
12 Namely, the revised geotechnical report that GEI
13 prepared this past summer, as well as a summary
14 memo prepared back in February, and a set of site
15 plans prepared around the same time, including the
16 basement foundation plan that is shown on the
17 slide as well. And I do have a few comments on
18 generally the proposed changes to the site layout
19 and a few about how the project changes overall
20 affect the existing approval and a comparison of
21 current conditions with the existing approval.

22 First thing that I would like to pose as a
23 question to GEI and the team that is assembled
24 here is just in regard to the thickness of the

1 foundation wall that's shown on this plan. It
2 appears to be about a one-foot thick foundation
3 wall all the way around the building. I may not
4 be understanding quite what I'm seeing, because --
5 you know, this is an architectural plan, it's not
6 a structural layout per se, but I am just curious
7 as to whether that's been coordinated with the
8 concept of using secant piles that are some of the
9 larger dimensions in that instance.

10 HARIL PANDYA: Yeah, our plan -- this is
11 Haril Pandya of CBT.

12 Our plan is to use two-foot thick
13 foundations. This was a graphic drawing that we
14 had created to submit for the graphic changes
15 between the 2017 and 2019. But in coordination
16 with structural and whatnot, we're off the
17 property line by I think around a foot. And the
18 foundation wall itself is two feet to accommodate
19 the secant.

20 DAN LaFRANCE: Okay, thank you.

21 And the one thing that I would just point
22 out to the Board at that point is expanding the
23 thickness of the foundation wall is going to
24 affect the geometry of the garage. I submitted

1 the resubmitted plan set that will address those
2 conditions as well, and that will be the subject
3 of peer reviews by others. But just with changes
4 to the site geometry, that was the one thing I
5 wanted to confirm. But thank you for that.

6 And basically -- so the existing Hammond
7 Street property -- so to step back a little bit,
8 the 1180 Boylston Street property has an extensive
9 environmental case file. There is, you know,
10 gasoline contamination from historic site
11 operations there. It was a gas station for over
12 50 years, and the soil and groundwater and to some
13 extent the bedrock had been contaminated by
14 gasoline hydrocarbons. A lot of our previous peer
15 review was focused on management of remediation
16 waste, that's the Mass. contingency plan,
17 environmental cleanup in turn for contaminated
18 soil generated as a result of either cleanup
19 action or construction on the contaminated
20 property. And so a lot of the previous approval
21 was built around managing that kind of condition.

22 Cumberland Farms is still the, you know,
23 responsible party. And, again, that's a
24 regulatory term. It refers to the party that is

1 legally liable for the original release and the
2 cleanup. And, you know, the Applicant has rights
3 as the property owner to come in and, you know, do
4 construction work within that property either by
5 taking on the liability for the project or
6 asserting status as what the the state calls the
7 other person; namely, someone who did not cause or
8 contribute the contamination, but is working
9 around it as part of a larger project.

10 Construction dewatering, we had previously
11 talked about as a, you know, short-term dewatering
12 to manage the water to keep the foundation from
13 collapsing while they were trying to excavate for
14 it, and then creating a waterproof foundation
15 system at the end so the contaminated groundwater
16 does not flow in and the long-term dewatering is
17 not required. The alternative would be to if --
18 develop sort of a long-term pumping and discharge
19 into the municipal storm sewer system, which when
20 you have contaminants in your groundwater, becomes
21 a difficult and costly process to manage. Not to
22 mention the load on the municipal storm sewer
23 system. It should not be taking those
24 contaminants as generally untreated water. It

1 discharges to wetlands. You don't want gasoline
2 hydrocarbons breaking through that and
3 contaminating off-site properties.

4 So the Hammond Street property does not
5 have an environmental case file, but that same
6 regulatory framework will continue to exist. And
7 it, you know, as part of the process for going
8 forward, you know, GEI is going to have to -- or
9 the Applicant's team is going to have to do some
10 level of soil testing in order to find a home for
11 that material to go off site, because they're
12 talking about taking those 3,000 or so square feet
13 and cutting that down to equivalent level. So
14 there will be some level of testing to -- just to
15 find a home for that soil. And GEI in their
16 memorandum from the end of February commented on
17 what that proposed plan would be. It's impossible
18 to do the soil testing with buildings in the way.
19 So that would have to wait until later in the
20 project. But they did spell out in a fairly, you
21 know, thorough and robust plan for soil testing to
22 evaluate any of those kind of conditions.

23 In terms of legal responsibility for any
24 cleanup obligations that come into that, the

1 Applicant as property owner, when the condition is
2 identified, should a condition be identified
3 there, will be the responsible party. And so
4 this -- you know, an obligation that doesn't
5 necessarily stop when the construction site is
6 done. Although I would anticipate with major
7 issue there would be the urban fill condition,
8 which one of the, I think, five case files
9 associated with the gas station dealt with the
10 presence of urban fill containing lead and ash
11 compounds and things of that nature. It would not
12 be unheard of to find the same thing on this other
13 property, and then removing that soil and
14 disposing it off site would get to a point of
15 closure.

16 GEI acknowledged those obligations as it
17 pertains to environmental assessment and cleanup
18 on the adjacent property. And the process that
19 they laid out was thorough and addresses those
20 obligations under, you know, the state program,
21 the state regulations.

22 RANDOLPH MEIKELJOHN: Can I ask a
23 question?

24 DAN LaFRANCE: Sure.

1 RANDOLPH MEIKELJOHN: Just on the --
2 backing up, a minute ago, you said the Hammond
3 Street property didn't have an environmental case
4 file.

5 Is that the additional, the Mr. Sushi
6 property?

7 DAN LaFRANCE: Yes.

8 RANDOLPH MEIKELJOHN: Okay.

9 DAN LaFRANCE: Yes, it is.

10 RANDOLPH MEIKELJOHN: So, is it in your
11 opinion, the data you have from the field, are the
12 soil conditions and soil conditions -- and the
13 level of soil contaminations, are they just
14 expected to be similar on that property and just
15 wasn't captured in a previous, in previous
16 conditions and so on?

17 DAN LaFRANCE: Yeah. So MassDEP has a
18 term that they call -- what they dub anthropogenic
19 background, and basically it's a sort of catchall
20 term for soil in the urban setting. So anywhere
21 in or near some of the major cities in the
22 Commonwealth, it's very common to find that
23 there's been fill material placed at sites as part
24 of, you know, many generations of development,

1 some of which -- a lot of which was placed before
2 there was any sort of regulation of what can and
3 cannot be in soil on construction projects. And
4 so it was quite common back in the day that people
5 would, you know, throw out ash from their heating
6 systems and things like that, and it would just
7 wind up mixed in with the soil, and that ash
8 contains things like arsenic and polycyclic aromatic
9 hydrocarbons which are unburned residues from
10 products of combustion. And so those kind of
11 contaminants are very common in the soil in the
12 urban setting. It's just kind of everywhere.

13 RANDOLPH MEIKELJOHN: Right. But what I
14 -- I think you were saying also that there was
15 specifically gasoline contamination of the soil on
16 the Cumberland Farms' site.

17 DAN LaFRANCE: That is correct.

18 RANDOLPH MEIKELJOHN: And do you assume,
19 and does it matter particularly, that whether
20 those, those same conditions, yeah, exist on the
21 site that's immediately adjacent to the, to the
22 Mr. Sushi parcel?

23 DAN LaFRANCE: I mean that will -- that
24 will be identified if, you know, as part of the

1 soil testing programs.

2 RANDOLPH MEIKELJOHN: Okay.

3 DAN LaFRANCE: It's fairly easy to find
4 it. It would be kind of rolled into the same
5 construction project. But it basically remains
6 Cumberland Farms' obligation cleanup contamination
7 wherever it has migrated to.

8 So in fact this gas station, as I said,
9 there were impacts to groundwater that actually
10 extend on to the next block. And so there's a
11 long-term monitoring program that deals with that.
12 That is Cumberland Farms' obligation.

13 RANDOLPH MEIKELJOHN: Is it their
14 obligation to -- suppose they get to the property
15 line, you know, at one of the -- the back of one
16 of the East Street residential properties with the
17 garage that's on grade, if gasoline contamination
18 in the soil is, you know, appears to continue
19 across the property line, are they -- are they
20 obligated by law, by the state or by any condition
21 we might impose to carry on, chasing it down the
22 property line?

23 DAN LaFRANCE: Yes. So Cumberland Farms
24 would continue to have that obligation.

1 The definition of disposal site, the way
2 MassDEP defines a point of release and the area of
3 impact that emanates from it, is that you have to
4 chase it out as far as it goes until you've
5 identified a condition no significant risk. And
6 so it's not bound by property lines. It's not
7 bound by, you know, contaminant concentrations
8 necessarily. You have to find where it goes and
9 then make a risk determination based on that. But
10 that obligation would rest, as I said, with
11 Cumberland Farms as opposed to the Applicant. The
12 Applicant is responsible to the extent that
13 there's gasoline in the soil for managing the
14 conditions within their construction project. But
15 Cumberland Farms maintains obligations that extend
16 well beyond their property lines on the site.

17 JOHANNA SCHNEIDER: And wouldn't it be
18 the case that in connection with whatever RTN,
19 Cumberland Farms, is responsible for the extent of
20 the contamination probably already has been
21 measured and identified?

22 DAN LaFRANCE: Yes. So there was a --
23 there was a comprehensive site assessment
24 performed as part of that project to get to the

1 condition that they're at. They basically are at
2 a point where they've removed what they deem
3 necessary at that point to get to a condition of
4 no significant risk based on the site conditions
5 as they existed and they're monitoring groundwater
6 off site. They do have other obligations, and
7 this is something that may come up during the
8 course of this project, that there is a passage in
9 the MCP, the Mass. contingency plan, the cleanup
10 regulation, that before you can build a permanent
11 structure over a contaminated site, you have to
12 perform whatever assessment, cleanup is necessary
13 to assert that the cleanup is complete. Or at
14 least complete enough to establish an activity and
15 use limitation if that becomes necessary.

16 So there may be an element of coordination
17 between Cumberland Farms and the Applicant as far
18 as when they've, you know, excavated down to final
19 subgrade, there may be some additional testing
20 that Cumberland Farms would need to perform for
21 their own reasons to ensure that they can perform
22 the paperwork, you know, down the road when it
23 comes time for them to close the site, to say: We
24 got the source area out and here are the

1 conditions at the edge of that project.

2 JOHANNA SCHNEIDER: And I just don't
3 remember from our first go-around of this, is
4 there an AUL on this site right now?

5 DAN LaFRANCE: Not to my knowledge.

6 JOHANNA SCHNEIDER:. Mr. Dhanda, is
7 there an AUL on this site?

8 HARIL PANDYA: Do you know if there's an
9 AUL on the site?

10 RAJ DHANDA: Say again?

11 HARIL PANDYA: Is there an AUL on this
12 site?

13 MICHAEL FLYNN: I don't know offhand
14 either, it's been too long.

15 DAN LaFRANCE: I don't believe there is
16 one, and regardless if there was one, one of the
17 things that, you know, you can do with an AUL is
18 on a project like this, you can actually retract
19 the AUL if you can demonstrate the, you know, as a
20 result of the project, the AUL is no longer
21 necessary. So if the AUL was, for example, to
22 restrict exposure to shallow soil and then you've
23 removed all of the shallow soil that's affected by
24 petroleum, you no longer need the activity in use

1 limitation, you can cancel it effectively.

2 So there is a process for that, and that
3 would have to be done by the LSB of record whether
4 working for Cumberland Farms or the Applicant,
5 that's for them to determine.

6 LARK PALERMO: I have a question.

7 Based on what you know now about this site
8 with the DEP reports, etcetera, what do you think
9 the chances are that there will be a need to
10 install a long-term pumping or discharge system?

11 DAN LaFRANCE: I don't think that will
12 be necessary. At this point there is no long-term
13 pump tree kind of activity going on here. And
14 what is happening, petroleum hydrocarbons will
15 biodegrade over time. And so after removing the
16 tanks and removing the soil material, especially
17 after overexcavating to accommodate a foundation
18 of this size, basically there's nothing left
19 behind it to continue contaminating the
20 groundwater. And so the contaminants that are in
21 it will dissipate from points of high
22 concentration, points of lower concentration, and
23 then they will biodegrade naturally over time.
24 And that's sort of been the case for the last

1 several years. I think since 2011 or so that has
2 been -- Cumberland Farms' approach has been they
3 removed a lot of source material and they're
4 letting it biodegrade. So this project, by
5 removing additional material, will just cause that
6 to biodegrade, and biodegrade faster even. And in
7 terms of having to install any kind of long-term
8 dewatering control on the site, one of the
9 conditions that was explicitly built in during
10 previous approval was the waterproof matte slab
11 and the waterproof foundation which is --
12 basically the options are either you waterproof
13 the whole thing or you're constantly pumping water
14 out which becomes an operational headache. And if
15 equipment breaks down, your basement floods and
16 that sort of thing. You know, we pushed for a
17 design that didn't involve active dewatering for a
18 lot of reasons, and that continues to be part of
19 the existing approval.

20 LARK PALERMO: Thanks.

21 CHAIR MARK ZUROFF: Anything else?

22 DAN LaFRANCE: Yes.

23 So in terms of the rock removal, the -- GEI
24 talked about there being jackhammering as

1 basically the primary -- one of the potential
2 mechanisms for removing the rock. Just because
3 there are residential properties immediately
4 abutting the site, one thing that I would
5 recommend is some sort of noise monitoring at
6 least in the beginning of any rock removal to
7 basically confirm that's not creating
8 extraordinary noise at the property lines and, you
9 know, potentially to put up some sort of
10 mitigation measures, some sort of screening at the
11 site or something that would deaden the noise so
12 it's not an issue off site.

13 So just to confirm that that's not going to
14 be a long-term issue.

15 RANDOLPH MEIKELJOHN: Did the proposed
16 scope of rock removal in the work change
17 materially because of the redesign?

18 DAN LaFRANCE: If anything, it actually
19 was less because, you know, Mike talked a little
20 bit about how there had been these sumps for --

21 RANDOLPH MEIKELJOHN: Right.

22 DAN LaFRANCE: -- the stacked parking
23 units, and now it's just sort of a flat
24 foundation. And, you know, portions of the

1 excavation would have been 36 feet or somewhere
2 around that depth before. Now we're going to be,
3 you know, significantly shallower, 23, 25,
4 something in that general range. So a lot of the
5 deepest rock removal will be cut away.

6 I'm going to see if I have anything else.

7 So I had put a comment in here about there
8 were some potential options for underpinning the
9 adjacent properties and putting in the excavation
10 support in a number of different ways, some of
11 which seemed like they might be a little bit
12 riskier along the property lines and asking for a
13 little more detail. It would see with a secant
14 pile foundation wall where it's cast in before you
15 start excavating and got a solid wall to work
16 around, you don't necessarily need to worry as
17 much about soil undercutting the foundation as it
18 would with, you know, sort of lagging materials
19 that are put down on top of soil and that the soil
20 rock interface may have some gaps.

21 So I'm satisfied to that comment regarding
22 the excavation support that secant piles, to the
23 extent those are employed, would be an appropriate
24 way to deal with it.

1 And then as far as the existing terms of
2 the approval, you know, I listed out all of the
3 previous conditions as they were set out in 2017.
4 If anyone has comments specific to any of those
5 kind of issues, I'm happy to speak to them. For
6 the most part, our recommendation is not
7 necessarily to change anything. There are a few
8 items called out to the Applicant's attention as
9 far as some minor changes to the project, you
10 know, namely, things of responsible parties for
11 environmental cleanup and how those play out.

12 There was a condition for requiring
13 remediation waste not be stored on-site or not be
14 stockpiled on-site particularly, but to be live
15 loaded out. We continue to hold for that. So,
16 you know, if in fact the Hammond Street property
17 does have environmental contaminants on it, it
18 would just be rolled into that same sort of
19 profile.

20 MARIA MORELLI: I'm sorry, Dan, if you
21 mentioned this and I missed it, but you had an
22 initial question at one time about on-site
23 groundwater monitoring wells. If they are going
24 to be affected by the new plans and some

1 coordination with Cumberland Farms. Do you want
2 to speak to it further?

3 DAN LaFRANCE: Yes.

4 So that kind of rolls in with what I was
5 saying earlier about the fact that Cumberland
6 Farms may need to do some level of testing at some
7 point during this project to close out their end
8 of it. The other issue is that there is a
9 long-term monitoring network which includes
10 monitoring wells on the site. And so developing
11 an alternative monitoring network that works for
12 everybody, particularly with the site footprint
13 occupying most of the property, and specifically
14 around the contaminated areas. For reference, the
15 fuel tanks historically were located on this, you
16 know, left of center portion of the property and
17 so that was the original primary source of
18 contamination. There are quite a few wells over
19 there. But I would, I would think that if the
20 requisite testing was performed shortly after, you
21 know, excavation and with construction dewatering
22 and the dataset that goes along with it, there may
23 be a way of eliminating those wells from the
24 program altogether. They may be relocating wells

1 into the shoulders of the nearby roads. It's a
2 coordination item, some of which may be necessary
3 to coordinate with the town as far as permits and
4 access and things of that nature. It really
5 depends on how much additional testing Cumberland
6 Farms thinks they may need, whether or not those
7 walls need to be replicated.

8 MARIA MORELLI: So is this a note that
9 we should be leaving for staff? I just want to
10 keep track of what should we put in our conditions
11 and what should we just have like as a note to
12 staff regarding, you know, for a review and
13 approval of some documentation.

14 DAN LaFRANCE: I would think that that's
15 more of a review and approval at the building
16 permit stage. They will probably be -- as I
17 recall, they were modifying similar road openings
18 anyway. So as somebody's reviewing the road
19 openings, knowing that there may be some drilling
20 work in the street to put in additional wells,
21 that would probably roll under that same element.

22 RANDOLPH MEIKELJOHN: I want to just ask
23 about one of the conditions in your letter, and
24 it's not one where you recommended any changes,

1 but it just caught my eye because some of the
2 wording in it. This is on your page 5 of 52, 53:
3 Prior to construction the Applicant shall submit a
4 design for the waterproofing system for town
5 review. And it's the second sentence: The Town
6 shall inspect and verify the function of the
7 waterproofing system to ensure its effectiveness.

8 And I -- the reason I caught it, I deal
9 with design surfaces professional liability all
10 the time, you know, whether that gets rewritten or
11 not,, what I'd like to know is what do you -- what
12 is the town -- what's the town's interest and is
13 this -- what's this condition really accomplishing
14 for us? You know, with the --

15 DAN LaFRANCE: It's ensuring that
16 there's no need to mitigate groundwater intrusion
17 into the structure of the long-term that would
18 potentially put a load on the municipal storm
19 sewer. All right, if memory serves me, that's the
20 reason why it went in there. Basically there was
21 a series of conditions related to ensuring that
22 the building is -- might refer to a bathtub. I
23 prefer to think of it as a kind of -- the
24 waterproof part is surrounded by water and the

1 water stays out of it as opposed to having to pump
2 constantly and manage a water stream at a later
3 point.

4 RANDOLPH MEIKELJOHN: I mean there is,
5 there's -- an aspect of that is sort of
6 neighborhood protection, right?

7 DAN LaFRANCE: Right.

8 RANDOLPH MEIKELJOHN: Because if we --
9 Mr. Flynn talked about this a moment ago, that if
10 we can avoid -- if the project can, you know, not
11 disturb the level of groundwater that exists and,
12 you know, underlying the other structures and
13 properties, that's a desirable outcome that would
14 be in the town's interest to see that that gets
15 done.

16 Okay, thanks.

17 CHAIR MARK ZUROFF: Do you have anything
18 else?

19 DAN LaFRANCE: Not specifically.

20 CHAIR MARK ZUROFF: Do you want to cover
21 anything -- okay.

22 Thank you. No more questions from the
23 Board.

24 Mr. Flynn, my simple question to you is

1 you've seen the recommendations of the peer
2 reviewer, do you have any problems with conforming
3 to their recommendations?

4 MICHAEL FLYNN: I don't. I think it in
5 general what we've seen is a continuation of the
6 conditions that were put on previously. There are
7 some details associated with, you know, adding the
8 new property, but from our perspective, that they
9 seem like they're in line with what was previously
10 put on the project for conditions.

11 CHAIR MARK ZUROFF: Thank you.

12 Any other questions?

13 No.

14 JANICE KAHN: Yes. Janice Kahn, Town
15 Meeting member from Precinct 15.

16 MARIA MORELLI: Could you -- I'm sorry,
17 could you go to the mic so it can be heard on
18 cable?

19 JANICE KAHN: Yes.

20 Hi. Janice Kahn, Town Meeting member from
21 Precinct 15. And I sat through most of the
22 previous iterations so I do have some questions.

23 One was that at the time that the approvals
24 were done we talked about a hundred-year storm and

1 managing that water, and it was determined that
2 this particular property was given sort of a pass
3 on the hundred-year saying that a fifty-year storm
4 would be probably more realistic in terms of
5 managing. I am becoming increasingly concerned
6 about environmental impacts of projects now. And
7 one of the concerns of the neighborhood was that
8 since the building is gonna occupy this space and
9 water now can't go into the ground in its normal
10 way, I wonder about the discharge system for --
11 the original plan had a way to retain it and then
12 slowly discharge it into the system as to not to
13 overwhelm it. I just want to make sure that there
14 still is this, in this current iteration of the
15 project now that we're taking up even more space,
16 right, covering more space.

17 HARIL PANDYA: Yeah, the tanks are
18 typically sized to accommodate, you know, the
19 water that it's supposed to, and typically they're
20 slightly oversized to do I think 3,000 square feet
21 of, I don't want to say it's negligible, but the
22 tank size would typically accommodate that. I
23 mean, we will confirm it with civil and we will
24 confirm it, but that's the intent is to still use

1 the same system.

2 JANICE KAHN: Okay. So I guess my
3 question is since it's now occupying even a larger
4 site, do we need to have a larger system in place
5 or a larger tank for --

6 HARIL PANDYA: The tank may increase,
7 but it's not -- it won't be like two tanks or
8 anything like that. It will be just a slight
9 increase. That's at least the engineering side of
10 it.

11 JANICE KAHN: That is part of your
12 thinking?

13 HARIL PANDYA: Absolutely.

14 JANICE KAHN: Okay, great.

15 And the other thing I think comes into just
16 project management during the building phase to
17 make sure that particular lots are monitored, that
18 the site is watered down.

19 HARIL PANDYA: That's all in the
20 construction plan.

21 JANICE KAHN: In the plan, and that
22 holds true, too.

23 And the other thing is I was really pleased
24 to hear about the -- monitoring the noise levels,

1 because that also we have a very strong by-law in
2 the town regarding noise levels. And so I really
3 appreciated the comment that if it, if it is
4 really significantly high for the neighboring
5 area, that some sort of screening be put in place
6 to sort of dampen that noise. I think there are a
7 lot of people who live very, very close to that
8 besides the direct abutters. It's only a block
9 away from the residential area. So anything that
10 you can do would be appreciated by the
11 neighborhood.

12 Thank you.

13 CHAIR MARK ZUROFF: Thank you.

14 Anyone else have any comments?

15 (No Response.)

16 CHAIR MARK ZUROFF: Well, I think we've
17 heard from the peer reviewer. We understand what
18 we can understand, and at this point I think the
19 next order of business is continuing this hearing
20 until September 11th when we will hear about?

21 MARIA MORELLI: Revised plans.

22 Architectural peer review.

23 CHAIR MARK ZUROFF: The actual plans for
24 the building.

1 MARIA MORELLI: I just want to point out
2 that this hearing is scheduled to close October
3 22, 2019.

4 The Applicant did ask if this ZBA would be
5 willing to schedule the October hearing. If you
6 think it's appropriate to schedule that, at least
7 we can get it down. I know your schedules are
8 busy. We will be asking for an extension, but not
9 this evening, probably in September.

10 CHAIR MARK ZUROFF: I certainly -- I
11 don't think we have any objection to scheduling
12 October.

13 What did you have in mind?

14 MARIA MORELLI: Okay. I'm just going to
15 throw out some Wednesdays and -- and I don't have
16 my holiday calendar here so please advise me.

17 I would start -- so September 11th, giving
18 us maybe three weeks.

19 Maybe the week of October 7th. So that's
20 7th or the 9th to start with.

21 CHAIR MARK ZUROFF: I think the 9th is a
22 Jewish holiday.

23 MARIA MORELLI: Okay, thank you.

24 So the 14th or the 16th.

1 RANDOLPH MEIKELJOHN: The 14th is
2 Columbus Day.

3 MARIA MORELLI: Okay, I really don't
4 have my calendar.

5 RANDOLPH MEIKELJOHN: 16th is looking
6 good.

7 LARK PALERMO: 16th has nothing.

8 MARIA MORELLI: So we're continuing to
9 September 11th, and our October hearing will be
10 October 16th. Okay.

11 CHAIR MARK ZUROFF: Fine.

12 MARIA MORELLI: Thank you.

13 CHAIR MARK ZUROFF: Then no further
14 business before the Board?

15 RANDOLPH MEIKELJOHN: Can I just ask a
16 question of Maria?

17 CHAIR MARK ZUROFF: Sure.

18 RANDOLPH MEIKELJOHN: On the September
19 11th, you said architectural plans. Is there also
20 something coming back about the south -- the
21 Hammond Street elevation?

22 MARIA MORELLI: Right. So what we're
23 looking at on the revised plans is that south
24 facade.

1 RANDOLPH MEIKELJOHN: Oh, okay. I
2 thought when you said plans --

3 MARIA MORELLI: No, no. I'm sorry.
4 We're looking at the elevations.

5 RANDOLPH MEIKELJOHN: Okay, thank you.

6 MARIA MORELLI: Yeah, drawings.

7 CHAIR MARK ZUROFF: Okay.

8 Meeting is adjourned.

9 Thank you very much.

10 (At 7:45 p.m., Zoning Board of Appeals Adjourned.)

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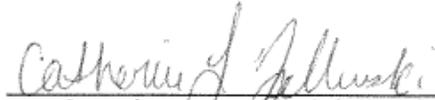
C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.

I, Catherine Lawson Zelinski, a Certified Shorthand Reporter, the undersigned Notary Public, certify:

That the hearing herein before set forth is a true and accurate record of the proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 29th day of August, 2019.



Catherine L. Zelinski
Notary Public
Certified Shorthand Reporter
License No. 147703

My Commission Expires:
April 29, 2022

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&	33 8:4	accurate 45:7	appears 18:2
& 2:20 17:9	333 1:16	acknowledged	25:18
0	36 32:1	22:16	applicant 2:24
02445 1:20	4	act 14:10	3:17 4:11 20:2
1	40b 3:7 4:18	action 19:19	22:1 26:11,12
1-45 1:1	5	active 30:17	27:17 29:4 36:3
11353 45:12	5 36:2	activity 27:14	42:4
1162-1164 9:1	50 19:12	28:24 29:13	applicant's 5:19
1180 1:11 3:8 4:5	517 8:17	actual 41:23	21:9 33:8
6:9 19:8	52 36:2	adding 38:7	application 3:7
11th 5:3 41:20	521 8:18	addition 8:14 9:1	apply 45:18
42:17 43:9,19	53 36:2	additional 23:5	appreciated 41:3
1299 4:17	6	27:19 30:5 35:5	41:10
147703 45:14	612 4:12 16:14	35:20	approach 30:2
14th 42:24 43:1	612-614 7:7 9:11	address 7:5 19:1	appropriate 32:23
15 38:15,21	614 4:12	addressed 4:21	42:6
16 9:9	616 9:9	addresses 22:19	approval 17:20,21
16th 42:24 43:5,7	624 9:10	adjacent 7:4 8:17	19:20 30:10,19
43:10	7	11:11 22:18 24:21	33:2 35:13,15
17 9:24	7:00 1:8	32:9	approvals 38:23
19th 3:23	7:45 44:10	adjourned 44:8,10	approved 6:12
2	7th 42:19,20	advise 42:16	april 45:16
20 1:7	9	affect 13:24 14:17	architect 2:22
2011 30:1	9 10:10	17:20 18:24	architectural 18:5
2015 6:20,24	9th 42:20,21	ago 23:2 37:9	41:22 43:19
2017 6:12 7:18,23	a	ahead 6:5	architecture 3:24
18:15 33:3	able 7:24 9:3,11	alley 16:21	area 8:7 10:11
2019 1:7 18:15	absolutely 40:13	allow 14:7	26:2 27:24 41:5,9
42:3 45:8	abutters 41:8	allowed 7:21,22	areas 7:9 10:9
2022 45:16	abutting 4:13 8:23	alternative 20:17	34:14
22 42:3	16:3 31:4	34:11	arsenic 24:8
23 32:3	access 35:4	altogether 34:24	ash 22:10 24:5,7
24 8:11	accommodate	amount 11:2	aside 13:3
25 7:10 10:21 32:3	18:18 29:17 39:18	anchors 10:1	asking 32:12 42:8
29 45:16	39:22	anthropogenic	aspect 37:5
29th 45:8	accomplishing	23:18	assembled 17:23
3	36:13	anticipate 22:6	assert 27:13
3,000 21:12 39:20	accumulates 13:2	anyway 35:18	asserting 20:6
		appeals 1:6 2:4 3:7	assessment 22:17
		44:10	26:23 27:12

<p>associated 7:24 10:24 11:3 22:9 38:7 assume 9:5,13 24:18 assumption 9:8 attention 33:8 august 1:7 45:8 aul 28:4,7,9,11,17 28:19,20,21 avoid 37:10 aware 6:11</p>	<p>benefit 7:24 bennett 4:14,15 better 7:4 15:16 beyond 26:16 big 9:18 10:17 biodegrade 29:15 29:23 30:4,6,6 bit 4:18 7:4,11 8:9 19:7 31:20 32:11 blasting 11:4 block 25:10 41:8 board 1:6 2:4,7,8 2:9 3:6,10,13 6:12 10:6 18:22 37:23 43:14 44:10 board's 1:18 bottom 7:20 bound 26:6,7 boylston 1:11 3:8 4:5 6:9 9:1,13 19:8 braces 10:19 bracing 11:15 breaking 21:2 breaks 30:15 bristol 45:3 brookline 1:5,15 1:20 6:22 build 27:10 building 4:15 6:24 9:7,14,19 10:21 12:7 13:23,24 16:7 18:3 35:15 36:22 39:8 40:16 41:24 buildings 15:11 16:3 21:18 built 19:21 30:9 bulk 7:5 business 41:19 43:14</p>	<p>busy 42:8</p> <hr/> <p style="text-align: center;">c</p> <hr/> <p>c 2:1 3:1 45:1,1 c.40b 1:11 cable 38:18 calendar 42:16 43:4 call 5:12 23:18 called 33:8 calling 3:6 calls 20:6 cancel 29:1 captured 23:15 carry 25:21 case 4:5,10 9:6 13:14 19:9 21:5 22:8 23:3 26:18 29:24 cast 10:14 32:14 catchall 23:19 catherine 1:24 45:4,13 caught 36:1,8 cause 20:7 30:5 cbt 2:22 18:11 center 34:16 certainly 4:7 42:10 certification 45:18 certified 45:4,14 certify 45:5 certifying 45:19 chair 3:2,10 5:5,11 5:16 6:1,4 12:19 12:22 13:11,16,22 14:16,22 17:6 30:21 37:17,20 38:11 41:13,16,23 42:10,21 43:11,13 43:17 44:7</p>	<p>chairman 2:6 chances 29:9 change 7:8,20 31:16 33:7 changed 7:13 changes 6:13,14 6:19,23 12:16 14:20 17:18,19 18:14 19:3 33:9 35:24 characteristics 4:9 charge 4:23 chase 26:4 chasing 25:21 cities 23:21 civil 39:23 cleanup 19:17,18 20:2 21:24 22:17 25:6 27:9,12,13 33:11 close 16:6,8 27:23 34:7 41:7 42:2 closure 22:15 code 6:24 collapsing 20:13 columbus 43:2 combination 11:9 combustion 24:10 come 20:3 21:24 27:7 comes 11:19 27:23 40:15 coming 43:20 comment 32:7,21 41:3 commented 21:16 comments 17:17 33:4 41:14 commission 45:15 commissioner 4:14,15</p>
<p style="text-align: center;">b</p>			
<p>b 15:16 back 8:6,19 9:1 17:14 19:7 24:4 25:15 43:20 background 23:19 backing 23:2 based 3:16 26:9 27:4 29:7 basement 7:9 9:3 9:4,12,13 13:5 17:16 30:15 basically 11:17 12:5 13:23 19:6 23:19 25:5 27:1 29:18 30:12 31:1 31:7 36:20 bathtub 14:6,14 36:22 beacon 4:18 beams 10:17 bears 9:18,21 becoming 39:5 bedrock 4:8 8:10 8:13 9:21 19:13 beginning 31:6 believe 16:11,20 17:2 28:15</p>			

<p>common 23:22 24:4,11 commonwealth 23:22 45:3 comparison 17:20 complete 27:13,14 complexities 8:3 compounds 22:11 comprehensive 5:21 26:23 concentration 29:22,22 concentrations 26:7 concept 18:8 concerned 4:13 15:5 39:5 concerns 39:7 concrete 9:18 condition 11:4 19:21 22:1,2,7 25:20 26:5 27:1,3 33:12 36:13 conditions 6:12 14:21 17:21 19:2 21:22 23:12,12,16 24:20 26:14 27:4 28:1 30:9 33:3 35:10,23 36:21 38:6,10 confirm 19:5 31:7 31:13 39:23,24 conforming 38:2 connection 26:18 conservative 9:8 considerate 11:13 considering 9:7 15:12 constantly 30:13 37:2</p>	<p>constituted 3:13 construction 4:4 4:19 11:22 15:3 16:9 19:19 20:4 20:10 22:5 24:3 25:5 26:14 34:21 36:3 40:20 consultant 2:18 5:19 consultants 6:8 containing 22:10 contains 24:8 contaminant 26:7 contaminants 20:20,24 24:11 29:20 33:17 contaminated 19:13,17,19 20:15 27:11 34:14 contaminating 21:3 29:19 contamination 19:10 20:8 24:15 25:6,17 26:20 34:18 contaminations 23:13 contingency 19:16 27:9 continuation 38:5 continue 21:6 25:18,24 29:19 33:15 continues 30:18 continuing 41:19 43:8 continuous 10:9 contribute 20:8 control 30:8 45:19 convey 4:16</p>	<p>coordinate 35:3 coordinated 18:7 coordination 18:15 27:16 34:1 35:2 corner 10:19 correct 13:21 24:17 costly 20:21 counter 9:23 couple 11:14 12:19 16:11 17:2 17:2,10 course 17:11 27:8 cover 37:20 covering 39:16 created 18:14 creating 10:8 14:6 14:14 20:14 31:7 crowd 3:2 csr 1:24 cumberland 19:22 24:16 25:6,12,23 26:11,15,19 27:17 27:20 29:4 30:2 34:1,5 35:5 curious 18:6 current 17:21 39:14 cut 32:5 cutoff 15:16 cutting 21:13</p> <hr/> <p style="text-align: center;">d</p> <hr/> <p>d 3:1 dampen 41:6 dan 2:20 4:15 17:8 17:9 18:20 22:24 23:7,9,17 24:17,23 25:3,23 26:22 28:5,15 29:11 30:22 31:18,22</p>	<p>33:20 34:3 35:14 36:15 37:7,19 data 23:11 dataset 34:22 day 5:10 24:4 43:2 45:8 de 15:2 deaden 31:11 deal 32:24 36:8 deals 25:11 dealt 22:9 deem 27:2 deep 7:23 8:4 9:5 deeper 8:3 deepest 32:5 defines 26:2 definition 26:1 demonstrate 28:19 dep 29:8 department 2:11 3:22 depends 35:5 depth 7:8 10:21 32:2 design 30:17 36:4 36:9 desirable 37:13 detail 7:11 32:13 details 38:7 determination 26:9 determine 29:5 determined 39:1 develop 20:18 developing 34:10 development 23:24 dewater 15:21 dewatering 20:10 20:11,16 30:8,17</p>
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<p>34:21 dhanda 2:24 28:6 28:10 different 16:2,3 17:10 32:10 difficult 20:21 dimensions 18:9 direct 41:8 45:19 direction 45:19 discharge 20:18 29:10 39:10,12 discharges 21:1 displaced 14:2 disposal 26:1 disposing 22:14 dissipate 29:21 dissipated 13:19 distribute 5:4 disturb 37:11 documentation 35:13 documents 17:11 doing 14:5 drawdown 14:8 14:15 drawing 14:10 15:19 18:13 drawings 44:6 drilling 35:19 dub 23:18</p>	<p>either 19:18 20:4 28:14 30:12 element 27:16 35:21 elevation 43:21 elevations 44:4 eleven 8:14 eliminate 8:1 eliminates 8:2,3 eliminating 34:23 emanates 26:3 employed 32:23 encountering 8:13 engineer 6:8 engineering 40:9 ensure 27:21 36:7 ensuring 36:15,21 environmental 19:9,17 21:5 22:17 23:3 33:11 33:17 39:6 equipment 30:15 equivalent 21:13 especially 29:16 essentially 8:1 10:8 12:9 14:8,13 establish 27:14 etcetera 29:8 evaluate 21:22 evening 3:5 4:2,16 4:21 17:8 42:9 everybody 34:12 exact 16:21 exactly 17:1 example 10:23 16:9 28:21 excavate 20:13 excavated 27:18 excavating 32:15 excavation 10:5 10:13,15,17,21,24</p>	<p>11:3,6 12:2,12 13:8 32:1,9,22 34:21 excavations 8:12 11:11 excuse 5:15 exist 13:7 21:6 24:20 existed 27:5 existing 11:24 17:20,21 19:6 30:19 33:1 exists 37:11 expanding 18:22 expect 10:23 expected 23:14 expires 45:15 explicitly 30:9 explorations 7:3 exposing 16:8,20 exposure 28:22 extend 25:10 26:15 extension 42:8 extensive 5:20 19:8 extent 19:13 26:12 26:19 32:23 exterior 7:6 10:3 extraordinary 31:8 eye 36:1</p>	<p>far 8:16 26:4 27:17 33:1,9 35:3 farms 19:22 24:16 25:6,12,23 26:11 26:15,19 27:17,20 29:4 30:2 34:1,6 35:6 faster 30:6 february 17:14 21:16 feet 7:10 8:4,11,15 9:5 10:1,21 16:11 17:2,3 18:18 21:12 32:1 39:20 field 12:10 23:11 fifty 39:3 file 19:9 21:5 23:4 files 22:8 fill 8:8 22:7,10 23:23 final 27:18 finally 12:11 find 16:1 21:10,15 22:12 23:22 25:3 26:8 findings 5:13 fine 43:11 first 6:2 11:15 17:22 28:3 five 22:8 flat 31:23 floods 30:15 floor 1:18 flow 14:16 20:16 flynn 2:18 5:18 6:6,7 12:21 13:4 13:21 14:4,19 15:4,8 16:10,14,17 17:1,5 28:13 37:9 37:24 38:4</p>
<p style="text-align: center;">e</p>			
<p>e 2:1,1 3:1,1 45:1,1 earlier 34:5 early 11:17 east 25:16 easy 25:3 edge 16:18 28:1 effectively 29:1 effectiveness 36:7 eight 8:14</p>	<p>everybody 34:12 exact 16:21 exactly 17:1 example 10:23 16:9 28:21 excavate 20:13 excavated 27:18 excavating 32:15 excavation 10:5 10:13,15,17,21,24</p>	<p style="text-align: center;">f</p> <p>f 45:1 facade 4:24 43:24 facilities 13:17 facing 9:17 fact 14:4 25:8 33:16 34:5 fairly 21:20 25:3</p>	

<p>focused 19:15 follow 5:20 foot 18:2,12,17 footprint 34:12 force 11:17 foregoing 45:18 former 4:6,11 forth 45:6 forward 21:8 foundation 4:20 7:6 9:17 10:5,14 16:6,19 17:16 18:1,2,18,23 20:12 20:14 29:17 30:11 31:24 32:14,17 foundations 7:4 9:6,14 15:11 18:13 four 9:5 framework 21:6 fuel 34:15 full 11:12 function 36:6 further 34:2 43:13 fuss 2:20 17:9</p>	<p>general 32:4 38:5 generally 13:7 17:18 20:24 generated 19:18 generations 23:24 gentlemen 3:5 geometry 18:24 19:4 geotechnical 3:16 4:2 6:8,20 7:12 9:2 17:12 getting 14:7 give 7:17 given 39:2 giving 42:17 glacial 9:21 go 5:22 6:5 7:11 8:21 14:2 21:11 28:3 38:17 39:9 goes 6:2 26:4,8 34:22 going 5:12 8:4,12 9:15 10:4 11:2,6 11:21 14:2 15:9 15:18,21 16:8,19 18:23 21:7,8,9 29:13 31:13 32:2 32:6 33:23 42:14 gonna 11:5 39:8 good 3:5 10:23 17:8 43:6 grade 4:3 8:11,23 25:17 graphic 18:13,14 great 40:14 ground 8:8,15 13:18 39:9 groundwater 4:8 8:14 12:11 13:10 13:12 14:2,21 19:12 20:15,20</p>	<p>25:9 27:5 29:20 33:23 36:16 37:11 guess 40:2 guys 7:16 12:17,18</p> <p style="text-align: center;">h</p> <p>half 9:4 hall 1:15 hammond 4:12 7:7 9:10,11 16:4,7 19:6 21:4 23:2 33:16 43:21 hand 45:8 happening 29:14 happy 33:5 haril 2:22 13:9,12 13:20 18:10,11 28:8,11 39:17 40:6,13,19 hazardous 4:10 headache 30:14 hear 4:21 17:7 40:24 41:20 heard 38:17 41:17 hearing 1:6,18 3:14,15 5:2 41:19 42:2,5 43:9 45:6 heath 8:17,18 heating 24:5 help 10:2,18 15:15 helpful 4:17 hereunto 45:8 hi 38:20 high 29:21 41:4 historic 19:10 historically 34:15 hoe 11:7 hold 13:18 33:15 holds 40:22 holiday 42:16,22 home 21:10,15</p>	<p>hundred 38:24 39:3 hydraulically 14:13 hydrocarbons 19:14 21:2 24:9 29:14 hydrostatic 9:22 9:24</p> <p style="text-align: center;">i</p> <p>identified 22:2,2 24:24 26:5,21 identify 6:4 immediately 24:21 31:3 impact 15:6 26:3 impacts 25:9 39:6 impose 25:21 impossible 21:17 impractical 10:11 include 11:22 included 7:2 includes 34:9 including 7:6 17:15 increase 40:6,9 increasingly 39:5 indicated 8:10 indicating 8:22 initial 11:20 33:22 initially 11:18 inside 12:12 inspect 36:6 install 10:11 29:10 30:7 instance 18:9 intent 39:24 interest 36:12 37:14 interface 32:20</p>
g			
<p>g 3:1 gaps 32:20 garage 4:4 18:24 25:17 garages 8:19,23 16:5 gas 4:7 19:11 22:9 25:8 gasoline 19:10,14 21:1 24:15 25:17 26:13 gei 2:18 5:19 6:7 17:12,23 21:8,15 22:16 30:23</p>			

<p>internal 11:15 internally 10:16 intrusion 36:16 involve 30:17 issue 22:7 31:12 31:14 34:8 issues 4:8,8 33:5 item 35:2 items 33:8 iteration 39:14 iterations 38:22</p>	<p>22:4,20 23:24 24:5,24 25:15,18 26:7 27:18,22 28:8,13,17,19 29:7 30:16 31:9,19,24 32:3,18 33:2,10,16 34:16,21 35:12 36:10,11,14 37:10 37:12 38:7 39:18 42:7 knowing 35:19 knowledge 28:5</p>	<p>legally 20:1 letter 35:23 letting 30:4 level 7:18,18,19 9:12 21:10,13,14 23:13 34:6 37:11 levels 7:10 8:1 15:18 40:24 41:2 liability 20:5 36:9 liable 20:1 license 45:14 limit 11:13 limitation 27:15 29:1 limited 11:7 line 8:24 16:12,15 16:21,22 18:17 25:15,19,22 38:9 lines 26:6,16 31:8 32:12 listed 33:2 little 4:18 7:4,11 8:9 16:5,24 19:7 31:19 32:11,13 live 33:14 41:7 load 9:19 11:16,17 11:19 14:13 20:22 36:18 loaded 33:15 located 34:15 location 7:7 long 11:16 20:16 20:18 25:11 28:14 29:10,12 30:7 31:14 34:9 36:17 longer 28:20,24 look 4:7,18 looking 15:24 43:5 43:23 44:4 looks 10:20 12:9</p>	<p>lot 19:14,20 24:1 30:3,18 32:4 41:7 lots 40:17 lower 29:22 lsb 29:3 lsp 2:20</p>
<p>j</p>	<p>knowing 35:19 knowledge 28:5</p>	<p>limit 11:13 limitation 27:15 29:1</p>	<p>m</p>
<p>jack 11:16 jackhammering 11:7 30:24 janice 38:14,14,19 38:20 40:2,11,14 40:21 jewish 42:22 job 8:5 johanna 2:7 3:12 26:17 28:2,6 june 3:23</p>	<p>j</p> <p>l</p> <p>l 1:24 45:13 ladies 3:5 lafrance 2:20 17:8 17:9 18:20 22:24 23:7,9,17 24:17,23 25:3,23 26:22 28:5,15 29:11 30:22 31:18,22 34:3 35:14 36:15 37:7,19</p>	<p>live 33:14 41:7 load 9:19 11:16,17 11:19 14:13 20:22 36:18 loaded 33:15 located 34:15 location 7:7 long 11:16 20:16 20:18 25:11 28:14 29:10,12 30:7 31:14 34:9 36:17 longer 28:20,24 look 4:7,18 looking 15:24 43:5 43:23 44:4 looks 10:20 12:9</p>	<p>main 7:20 maintains 26:15 major 22:6 23:21 making 9:23 manage 20:12,21 37:2 management 19:15 40:16 managing 19:21 26:13 39:1,5 maria 2:11 3:18 3:20,21 5:7,15,17 6:3,10 8:10 11:10 33:20 35:8 38:16 41:21 42:1,14,23 43:3,8,12,16,22 44:3,6 mark 2:6 3:2,9 5:5 5:11,16 6:1,4 12:19,22 13:11,16 13:22 14:16,22 15:22 17:6 30:21 37:17,20 38:11 41:13,16,23 42:10 42:21 43:11,13,17 44:7 mass 6:24 19:16 27:9 massachusetts 1:20 45:3 massdep 23:17 26:2 material 21:11 23:23 29:16 30:3</p>
<p>k</p>	<p>lagging 10:12 32:18</p>	<p>live 33:14 41:7</p>	<p>mark 2:6 3:2,9 5:5 5:11,16 6:1,4 12:19,22 13:11,16 13:22 14:16,22 15:22 17:6 30:21 37:17,20 38:11 41:13,16,23 42:10 42:21 43:11,13,17 44:7</p>
<p>kahn 38:14,14,19 38:20 40:2,11,14 40:21 keep 6:17 12:13 13:24 20:12 35:10 kind 6:18 10:19,19 10:23 12:4,14 19:21 21:22 24:10 24:12 25:4 29:13 30:7 33:5 34:4 36:23 know 4:24 6:10,22 6:24 8:6 10:3 15:20 16:5,20,21 18:5 19:9,22 20:2 20:3,11 21:7,8,21</p>	<p>laid 22:19 larger 18:9 20:9 40:3,4,5 lark 2:8 3:12 15:1 15:5 29:6 30:20 43:7 law 25:20 41:1 lawson 45:4 layout 7:6,17 17:18 18:6 lead 22:10 leaving 35:9 left 3:11 7:18,20 29:18 34:16 legal 21:23</p>	<p>load 9:19 11:16,17 11:19 14:13 20:22 36:18 loaded 33:15 located 34:15 location 7:7 long 11:16 20:16 20:18 25:11 28:14 29:10,12 30:7 31:14 34:9 36:17 longer 28:20,24 look 4:7,18 looking 15:24 43:5 43:23 44:4 looks 10:20 12:9</p>	<p>mass 6:24 19:16 27:9 massachusetts 1:20 45:3 massdep 23:17 26:2 material 21:11 23:23 29:16 30:3</p>

<p>30:5 materially 31:17 materials 4:10 32:18 matte 9:17 30:10 matter 6:1 24:19 mcp 27:9 mean 24:23 37:4 39:23 means 4:19 8:11 10:16 11:6 measured 26:21 measures 31:10 mechanisms 31:2 meeting 3:6,23 38:15,20 44:8 meetings 7:17 meikeljohn 15:23 16:13,16,23 17:4 22:22 23:1,8,10 24:13,18 25:2,13 31:15,21 35:22 37:4,8 43:1,5,15 43:18 44:1,5 meiklejohn 2:9 3:11 member 2:7,8,9 38:15,20 memo 17:14 memorandum 21:16 memory 36:19 mention 20:22 mentioned 6:10 11:1,10 33:21 methods 4:20,20 mic 38:17 michael 2:18 6:6,7 12:21 13:4,21 14:4,19 15:4,8 16:10,14,17 17:1,5</p>	<p>28:13 38:4 micro 10:12 middle 10:18 migrated 25:7 mike 31:19 mind 42:13 minor 33:9 minute 23:2 missed 33:21 mistaken 12:24 mitigate 36:16 mitigation 31:10 mixed 24:7 moderate 12:2 modified 5:21 modifying 35:17 moment 37:9 monitor 12:3,6,9 12:11 15:9,18 monitored 40:17 monitoring 11:12 11:21,24 12:4 25:11 27:5 31:5 33:23 34:9,10,11 40:24 morelli 2:11 3:20 3:21 5:7,15,17 6:3 33:20 35:8 38:16 41:21 42:1,14,23 43:3,8,12,22 44:3 44:6 movement 11:14 11:18 15:15 movements 11:20 12:2,3 moving 12:7 municipal 20:19 20:22 36:18</p>	<p style="text-align: center;">n</p> <p>n 2:1 3:1 name 3:9 naturally 29:23 nature 22:11 35:4 near 8:8 23:21 nearby 12:1 14:11 35:1 necessarily 7:22 22:5 26:8 32:16 33:7 necessary 27:3,12 27:15 28:21 29:12 35:2 need 11:12,12 27:20 28:24 29:9 32:16 34:6 35:6,7 36:16 40:4 negligible 39:21 neighborhood 37:6 39:7 41:11 neighboring 14:1 14:9,17,20 15:6 41:4 network 34:9,11 new 7:19 33:24 38:8 noise 31:5,8,11 40:24 41:2,6 normal 39:9 notary 45:5,13 note 35:8,11 number 32:10</p> <p style="text-align: center;">o</p> <p>o 3:1 o'neill 2:20 17:9 objection 42:11 obligated 25:20 obligation 22:4 25:6,12,14,24</p>	<p>26:10 obligations 21:24 22:16,20 26:15 27:6 obviously 4:24 occupy 39:8 occupying 34:13 40:3 occur 11:5 occurred 12:16 october 42:2,5,12 42:19 43:9,10 offhand 28:13 oh 16:2 44:1 okay 3:20 5:5,11 5:24 6:3 17:4 18:20 23:8 25:2 37:16,21 40:2,14 42:14,23 43:3,10 44:1,5,7 ones 16:4,5 openings 35:17,19 operational 30:14 operations 16:9 19:11 opinion 23:11 opposed 26:11 37:1 opposite 14:5 options 30:12 32:8 order 3:6 21:10 41:19 original 20:1 34:17 39:11 originally 9:2 outcome 37:13 outside 12:12 overall 7:12 8:5 13:14 17:19 overexcavating 29:17</p>
--	--	---	---

<p>overlapping 10:8 oversized 39:20 overwhelm 39:13 owner 20:3 22:1</p>	<p>17:7,11 19:3,14 38:1 41:17,22 people 24:4 41:7 perform 8:12</p>	<p>please 3:3 42:16 pleased 40:23 point 5:17 18:21</p>	<p>prior 12:24 36:3 prisms 12:5 probably 26:20</p>
<p>p</p>	<p>27:12,20,21</p>	<p>18:22 22:14 26:2 27:2,3 29:12 34:7 37:3 41:18 42:1</p>	<p>35:16,21 39:4 42:9</p>
<p>p 2:1,1 3:1 p.e. 2:18,20 p.m. 1:8 44:10 packet 16:1 page 36:2 pages 1:1 palermo 2:8 3:13 15:1,5 29:6 30:20 43:7 pandya 2:22 13:9 13:12,20 18:10,11 28:8,11 39:17 40:6,13,19 panel 2:4 paperwork 27:22 parcel 24:22 parking 4:1 7:10 7:18,24 31:22 part 7:13 11:5 20:9 21:7 23:23 24:24 26:24 30:18 33:6 36:24 40:11 partial 9:4 participants 2:14 particular 3:14 39:2 40:17 particularly 7:9 10:10 15:9 24:19 33:14 34:12 parties 33:10 party 19:23,24 22:3 pass 39:2 passage 27:8 peer 3:16,24 4:22 5:13,23 12:17</p>	<p>performed 10:22 26:24 34:20 performing 11:11 permanent 27:10 permit 5:21 35:16 permits 35:3 person 20:7 perspective 13:15 38:8 pertains 22:17 petroleum 28:24 29:14 phase 40:16 picture 10:18 pile 10:4,7,12 15:12 32:14 piles 18:8 32:22 pipes 10:17 11:17 pits 7:10,23 8:3 16:17 place 10:14 40:4 41:5 placed 23:23 24:1 plan 12:24 13:22 16:1 17:16 18:1,5 18:10,12 19:1,16 21:17,21 27:9 39:11 40:20,21 planner 2:11 3:21 planning 2:11 3:21 15:2 plans 5:2,3 17:15 33:24 41:21,23 43:19,23 44:2 play 33:11</p>	<p>pointer 8:20 points 12:4 29:21 29:22 polyaromatic 24:8 portion 34:16 portions 31:24 pose 17:22 post 11:22 posting 5:9 potential 31:1 32:8 potentially 31:9 36:18 pre 11:22 precinct 38:15,21 predrill 11:8 prefer 36:23 prepared 6:20 7:3 17:13,14,15 presence 22:10 present 5:13 pressures 9:23,24 pretty 5:20 11:2 prevent 15:15 preventing 14:6 14:14 previous 11:4 19:14,20 23:15,15 30:10 33:3 38:22 previously 7:15 13:13 20:10 38:6 38:9 primary 31:1 34:17</p>	<p>problems 38:2 procedure 14:11 proceedings 45:7 process 20:21 21:7 22:18 29:2 products 24:10 professional 36:9 profile 33:19 program 22:20 25:11 34:24 programs 25:1 project 4:18 6:11 11:6 12:15 17:19 20:5,9 21:20 25:5 26:14,24 27:8 28:1,18,20 30:4 33:9 34:7 37:10 38:10 39:15 40:16 projects 24:3 39:6 properties 14:1,9 14:17 15:7 21:3 25:16 31:3 32:9 37:13 property 8:24 14:20 16:12,22 18:17 19:7,8,20 20:3,4 21:4 22:1 22:13,18 23:3,6,14 25:14,19,22 26:6 26:16 31:8 32:12 33:16 34:13,16 38:8 39:2 proposed 17:18 21:17 31:15 protect 11:13</p>

<p>protecting 4:13 protection 37:6 provide 15:16 provided 6:22 public 1:6 45:5,13 pump 29:13 37:1 pumping 20:18 29:10 30:13 purchased 4:11 pushed 30:16 put 31:9 32:7,19 35:10,20 36:18 38:6,10 41:5 putting 32:9</p>	<p>range 32:4 realistic 39:4 really 6:18 7:14 35:4 36:13 40:23 41:2,4 43:3 reason 36:8,20 reasons 15:13 27:21 30:18 recall 35:17 recap 6:18 12:15 recharge 13:10,13 recommend 9:16 31:5 recommendation 33:6 recommendations 6:15 7:12 38:1,3 recommended 7:15 9:16 35:24 recommending 9:20 record 6:5,7 29:3 45:7 redesign 31:17 reduced 7:10 refer 36:22 reference 34:14 referring 13:5,9 refers 19:24 regard 17:24 regarding 4:23 32:21 35:12 41:2 regardless 28:16 regulation 24:2 27:10 regulations 22:21 regulatory 19:24 21:6 related 15:24 36:21</p>	<p>release 20:1 26:2 relocating 34:24 remain 11:5 13:14 remains 13:15 25:5 remediation 4:6 19:15 33:13 remember 28:3 removal 30:23 31:6,16 32:5 removed 27:2 28:23 30:3 removing 8:13 22:13 29:15,16 30:5 31:2 replicated 35:7 report 3:16 5:14 5:20 6:16,21,21,23 7:14 9:2 17:12 reporter 45:5,14 45:19 reports 29:8 reproduction 45:18 required 13:20 20:17 requiring 33:12 requisite 34:20 reservoirs 13:1 residential 25:16 31:3 41:9 residues 24:9 resist 9:22,24 10:2 resisting 14:13 respect 45:19 response 41:15 responsibility 21:23 responsible 19:23 22:3 26:12,19 33:10</p>	<p>rest 26:10 restrict 28:22 resubmitted 19:1 result 19:18 28:20 retain 39:11 retainage 13:2 retract 28:18 review 17:11 19:15 35:12,15 36:5 41:22 reviewed 17:10 reviewer 3:16 5:13 5:23 12:17 17:7 38:2 41:17 reviewers 4:22 reviewing 5:8 35:18 reviews 3:24 19:3 revised 5:2,3 7:5 17:12 41:21 43:23 revision 7:5 revisions 6:14 7:1 rewritten 36:10 right 3:12,12 5:12 7:19 10:21 12:5 13:16 14:3,22 16:13,15,16 24:13 28:4 31:21 36:19 37:6,7 39:16 43:22 rights 20:2 rigid 15:14 risk 26:5,9 27:4 riskier 32:12 road 27:22 35:17 35:18 roads 35:1 robust 21:21 rock 9:20 11:1,3,6 11:8 30:23 31:2,6 31:16 32:5,20</p>
q			
<p>question 14:23 15:1 17:23 22:23 29:6 33:22 37:24 40:3 43:16 questions 5:9 12:18,20 37:22 38:12,22 quick 6:17 quite 18:4 24:4 34:18</p>			
r			
<p>r 2:1 3:1 45:1 rails 10:17 rainwater 13:18 raised 10:16 raj 2:24 28:10 ramping 11:7 randolf 16:16 randolph 2:9 3:11 15:23 16:13,23 17:4 22:22 23:1,8 23:10 24:13,18 25:2,13 31:15,21 35:22 37:4,8 43:1 43:5,15,18 44:1,5</p>			

<p>roll 35:21 rolled 25:4 33:18 rolls 34:4 room 1:18 rough 7:17 route 10:10 rtn 26:18</p>	<p>series 36:21 serves 36:19 serving 3:10 set 17:14 19:1 33:3 45:6,8 setting 23:20 24:12 settle 3:3 seven 5:21 sewer 20:19,22 36:19 shaft 10:8 shallow 9:6,14 11:1 15:10,10 28:22,23 shallower 32:3 short 12:13 20:11 shorthand 45:5,14 shortly 34:20 shoulders 35:1 shown 17:16 18:1 side 8:19,19 10:10 15:10,12 16:4 40:9 signature 45:12 significant 11:2 26:5 27:4 significantly 7:13 32:3 41:4 similar 9:13 10:20 23:14 35:17 similarly 9:9 11:21 12:8 14:10 simple 37:24 simplified 8:5 site 4:5,6,6,11,12 5:1 8:2,7,16,17,20 10:9,20 11:3 13:15 14:9 15:2 16:1 17:14,18 19:4,10 21:3,11</p>	<p>22:5,14 24:16,21 26:1,16,23 27:4,6 27:11,23 28:4,7,9 28:12 29:7 30:8 31:4,11,12 33:13 33:14,22 34:10,12 40:4,18 sites 8:7 23:23 sitting 3:9 sixth 1:18 size 9:7,15 13:7 29:18 39:22 sized 39:18 slab 8:23 9:18 14:12 30:10 slide 17:17 slides 5:22 slight 40:8 slightly 39:20 slot 16:24 slowly 39:12 soil 4:9 9:18,20 11:19 19:12,18 21:10,15,18,21 22:13 23:12,12,13 23:20 24:3,7,11,15 25:1,18 26:13 28:22,23 29:16 32:17,19,19 solid 32:15 somebody's 35:18 sorry 33:20 38:16 44:3 sort 15:24 20:18 23:19 24:2 29:24 30:16 31:5,9,10,23 32:18 33:18 37:5 39:2 41:5,6 source 27:24 30:3 34:17</p>	<p>south 4:24 8:19 9:10 16:4 43:20 43:23 space 39:8,15,16 spans 11:16 speak 33:5 34:2 specific 33:4 specifically 24:15 34:13 37:19 spell 21:20 split 11:8 square 21:12 39:20 ss 45:3 stacked 31:22 staff 3:19 35:9,12 stage 35:16 stand 3:19 start 14:10 32:15 42:17,20 state 20:6 22:20,21 25:20 station 4:7 19:11 22:9 25:8 status 20:6 stays 37:1 stenographer 1:24 step 19:7 stockpiled 33:14 stop 22:5 stored 33:13 storm 20:19,22 36:18 38:24 39:3 story 16:6 stream 37:2 street 1:11,16 3:8 4:12 7:7 8:18,18 9:10 16:4,7 19:7,8 21:4 23:3 25:16 33:16 35:20 43:21</p>
<p style="text-align: center;">s</p>			
<p>s 2:1 3:1 sat 38:21 satisfied 32:21 saying 24:14 34:5 39:3 schedule 42:5,6 scheduled 42:2 schedules 42:7 scheduling 42:11 schneider 2:7 3:12 26:17 28:2,6 scientist 12:23 scope 31:16 screening 31:10 41:5 se 18:6 secant 10:4,7 15:12 18:8,19 32:13,22 second 36:5 see 7:19,22 8:6 10:19,24 12:4 14:19 32:6,13 37:14 seeing 5:2 18:4 seen 7:16 38:1,5 select 1:18 senior 2:11 3:21 sentence 36:5 separated 4:4 september 5:3 41:20 42:9,17 43:9,18</p>			

<p>strong 41:1 structural 9:17 18:6,16 structure 12:3 15:10 27:11 36:17 structures 4:13 8:16 11:12 12:1,1 37:12 struts 10:16 subgrade 27:19 subject 19:2 submit 18:14 36:3 submitted 3:17 18:24 summary 6:18 12:15 17:13 summer 17:13 sumps 13:4,5,6,7 13:10 31:20 supplemental 7:2 support 10:5,13 10:15 32:10,22 suppose 25:14 supposed 39:19 sure 3:20 15:19 22:24 39:13 40:17 43:17 surface 8:8,9,15 surfaces 36:9 surrounded 36:24 survey 12:5 surveys 11:23 sushi 4:12 5:1 23:5 24:22 system 15:14 20:15,19,23 29:10 36:4,7 39:10,12 40:1,4 systems 15:17 24:6</p>	<p style="text-align: center;">t</p> <p>t 2:18 45:1,1 takes 9:19 11:18 talk 14:14 talked 10:6 16:2 20:11 30:24 31:19 37:9 38:24 talking 21:12 tank 39:22 40:5,6 tanks 13:13 29:16 34:15 39:17 40:7 team 17:23 21:9 tell 3:18 temporarily 15:20 term 19:24 20:11 20:16,18 23:18,20 25:11 29:10,12 30:7 31:14 34:9 36:17 terms 13:1 21:23 30:7,23 33:1 39:4 test 16:17 testing 21:10,14 21:18,21 25:1 27:19 34:6,20 35:5 thank 3:4 5:11 6:3 6:6 14:24 17:6 18:20 19:5 37:22 38:11 41:12,13 42:23 43:12 44:5 44:9 thanks 17:4 30:20 37:16 thick 9:22,23 18:2 18:12 thickness 17:24 18:23 thing 17:22 18:21 19:4 22:12 30:13 30:16 31:4 40:15</p>	<p>40:23 things 22:11 24:6 24:8 28:17 33:10 35:4 think 4:20 7:16 9:4 13:4 16:22 18:17 22:8 24:14 29:8,11 30:1 34:19 35:14 36:23 38:4 39:20 40:15 41:6,16,18 42:6,11 42:21 thinking 40:12 thinks 35:6 thorough 21:21 22:19 thought 44:2 three 3:24 9:4 42:18 throw 24:5 42:15 tie 10:1 tills 9:21 time 4:23 15:20 17:15 27:23 29:15 29:23 33:22 36:10 38:23 tonight 3:10,11,15 12:14 top 12:5 32:19 town 1:5,15,15 35:3 36:4,5,12 38:14,20 41:2 town's 36:12 37:14 track 35:10 traffic 4:1 transcript 45:18 transfers 9:19 treatment 13:14 tree 29:13</p>	<p>trivial 6:23 true 40:22 45:7 try 6:17 trying 20:13 tuesday 1:7 turn 12:17 19:17 two 8:1,10 11:9 13:7,7 15:13 18:12,18 40:7 typical 4:3,19 8:7 10:13 typically 39:18,19 39:22</p> <p style="text-align: center;">u</p> <p>unburned 24:9 undercutting 32:17 underlying 37:12 underneath 13:2 underpinning 32:8 undersigned 45:5 understand 7:3 9:12 16:18 41:17 41:18 understanding 18:4 unheard 22:12 unique 8:9 units 31:23 untreated 20:24 update 7:1,14 updated 6:15,21 7:1 uplift 10:2 urban 8:7 22:7,10 23:20 24:12 use 18:12 27:15 28:24 39:24</p>
--	--	--	---

v	we've 6:14,15 7:2 7:3,24 8:10 11:16 16:15 38:5 41:16	zoning 1:6 2:4 3:6 44:10
verify 36:6 version 7:23 vessel 13:24 vibration 11:24 12:8	website 5:6,8 wednesdays 42:15 week 42:19 weeks 42:18 wells 33:23 34:10 34:18,23,24 35:20	zuroff 2:6 3:2,9 5:5,11,16 6:1,4 12:19,22 13:11,16 13:22 14:16,22 15:22 17:6 30:21 37:17,20 38:11 41:13,16,23 42:10 42:21 43:11,13,17 44:7
w	went 36:20 wetlands 21:1 whatnot 18:16 whereof 45:8 willing 42:5 wind 24:7 witness 45:8 wonder 39:10 wording 36:2 words 13:17 work 20:4 31:16 32:15 35:20 working 20:8 29:4 works 34:11 worry 32:16 wrong 13:1	
wait 21:19 walk 16:24,24 wall 10:9,14 11:20 12:7 15:14 16:6 18:1,3,18,23 32:14 32:15 walls 10:4,7 12:6 15:12 35:7 want 4:7 21:1 34:1 35:9,22 37:20 39:13,21 42:1 wanted 4:16 5:17 19:5 wants 14:9 washington 1:16 waste 19:16 33:13 water 10:1 13:2 14:7,7,17 15:2,18 20:12,24 30:13 36:24 37:1,2 39:1 39:9,19 watered 40:18 waterproof 13:23 20:14 30:10,11,12 36:24 waterproofing 14:6,12 36:4,7 way 9:1 14:18 18:3 21:18 26:1 32:24 34:23 39:10 39:11 ways 11:14 32:10	x	
	x 12:6	
	y	
	y 12:6 yeah 12:21 13:6 15:4 17:1,5 18:10 23:17 24:20 39:17 44:6 year 38:24 39:3,3 years 19:12 30:1	
	z	
	z 12:6 zba 4:16,23 42:4 zelinski 1:24 45:4 45:13	