

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE ON THE ENVIRONMENT

Room 400, City Hall
Philadelphia, Pennsylvania
Wednesday, April 30, 2014
12:45 p.m.

PRESENT:

COUNCILWOMAN BLONDELL REYNOLDS BROWN, CHAIR
COUNCILWOMAN JANNIE BLACKWELL
COUNCILMAN JAMES KENNEY
COUNCILMAN DENNIS O'BRIEN
COUNCILMAN DAVID OH

Bill 140313 - An ordinance amending Section 3-207 of The Philadelphia Code, entitled "Sale of Fuel Oil," by deleting current Code requirements and providing for future criteria for the sale and combustion of fuel oil to be established by the Air Pollution Control Board by regulation...

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COUNCILWOMAN BROWN: The Committee on the Environment is now in a public hearing to hear testimony on Bill No. 140313.

The Councilmembers present are Councilmembers Denny O'Brien, Councilwoman Jannie Blackwell, and Councilman David Oh. And we will ask that the Clerk, Jason Lewis, to please read the title of the Bill 140313.

THE CLERK: An ordinance amending Section 3-207 of The Philadelphia Code, entitled "Sale of Fuel Oil," by deleting current Code requirements and providing for future criteria for the sale and combustion of fuel oil to be established by the Air Pollution Control Board by regulation, under certain terms and conditions.

COUNCILWOMAN BROWN: Thank you very, very much.

The opening remarks are as follows: This bill seeks to remove outdated fuel standard regulations from

1 4/30/14 - ENVIRONMENT - BILL 140313

2 The Philadelphia Code, and the bill seeks
3 to authorize the Air Pollution Control
4 Board to set future goals, with the
5 understanding that Philadelphia City
6 Council has the final say.

7 Title 3 of The Philadelphia
8 Code, which sets numerical targets for
9 fuel standards, has not been amended
10 since 1978. Therefore, Philadelphia is
11 currently not in compliance with state
12 and federal regulations.

13 Title 3 of The Philadelphia
14 Code, which sets numerical targets for
15 fuel standards, has not been amended by
16 the City since 1978, and given the new
17 focus and emphasis on growing a more
18 environmentally friendly city,
19 Philadelphia is currently not in
20 compliance with both state and federal
21 regulations.

22 By removing numerical goals
23 from the Code and delegating control of
24 fuel standards to the Air Pollution
25 Control Board, Philadelphia has the

1 4/30/14 - ENVIRONMENT - BILL 140313

2 flexibility to adapt to progressive
3 standards.

4 I want to acknowledge the
5 amendments that were submitted by Ed
6 Hazzouri and Lauren Vidas. The record
7 should reflect that given the number of
8 amendments, we were not able to review
9 all of them in the way that we would
10 like, but we appreciate the added
11 thoughts, and the Air Control Board is
12 subject -- the Air Pollution Control
13 Board is the subject matter experts on
14 such rate.

15 So we need to acknowledge the
16 amendment that's been circulated where
17 there is some level of consensus and
18 clearly understand that there are several
19 more where discussion remains necessary.

20 So we're seeking to ensure that
21 the subject matter experts can set the
22 rates of sulfur levels in fuel and come
23 back to City Council each time the rates
24 change, although Council, as we know,
25 already has the authority to legislate

1 4/30/14 - ENVIRONMENT - BILL 140313

2 the rates at any time.

3 So with that said, we're going
4 to invite up the first panel, if we
5 could.

6 COUNCILMAN O'BRIEN: Madam
7 Chair, can I say something.

8 COUNCILWOMAN BROWN: Please,
9 please, please. Councilman Brian
10 O'Neill.

11 COUNCILMAN O'BRIEN: Thank you.
12 Dennis O'Brien.

13 COUNCILWOMAN BROWN: Excuse me.

14 COUNCILMAN O'BRIEN: Madam
15 Chair, I just have some issues around
16 process, and I'm not an expert on the
17 sulfur content of fuel, and I'll accept
18 that responsibility, but there's
19 deficiencies in just a cursory review of
20 this legislation. There are no criteria
21 standards. We're delegating authority to
22 AMS, and I frankly don't understand the
23 urgency of doing all this today with the
24 lack of information.

25 I also have a fundamental

1 4/30/14 - ENVIRONMENT - BILL 140313
2 process issue with amendments being
3 drafted 20 minutes before we vote on
4 them. I would like to have the
5 opportunity to review those amendments
6 with staff. Even if I believe the
7 amendments make the bill better, it would
8 be my intention to vote against all
9 amendments today until I have a further
10 understanding and comprehensive idea of
11 what direction and what purpose that
12 direction is being requested by the
13 Administration.

14 COUNCILWOMAN BROWN: Very well.
15 Okay, then. Thank you very much.

16 Please, let's have the first
17 panel. And please forgive me if I do not
18 pronounce your name properly. In fact,
19 I'll probably spell it to get it right.
20 Thomas H-U-Y-N-H, Director of the
21 Philadelphia Department of Public Health,
22 Air Management Services Division and
23 anyone else you may want to bring to the
24 witness table.

25 (Witnesses approached witness

1 4/30/14 - ENVIRONMENT - BILL 140313
2 table.)

3 COUNCILWOMAN BROWN: Please, if
4 you would state your full name for the
5 record and proceed with your testimony.

6 MR. HUYNH: Good afternoon,
7 Chairwoman Reynolds Brown and members of
8 Committee on Environment. I am Thomas
9 Huynh, Director of Philadelphia Air
10 Management Services, Department of Public
11 Health. Thank you for the opportunity to
12 present testimony today on Bill 140313,
13 which amends Section 3-207 of The
14 Philadelphia Code. AMS is the local air
15 pollution control agency for the City of
16 Philadelphia. AMS's mission is to
17 protect the health and quality of life of
18 Philadelphians from the adverse effects
19 of air pollution. To that end, AMS is
20 empowered to enforce federal, state, and
21 city air pollution standards within
22 Philadelphia.

23 The purpose of Bill 140313 is
24 to reduce the allowable sulfur content
25 used in the commercial fuel oil sold and

1 4/30/14 - ENVIRONMENT - BILL 140313

2 burned in Philadelphia to conform to the
3 Commonwealth of Pennsylvania new lowered
4 sulfur fuel content standards. To do
5 this, Bill No. 140313 authorizes the City
6 Air Pollution Control Board to amend the
7 current fuel standards allowable by
8 Philadelphia law through regulations.

9 Currently, Title 3, Section 207
10 of The Philadelphia Code establishes
11 specific limits of sulfur content in
12 commercial fuel oil sold and burned in
13 the City. On February 9, 2013, the
14 Pennsylvania Department of Environmental
15 Protection, PADEP, amended regulations
16 and lowered the allowable sulfur content
17 in certain grades of commercial fuel sold
18 statewide. The new state standards,
19 which are more stringent than those
20 currently permitted by The Philadelphia
21 Code, will take effect on July 1st, 2016.
22 It is anticipated that PADEP may revisit
23 and further tighten its own sulfur
24 content in fuel oil standards in the near
25 future.

1 4/30/14 - ENVIRONMENT - BILL 140313

2 In order to bring the City's
3 allowable fuel oil sulfur content in line
4 with the state and in anticipation of
5 future changes to the state's standard,
6 Bill No. 140313 replaces the sulfur and
7 fuel oil levels specified in Title 3,
8 Section 207 of The Philadelphia Code with
9 language that authorizes the City Air
10 Pollution Control Board, a
11 Charter-mandated board, to amend the
12 current Philadelphia Air Management
13 Regulation III - The Control of Emissions
14 of Oxides of Sulfur Compounds. The Air
15 Pollution Control Board would then have
16 the authority to set or amend these
17 standards going forward. The Air
18 Pollution Control Board is an
19 administrative City board that is
20 empowered to promulgate City regulations
21 related to air pollution. Its members
22 have the appropriate scientific,
23 technical, and public health expertise to
24 set appropriate sulfur in fuel oil limits
25 within Philadelphia to keep pace with

1 4/30/14 - ENVIRONMENT - BILL 140313
2 changing state and national standards and
3 emerging technology.

4 The Department of Public Health
5 recognizes the importance of lowering the
6 sulfur standards in fuel oil consistent
7 with the state's new standard. The
8 burning of fuel oil produces sulfur
9 dioxide, SO₂, a pollutant associated with
10 respiratory disease and premature death,
11 as well as acid rain. The lower a fuel's
12 sulfur content, the less sulfur dioxide
13 is released. Lowering the sulfur content
14 in fuel oil will also reduce fine
15 particulate matter, PM_{2.5}, emissions,
16 improve visibility, and lessen
17 respiratory and cardiovascular disease.

18 Thank you for allowing me to
19 present this testimony. I will be happy
20 to answer any questions that you might
21 have.

22 COUNCILWOMAN BROWN: Please, if
23 you would state your name for the record.
24 We'll hear from the both of you and then
25 entertain any questions.

1 4/30/14 - ENVIRONMENT - BILL 140313

2 MR. O'NEILL: My name is
3 Patrick O'Neill. I'm Divisional Deputy
4 for Environmental Law for the City and,
5 as such, I act as environmental counsel,
6 generally speaking, to City operating
7 departments and, in particular, Air
8 Management Services and to the Air
9 Pollution Control Board. I'm just here
10 to answer questions or to assist
11 Mr. Huynh, as needed.

12 COUNCILWOMAN BROWN: Okay.
13 Could you please share with us currently
14 what the practice is when it comes to the
15 crafting, drafting, ultimate approval, if
16 you will, of regulations by the Air
17 Pollution Control Board.

18 MR. O'NEILL: Sure. The City
19 Charter provides for the Air Pollution
20 Control Board to promulgate regulations
21 that are within the boundaries set by
22 City Council in the City Code, which is
23 Title 3, the Air Management Code. The
24 thing before you today is a somewhat
25 unusual item in that in almost all the

1 4/30/14 - ENVIRONMENT - BILL 140313
2 other areas, there are general standards
3 set down about regulating stationary
4 sources, preventing air pollution,
5 preventing smog, and the Air Pollution
6 Control Board is then directed to
7 basically take whatever steps are
8 necessary to fulfill those things. They
9 do that by -- they have a whole set of
10 regulations, 1 through 15 I think at this
11 point. They adopt some regulations by
12 reference. That's been provided for in
13 3-400 of the Code, and that's where they,
14 for example, adopted most of the state's
15 air permitting program. The Air
16 Pollution Control Board adopted those
17 permit standards, as is authorized by the
18 City Code.

19 What's a little anomalous here
20 is that for some reason in 1970, I guess
21 when this was first set, somebody thought
22 of the idea that they would put these
23 standards regarding sulfur and fuel oil
24 in the City Code. So those standards
25 basically are just set by those numbers,

1 4/30/14 - ENVIRONMENT - BILL 140313

2 and what the Air Pollution Control Board
3 did in passing the regulation -- I think
4 it's Regulation 3-207 is where they
5 are -- they just adopted verbatim what it
6 says in the Code. But in every other
7 area, there are really more general goals
8 that are set, and then the Air Pollution
9 Control Board has the responsibility to
10 set the specific standards to reach the
11 goal of clean air.

12 Now, whenever the Air
13 Pollution -- and to go to where I think
14 what you were asking about, Councilwoman,
15 of course if the Air Pollution Control
16 Board passes a regulation that City
17 Council for some reason did not like,
18 City Council can, of course, go back and
19 just pass a law and change it. In the 27
20 years that I've been working for the City
21 and helped put together air pollution
22 regulations or occasionally small
23 amendments to the Code, City Council has
24 never -- well, the Air Pollution Control
25 Board has never done anything that was

1 4/30/14 - ENVIRONMENT - BILL 140313
2 felt so onerous that industry, as far as
3 I know, ever even came to City Council
4 claiming that the Air Pollution Control
5 Board had done some over-the-top,
6 terrible thing, and thus City Council has
7 never seen fit to go back and change or
8 rewrite something that the Air Pollution
9 Control Board had done.

10 I will say one other thing
11 that's sort of on point on this issue
12 because it had been mentioned earlier in
13 discussion. For example, there are noise
14 codes that Air Management Services also
15 enforces. A few years ago there was
16 issue about a church bell that was
17 violating the noise code, and that was
18 kind of a very unusual circumstance, but
19 Councilman Kenney thought it was just not
20 appropriate and was unfair, and so really
21 within three, four weeks of the outside,
22 he amended the noise code to exempt
23 church bells and certain other church
24 service sounds from the noise code.

25 So if that was the concern

1 4/30/14 - ENVIRONMENT - BILL 140313
2 about the Air Pollution Control Board
3 going off in left field and doing
4 something that was going to be injurious
5 to business or somehow or other onerous
6 to folks, City Council always has the
7 ability to go back and change that. And
8 that's the only time I know of that
9 that's happened.

10 COUNCILWOMAN BROWN: Any
11 questions from members of the Committee?
12 Councilman David Oh.

13 COUNCILMAN OH: Thank you very
14 much, Chairwoman.

15 So I do understand particularly
16 about having the City go up to state
17 standards now that the state regulations
18 are stricter. In the current situation
19 as it is now, because changing this
20 particular standard, the Administration
21 comes to Council with its expertise and
22 with its kind of ducks in order, and then
23 we come, we sit, we digest it, and we
24 make a decision.

25 In the proposed legislation,

1 4/30/14 - ENVIRONMENT - BILL 140313
2 the Air Management Service would -- the
3 entity would then make its decisions and
4 if there was something we did not like,
5 we would then have to introduce a bill to
6 alter that, which is a difficult process
7 at times.

8 I am familiar with the
9 situation which may not have been such
10 that it went to City Council, but it
11 involved dry cleaners. And I'm not
12 saying the end result was not
13 appropriate, but the issue in that matter
14 was the timing, because the City set a
15 standard that was more aggressive than
16 the federal standards and, therefore,
17 that group of people felt that they were
18 being burdened to make drastic changes to
19 their industry to meet the City's kind of
20 more stringent standards. And regardless
21 of whether people think that should or
22 shouldn't have happened or whether it was
23 or wasn't important, would you address
24 for me in a way that I'm comfortable that
25 what you're asking for is for me to vote

1 4/30/14 - ENVIRONMENT - BILL 140313

2 to remove myself on behalf of my
3 constituents, people who elected me, from
4 this process. And I do understand what
5 you're saying about expertise. I'm not
6 saying I'm against it altogether. I just
7 would like to flesh out a little more
8 about what makes sense to you that will
9 make this process better for the public
10 interest by the legislative branch
11 removing itself from its duties to
12 provide oversight.

13 MR. O'NEILL: I guess I would
14 first say you're not removing yourself
15 from the process whatsoever, and as
16 Councilman Kenney has joined us, I just
17 reiterate that the Councilman several
18 years ago when he found a concern about a
19 church bell potentially violating a noise
20 ordinance, he changed that in three or
21 four weeks outside, but -- and actually I
22 think that actually was a Code provision
23 as well. That was something that City
24 Council had originally set that standard
25 and went back and changed it quite

1 4/30/14 - ENVIRONMENT - BILL 140313

2 quickly.

3 The Air Pollution Control Board
4 is required by the City Charter to have a
5 number of representatives on it. There
6 are eight members, and there are
7 representatives from -- specifically a
8 businessman, specifically a boiler
9 expert, specifically a fuels expert.
10 There are two, quote/unquote, citizen
11 representatives, a transportation expert,
12 among others. So industry is absolutely
13 represented on that group, and so they do
14 in fact balance these concerns. And
15 there is a provision in the Code as it's
16 written that the Air Pollution Control
17 Board is supposed to take some
18 consideration of effects on commerce and
19 industry, and they do.

20 The dry cleaning regulation
21 that you mentioned, you know, nothing is
22 ever perfect, but I will say that was
23 something that went over a period of
24 about five years, and that was because
25 initially, frankly, the Air Pollution

1 4/30/14 - ENVIRONMENT - BILL 140313

2 Control Board considered that the
3 regulation they had seen, the federal
4 standard, was really not very stringent,
5 wasn't even going to take effect until
6 2020, so it still hasn't taken effect,
7 and decided, Well, we should try to make
8 sure we're keeping people safe, and they
9 were protecting the dry cleaner operators
10 as well as citizens.

11 But they did come to a point
12 where they realized they had not done a
13 good enough job of kind of getting the
14 word out about this coming, so
15 representatives from industry approached
16 the Board, and they had a number of -- I
17 mean, they always have public meetings of
18 these things and there's always the
19 30-day public comment period and a public
20 hearing on any regulation that's passed
21 that anybody, City Council or citizens or
22 industry, can come to. But in that case,
23 where industry showed that it had a real
24 concern about what might be done,
25 industry representatives, the trade

1 4/30/14 - ENVIRONMENT - BILL 140313

2 groups came in, individual dry cleaners
3 and their families came in, and they took
4 testimony from all those folks, and that
5 was about over a two-year period before
6 they finally came back and said, Okay,
7 here's what the standards are. It was
8 going to be phased in, again, over a year
9 and a half. It's only just this past
10 December that the final piece has cut in.

11 So it certainly did have an
12 impact on those folks, and I think the
13 Air Pollution Control Board realized
14 that, but -- and I would say in the 27
15 years that I've been here doing this,
16 that was probably the most contentious
17 regulation that they ever passed. But
18 what I would say about that is in those
19 27 years, nobody has felt so obliged that
20 the Air Pollution Control Board had been,
21 you know, so biased or proposed something
22 that was so onerous that they felt a need
23 to even come to City Council, as far as I
24 know. But as you say, maybe they came to
25 you on the dry cleaning issue. But City

1 4/30/14 - ENVIRONMENT - BILL 140313
2 Council, as far as I know, has never felt
3 a need to go back and overrule, which
4 they have every right and power to do,
5 but they've never in those 27 years gone
6 back and tried to rewrite an Air
7 Management regulation.

8 COUNCILMAN OH: Let me say I
9 think you do a great job, and I'm not
10 raising that because I'm being critical
11 at all. I think it's a great job. I'm
12 raising it because of what I think my
13 duties are.

14 So while there may be a
15 disagreement and some side may be the
16 losing side or even the wrong side, there
17 is a disagreement, and their issue,
18 because this is a public hearing, was not
19 that they were against the standard. It
20 was that the federal government had set a
21 later date and it had to do with the life
22 cycle of the equipment. They had to
23 basically spend \$50,000, and the life
24 cycle is 15 years to 20 years, and
25 basically they were out of money to then

1 4/30/14 - ENVIRONMENT - BILL 140313

2 purchase new equipment that would then
3 comply with the City standard, which was
4 not required by the federal government.

5 In my short two years here -- I
6 wasn't a Councilman when that issue
7 arose. I just was knowledgeable about
8 it. But in my short two years here, in
9 the effort to deal with the environment
10 and trying to be the greenest city in
11 America, we do have a little controversy
12 over the stormwater, and while people may
13 think it's a great idea, some people
14 think it's a bad idea. I do like -- and
15 that's not an issue that you're involved
16 with and it's not something that even
17 comes across us because of the way the
18 Charter is, but I'm just saying that's
19 the issue that I do have to consider.
20 And I appreciate your work and your
21 testimony.

22 Thank you very much,
23 Chairwoman.

24 COUNCILWOMAN BROWN: You're
25 welcome. You're very, very welcome.

1 4/30/14 - ENVIRONMENT - BILL 140313

2 Any other members of the
3 Committee have questions for this panel?

4 (No response.)

5 COUNCILWOMAN BROWN: Then thank
6 you very, very much, gentlemen.

7 I would like to acknowledge
8 that Councilman James Kenney, Vice Chair
9 of the Committee, has joined us.

10 If we could please ask Mark
11 Brandon, Philadelphia Energy Solutions,
12 and Ed Hazzouri to please join us at the
13 witness table, along with -- and then
14 we'll have the next panel.

15 (Witnesses approached witness
16 table.)

17 COUNCILWOMAN BROWN: Good
18 afternoon, gentlemen. Please, if you
19 would, state your name and offer your
20 testimony.

21 MR. HAZZOURI: Good afternoon.
22 I'm Ed Hazzouri, H-A-Z-Z-O-U-R-I, and
23 we're here representing Philadelphia
24 Energy Solutions and their thousand
25 employees and hundreds of contract

1 4/30/14 - ENVIRONMENT - BILL 140313

2 workers, both here in Center City and
3 down at the Philadelphia refinery. With
4 me is Mark Brandon, an employee of
5 Philadelphia Energy Solutions. Mark will
6 talk about the operations of the
7 refinery. Secondly, he'll be able to
8 talk about sales of fuel oil that are
9 produced at the refinery and, finally,
10 the transportation of those fuel oils.

11 We are testifying in opposition
12 to Bill 140313, although we must note
13 that the Chair and sponsor of the bill
14 have been very open. We've had numerous
15 conversations. We've talked about
16 alternatives, if the Committee decides
17 that this ought to be done, on ways to
18 make that work.

19 What we've talked about
20 earlier -- what we've heard, rather, the
21 bill delegates the authority and the
22 responsibility of City Council relative
23 to the sulfur content of fuels to the
24 Health Department. Simply put, under
25 current circumstances, the Health

1 4/30/14 - ENVIRONMENT - BILL 140313

2 Department makes recommendations to City
3 Council on that sulfur content of the
4 fuels and then Council acts on them.
5 Members of Council have knocked on doors,
6 they've been elected to office, and
7 they've been elected to exercise their
8 judgment as they see best impact the City
9 of Philadelphia and its citizens.

10 If this Committee decides they
11 no longer want to exercise that authority
12 or responsibility, then those amendments
13 that were referred to earlier, things
14 that we've talked about, and there are a
15 number of different issues, they impact
16 the specific criteria that ought to be
17 considered by Air Management Services,
18 the Air Pollution Control Board, and the
19 Health Department. We simply don't think
20 it makes sense to give carte blanche to
21 the organization.

22 In addition, to talk about the
23 ability to provide an exemption that
24 exists under the current law and I
25 believe has been used as recently as this

1 4/30/14 - ENVIRONMENT - BILL 140313

2 past winter because of the extremely cold
3 weather conditions, these sorts of things
4 really make it imperative. Sulfur in
5 fuel may seem arcane, but it impacts not
6 just Philadelphia. We've got standards
7 in New Jersey, Southern New Jersey,
8 Northern Delaware, and in other parts of
9 Pennsylvania. So that when you go create
10 standards more strict or more stringent
11 than these areas, you can impact supply,
12 impact people's lives, because at some
13 point, it has to be understood this is a
14 business. There's a reason those folks
15 make a heck of a living down at that
16 refinery. It's because they're making
17 something that other people want, and
18 that product, the price received for that
19 has to be maximized. That's part of --
20 that's the United States. Whether you
21 like it or not, that's what the United
22 States is.

23 I'm going to refer over to Mark
24 Brandon who can get into the detail and
25 answer questions, the three points we

1 4/30/14 - ENVIRONMENT - BILL 140313

2 talked about earlier.

3 Again, Mark.

4 MR. BRANDON: I could answer
5 questions directly, if that's your
6 pleasure, or summarize.

7 COUNCILWOMAN BROWN: If you
8 could please identify yourself and offer
9 testimony first.

10 MR. BRANDON: Okay. My name is
11 Mark Brandon. I'm a Philadelphia Energy
12 Solutions employee, Optimization
13 Director, formerly responsible for
14 operating the facility at Philadelphia.
15 We produce fuels from crude oil that we
16 receive, and one of the key fuels that we
17 produce formerly used to be called home
18 heating oil, which was, as you have seen
19 in some of the bills made by other
20 states, the sulfur content requirements
21 for use of home heating oil have been
22 ratcheting down, and Pennsylvania itself
23 has imposed a law that ratchets it down,
24 I believe, in 2017 further. But our
25 production of home heating oil has shrunk

1 4/30/14 - ENVIRONMENT - BILL 140313
2 to the point where it is a very small
3 portion of our sales currently under
4 normal conditions. We generally produce
5 a very similar product that is used for
6 road diesel, diesel that's used for
7 fueling trucks and other engines,
8 combustion engines. The requirements for
9 that product requires sulfur of 15 parts
10 per million currently, and generally we
11 currently meet that criteria with most of
12 our barrels that we produce in the
13 facility.

14 There are times when we do not
15 produce that requirement, and that is
16 typically under two circumstances.
17 Either the market allows for higher
18 sulfur products to be sold for home
19 heating oils, say, in the winter months
20 or our equipment needs to be shut down
21 for repairs, which happens from time to
22 time. In those circumstances, we cannot
23 treat all of our oil to the levels of 15
24 parts per million. So we do look for
25 markets where we can, for a short

1 4/30/14 - ENVIRONMENT - BILL 140313

2 duration, produce -- container produce at
3 our optimum point with the most number of
4 barrels that we can produce, and we seek
5 out markets where we can move that
6 product favorably and economically.

7 We still have some opportunity
8 to move products that do not meet the 15
9 part per million level. Sometimes that's
10 locally. We also seek out markets
11 outside the area to do that as well. But
12 as you can see and have seen, most states
13 are starting to shrink the opportunity
14 for that. We also even look outside to
15 Europe and incur significant costs to
16 transport that fuel over to Europe in
17 those cases. It does cost us additional
18 money when we have to downgrade that
19 product, but to the extent that the
20 market shrinks further and further, the
21 costs to us are going to be more --
22 higher to the point where it may not even
23 be beneficial for us to produce those
24 products. We would have to seek out ways
25 to either shrink our capacity during

1 4/30/14 - ENVIRONMENT - BILL 140313

2 those times at great cost or store at
3 great cost the product up to a million
4 barrels at a time and then run it off
5 later, reprocess it through the facility
6 when the equipment is back online.

7 So either of those are
8 typically uneconomic for us and less
9 economic for us than our current outlets,
10 which sometimes include selling product
11 to this area at a higher sulfur level
12 than 15 parts per million.

13 COUNCILWOMAN BROWN: Any
14 questions from members of the Committee?

15 Councilman David Oh, please.

16 COUNCILMAN OH: Thank you,
17 Chairwoman.

18 I'm taking it you don't have
19 any objection to the Air Management
20 Service and Board meeting the state
21 stricter standards in terms of sulfur; is
22 that correct?

23 MR. BRANDON: That is correct.
24 We intend to meet them.

25 COUNCILWOMAN BROWN: What was

1 4/30/14 - ENVIRONMENT - BILL 140313

2 your last comment?

3 MR. BRANDON: We intend to meet
4 the Pennsylvania standard.

5 COUNCILMAN OH: Could you state
6 what is your concern if the Air
7 Management Service is now allowed to
8 simply make adjustments as they see fit
9 on behalf of cleaner air in Philadelphia?

10 MR. BRANDON: Well, we don't
11 object to their desire to clean up the
12 air in Philadelphia. We support that.
13 However, there are general guidelines
14 that are allowed when you transport our
15 products that we're required to meet.

16 For instance, the general
17 demand is for 15 parts per million
18 product. If we were faced with a
19 condition where we had to meet a more
20 strict standard than that, it would
21 significantly impact us. We don't
22 currently have equipment that can meet
23 stricter standards. We would have to
24 invest. Plus we do not really have the
25 ability to segregate or transport a lower

1 4/30/14 - ENVIRONMENT - BILL 140313

2 standard sulfur product at this time.

3 All of our outlets typically are

4 demanding a 15 part per million limit as

5 a typical standard.

6 So our objection would be if

7 the result was more strict than the 15

8 parts per million. So we just want to

9 make sure that it's fair and represents

10 the general requirements of the greater

11 area that we serve. Other states, for

12 instance.

13 COUNCILMAN OH: Okay. I will

14 take that to mean -- and you can correct

15 me if I'm wrong -- that when there are

16 state standards that you have to comply

17 with, you're going to comply with that,

18 of course, but you are more comfortable

19 with the legislative body making the

20 final decision as opposed to an agency or

21 entity that has a singular mission that

22 may, in your opinion or as it affects

23 your business, be more aggressive than

24 the state. Is that somewhat correct,

25 incorrect? Correct me where I'm wrong.

1 4/30/14 - ENVIRONMENT - BILL 140313

2 MR. BRANDON: Ed, would you
3 like to take that.

4 MR. HAZZOURI: I guess that's
5 why I'm here. Yeah.

6 COUNCILMAN KENNEY: I was
7 wondering.

8 I'm just kidding.

9 MR. BRANDON: I could give my
10 opinion.

11 COUNCILMAN KENNEY: It came
12 right out of my mouth.

13 MR. BRANDON: I'd be glad to
14 answer.

15 COUNCILMAN KENNEY: I
16 apologize. On the record, I apologize.

17 MR. HAZZOURI: Yeah. We are
18 more comfortable. And part of it is
19 simply because that's the way it's been
20 in Philadelphia, certainly as long as I
21 can remember.

22 And secondly to actually your
23 initial point, we are very concerned and
24 in fact we've spoken with Councilwoman
25 Blondell Reynolds Brown about our

1 4/30/14 - ENVIRONMENT - BILL 140313
2 concerns about the standard coming out of
3 Harrisburg, which will be in the other
4 counties in Southeastern Pennsylvania and
5 the rest of the state and then also with
6 New Jersey and Delaware. We're not
7 operating here on an island, or at least
8 we don't want to and to create that
9 situation. We just want to be sure
10 that -- and I say "we," not just
11 Philadelphia Energy Solutions. We want
12 to ensure all Philadelphians are
13 protected from that sort of thing.

14 COUNCILMAN OH: All right.
15 Thank you very much.

16 Thank you, Chairwoman.

17 COUNCILWOMAN BROWN: Councilman
18 Kenney.

19 COUNCILMAN KENNEY: Thank you
20 very much. Thank you, Madam Chair.

21 Here's my problem with the
22 bill. I admire what Air Management does
23 and I appreciate their mission and their
24 zeal, and I appreciate what Philadelphia
25 Energy Solutions does and their zeal to

1 4/30/14 - ENVIRONMENT - BILL 140313

2 maximize profits and to provide good
3 product and service and jobs. We have to
4 be the arbiter of the balance of that,
5 those two.

6 We want to be the greenest city
7 in the country. How fast and to what
8 extent and how quickly do we want to do
9 that and how does it impact employment,
10 the need to purchase new equipment, the
11 need to retrofit equipment, how much does
12 it cost to now pave streets as a result
13 of those kinds of things, and we, I
14 think, are elected to be the balancer of
15 that.

16 Obviously we're interested in
17 the environment, because I started a
18 committee. Councilwoman Brown is now the
19 Chairman of the Committee. We choose and
20 volunteer to serve of the Committee, and
21 we've done environmentally sound things
22 since the Committee has been in
23 existence. But I still think to put it
24 in the hands of a well-meaning and
25 competent and qualified group of people

1 4/30/14 - ENVIRONMENT - BILL 140313

2 who have a different view of the world
3 than industry and have them have total
4 control of that discussion, without us in
5 the middle arbitrating it, to me I think
6 is not in the best interest of the
7 economy of our city, especially in light
8 of the fact that Harrisburg will be
9 issuing or has issued, will issue
10 standards that will put us in a situation
11 that we could go more extreme than what
12 Harrisburg is recommending, putting our
13 economy and the jobs and businesses that
14 depend on these kinds of issues in
15 further jeopardy.

16 So I'm not willing to abdicate
17 my responsibility in listening to the
18 experts and listening to the industry and
19 then making a decision to try to balance
20 the two. Because I think that having it
21 out of balance could green our city
22 quickly, but also put us out of
23 competitive advantage with the region.
24 So that's my issue with it. And I think
25 I'm open-minded enough and well-read

1 4/30/14 - ENVIRONMENT - BILL 140313

2 enough to listen to both sides and make a
3 decision, without having one bureaucratic
4 agency making the decision for everybody.
5 That's where I stand.

6 Thank you.

7 COUNCILWOMAN BROWN: Comments
8 or remarks regarding Councilman Kenney's
9 position?

10 MR. BRANDON: No.

11 MR. HAZZOURI: No.

12 COUNCILWOMAN BROWN: So let me
13 make sure I understood what I thought I
14 heard, and that was that there is an
15 interest to make sure whatever we achieve
16 here are in alignment with South Jersey
17 and other states. Is that an accurate
18 statement of what I think I heard?

19 MR. BRANDON: Correct.

20 COUNCILWOMAN BROWN: So even if
21 those areas are more strict than
22 Pennsylvania?

23 MR. BRANDON: There needs to be
24 a common standard, it would be our
25 contention, to support transportation

1 4/30/14 - ENVIRONMENT - BILL 140313

2 modes that are out there today.

3 COUNCILWOMAN BROWN: So is
4 there some like municipality or state
5 that has the standards that you would
6 prefer we get in alignment with? Because
7 New York standards are more strict, and
8 New Jersey is moving towards what New
9 York is already doing. So to hear that
10 you want to be in alignment with Jersey,
11 are you aware that New Jersey standards
12 are more strict?

13 MR. BRANDON: Currently, yes, I
14 am aware that they are more strict today.

15 COUNCILWOMAN BROWN: And in
16 keeping with what we've heard
17 Mr. Hazzouri say, where do you want us to
18 look to use those standards as a template
19 where you would be more comfortable?

20 MR. BRANDON: To the extent
21 that they don't exceed those standards
22 without discussion and guidance from the
23 industry would be where we would prefer.
24 We do not currently have the ability to
25 achieve a standard that's greater than

1 4/30/14 - ENVIRONMENT - BILL 140313

2 that without investment. So the current
3 standards that are out there in New
4 Jersey are not difficult for us to
5 achieve because we've already invested in
6 those -- in the equipment required to do
7 that. Our ability to do that every day
8 is impacted by how much maintenance is
9 required on that equipment. It requires
10 a high degree of maintenance. So we will
11 just have to work toward making our
12 equipment more reliable and to reduce the
13 amount of time we're vulnerable.

14 COUNCILWOMAN BROWN: So should
15 the language in the legislation reflect
16 what currently exists in New Jersey, your
17 organization would be more comfortable
18 with that?

19 MR. HAZZOURI: I think as we
20 had said, if you decide that you're going
21 to delegate the authority, then, yeah. I
22 think what needs to be taken into account
23 are all the surrounding jurisdictions,
24 and not just the levels of sulfur in
25 those jurisdictions, but also the timing

1 4/30/14 - ENVIRONMENT - BILL 140313

2 of when you have to meet those.

3 COUNCILWOMAN BROWN: Okay.

4 MR. HAZZOURI: But the
5 preferred route, though, would be for you
6 and your Committee to be involved as the
7 final arbiter.

8 COUNCILWOMAN BROWN: Forgive
9 me?

10 MR. HAZZOURI: The preferred
11 route would be for the Committee and
12 ultimately Council to be the final
13 arbiter of what those standards are. But
14 if we were going to delegate, then, yeah,
15 I think we need to have criteria in there
16 what needs to be looked at. We need to
17 look at surrounding states, all those
18 sorts of things.

19 COUNCILWOMAN BROWN: Okay.
20 Now, you stated that there were three
21 criteria to be considered. State again
22 what they are, Ed Hazzouri, so I can make
23 sure my notes here are correct. The
24 current form is not acceptable. The
25 three criteria you want to be factored in

1 4/30/14 - ENVIRONMENT - BILL 140313
2 and considered going forward and they
3 are?

4 MR. HAZZOURI: They're
5 specifically in the language that we had
6 shared with you. I believe -- and you
7 can correct me if I'm wrong. We may want
8 to bring Paul Amundsen up, who is the
9 lawyer for Philadelphia Energy Solutions,
10 but one of those was what the surrounding
11 jurisdictions do. I have to admit, I
12 don't recall all of them. Can we ask
13 Paul to --

14 COUNCILWOMAN BROWN:
15 Absolutely.

16 MR. HAZZOURI: -- come up?
17 (Witness approached witness
18 table.)

19 COUNCILWOMAN BROWN: Good
20 afternoon. Please state your name for
21 the record.

22 MR. AMUNDSEN: Yes,
23 Councilwoman. I am Paul Amundsen. I am
24 Senior Director for Health, Safety, and
25 Environment and also Assistant General

1 4/30/14 - ENVIRONMENT - BILL 140313
2 Counsel for Philadelphia Energy
3 Solutions.

4 I'll start by saying if the
5 City Council is going to delegate its
6 power to make law to a board for these
7 kinds of standards, it should do so by
8 establishing a framework or criteria
9 around which those standards are made.
10 And if that power includes making law
11 that is more stringent than federal or
12 state standards, I would suggest that
13 there be a heightened set of criteria
14 that ought to be satisfied.

15 There should be, I believe,
16 consideration made of the standards of
17 the State of Pennsylvania and surrounding
18 jurisdictions, as Mr. Hazzouri described.
19 There should be consideration of the
20 availability and cost of fuel oil that
21 meets any proposed standard. There
22 should be, I believe, an analysis made by
23 persons who are competent to make such an
24 analysis on whether the cost of complying
25 with the new standard or the benefits of

1 4/30/14 - ENVIRONMENT - BILL 140313

2 the new standard outweigh one another, is
3 there a cost-benefit analysis, does the
4 benefit of the standard outweigh the
5 costs. And I think there should be a
6 transparent process that includes public
7 participation and the ability to make
8 written comments and responses to written
9 comments, all of which would be part of a
10 record that is put together, and that the
11 standard, whatever it is, is based upon
12 and supported by information, reliable
13 information, in that record. And I think
14 that should include findings, specific
15 findings, that fuel oil that meets that
16 more stringent standard is readily
17 available at a price and such that it
18 does not cause a hardship to the
19 consumers who have to purchase it or
20 suppliers of the fuel oil, such as my
21 company, Philadelphia Energy Solutions.

22 There should be specific
23 findings that the benefits of the more
24 stringent criteria substantially outweigh
25 the costs, and there should be findings

1 4/30/14 - ENVIRONMENT - BILL 140313
2 that the more stringent criteria will
3 result in a significant quantifiable,
4 measurable improvement in the air quality
5 of the City, which is what the standards
6 are for.

7 COUNCILWOMAN BROWN: Do you
8 know of any municipalities that currently
9 do this in a way that you just described?

10 MR. AMUNDSEN: That is how
11 governments -- your question,
12 Councilwoman, what municipalities, and I
13 can't tell you that -- I can't name
14 another municipality. That is typically
15 how the state governments and federal
16 governments make rules. And in
17 particular, I hail from Florida. I know
18 that in Florida when the state is going
19 to make a standard that is more stringent
20 than a federal standard, it has a bigger
21 hill to climb to justify it, and as it
22 should be.

23 So I think that pretty much
24 outlines what I think ought to happen in
25 this kind of rulemaking.

1 4/30/14 - ENVIRONMENT - BILL 140313

2 To add to what Mr. Brandon and
3 Mr. Hazzouri said, we have -- in New
4 Jersey we have coming a 15 parts per
5 million standard, and in Delaware,
6 Connecticut, Vermont has phase-in years,
7 and that's -- Philadelphia Energy
8 Solutions has no quarrel with
9 Philadelphia being consistent with our
10 neighbors, and we think there should be a
11 phase -- there should be some time
12 interval, phase-in for that, and we
13 suggested July 1st, 2018.

14 COUNCILWOMAN BROWN: Okay. So
15 to the question on this issue, is there
16 any municipality that is currently
17 handling this particular type of
18 circumstance in the way that you just
19 described?

20 MR. AMUNDSEN: I do not know of
21 one, ma'am.

22 COUNCILWOMAN BROWN: Okay.

23 MR. AMUNDSEN: And I would also
24 hasten to add that most municipalities do
25 not regulate air pollution. Philadelphia

1 4/30/14 - ENVIRONMENT - BILL 140313

2 has the privilege of doing so, and does
3 it well.

4 COUNCILWOMAN BROWN: There are
5 a lot of arguments you would get on why
6 we think it's the appropriate thing to
7 do.

8 To Councilman Kenney's
9 important point that City Council could
10 and, many would argue, should be the
11 final arbiter on matters such as these,
12 your comment, response or reaction to
13 that.

14 MR. AMUNDSEN: Yes. The City
15 has the Air Pollution Control Board,
16 which is composed of persons from
17 different areas of expertise as well as
18 householders, so forth. The City
19 Council -- surely the City Council can
20 make these regulations. In making these
21 regulations, certainly the City Council
22 should draw upon the expertise of bodies
23 like the Air Pollution Control Board and
24 AMS and the professionals at AMS, who are
25 very capable people. And one way to

1 4/30/14 - ENVIRONMENT - BILL 140313

2 proceed would be for the Air Pollution
3 Control Board to make recommendations to
4 the City Council for the City Council's
5 consideration, with the City Council, who
6 are responsible to the constituents in
7 the City, making the ultimate decision.

8 MR. HAZZOURI: To sum up, his
9 answer is yes.

10 MR. AMUNDSEN: Yes.

11 MR. HAZZOURI: Yes.

12 COUNCILWOMAN BROWN: And for
13 those issues that have been brought to
14 our attention, what is your position to
15 sit with members of Council and iron them
16 out eyeball to eyeball post this hearing?

17 MR. HAZZOURI: We'd be happy to
18 do that.

19 MR. AMUNDSEN: Absolutely.

20 COUNCILWOMAN BROWN: I know you
21 would, Ed Hazzouri. I'm speaking to the
22 gentleman at the table.

23 MR. AMUNDSEN: Absolutely.

24 COUNCILWOMAN BROWN: Sir?

25 MR. BRANDON: Yes.

1 4/30/14 - ENVIRONMENT - BILL 140313

2 COUNCILWOMAN BROWN: Councilman
3 James Kenney.

4 COUNCILMAN KENNEY: Just one
5 more comment relative to PES. There's a
6 huge venture that is incorporating a lot
7 of investment into basically saving the
8 industry in Philadelphia, which
9 ultimately saved two towns. I mean,
10 between the investment that went on, PES,
11 Argyle, and I think the folks doing the
12 jet fuel.

13 MR. BRANDON: Monroe.

14 COUNCILMAN KENNEY: Right.
15 Basically saved two entire cities of
16 people and their jobs.

17 Now, I'm not saying that should
18 give them carte blanche to do whatever
19 they want relative to polluting the
20 environment, and they don't want to do it
21 either, but I think at this critical
22 juncture when we don't know yet the
23 impact of natural gas extraction and then
24 distribution and use for home heating and
25 things like that, I don't want to put

1 4/30/14 - ENVIRONMENT - BILL 140313
2 that future in the hands of an unelected
3 board. And not that they're not
4 well-meaning. I think they're very
5 well-meaning. They may be too
6 well-meaning at this particular time in
7 this particular history of this
8 particular industry, and I don't want to
9 throw anything out of balance.

10 Now, on the other hand, we have
11 one of the -- and I love them, as I ride
12 it every day, but one of the biggest
13 polluters in the City of Philadelphia is
14 SEPTA. Diesel emissions on SEPTA buses
15 far out-trump anything coming from the
16 construction industry or from them, and
17 we stand on street corners every day
18 as -- and you've seen it. When they
19 accelerate sometimes, you get that --
20 it's like you got to go home and take a
21 shower.

22 So I'm not saying that we
23 shouldn't try to clean it all up. I'm
24 just saying when it comes to regional
25 investment, the potential for pipeline

1 4/30/14 - ENVIRONMENT - BILL 140313
2 distribution directly from shale country,
3 the distribution of that through PES to
4 foreign countries, to home heating users
5 here, I mean, the whole -- it's in its
6 infancy, not in the country but it's in
7 its infancy here in Philadelphia, and I
8 want to be able to at least have some say
9 in the balance of what we impose that may
10 either retard that growth or enhance that
11 growth, while at the same time allowing
12 the environment to be cleaned up.

13 So I really think this
14 Committee, frankly, is the better arbiter
15 of standards as opposed to the Air
16 Pollution Advisory Board, because we have
17 to answer to various constituencies, not
18 just our view of what a green city is. I
19 mean, the expansion of their business,
20 the security and growth of their business
21 may, in the long run, clean up the air
22 more than anything because of the
23 expansion of the use of natural gas as
24 opposed to fossil fuel heating, heating
25 fuel, and things of that nature. So I

1 4/30/14 - ENVIRONMENT - BILL 140313
2 don't really know where it's going, but I
3 don't want to put that future in the
4 hands of well-meaning and very capable
5 people who have a different view of the
6 world than we may have or they may have
7 and a need for a balance somewhere in the
8 middle.

9 So I'm excited about the fact
10 that PES and Argyle and those folks have
11 decided to invest the amount of money
12 they've invested in saving Ed Hazzouri's
13 old employer, the Sunoco plant, because
14 without their investment, I think we
15 would be really in bad shape, and I can
16 tell you cities like Trainer and Tinicum
17 and places like that would no longer
18 exist.

19 So I really want to -- you know
20 we care about the environment. We're not
21 oil drillers. We're Councilpeople who
22 care about the environment. We serve on
23 this Committee, and I think this
24 Committee ultimately should be the final
25 arbiter of what the standards are as long

1 4/30/14 - ENVIRONMENT - BILL 140313
2 as we're in line with the state
3 standards, national standards and the
4 like.

5 COUNCILWOMAN BROWN: So with
6 that said, I would look to you all to
7 offer language well in advance for us to
8 review and consider that speaks to what
9 Councilman James Kenney has eloquently
10 stated. Yes, no, maybe so?

11 MR. HAZZOURI: Well, if you
12 decide that you are going to delegate,
13 then absolutely, yeah. If it's required,
14 we'll do it.

15 COUNCILWOMAN BROWN: All right,
16 then.

17 Any other questions or comments
18 from this Committee?

19 (No response.)

20 COUNCILMAN OH: I'll make just
21 one comment.

22 COUNCILWOMAN BROWN: Please,
23 Councilman Oh.

24 COUNCILMAN OH: It's not
25 directly related to you, but it does,

1 4/30/14 - ENVIRONMENT - BILL 140313

2 from what Councilman Kenney just said,
3 bring to mind that our Council did pass a
4 resolution urging our city to pursue an
5 export license for exporting LNG, and for
6 whatever reason, I have not heard
7 anything from the Administration about
8 that. I'm not really sure why, but I
9 think it sometimes illustrates a
10 difference between the Council and the
11 Administration, which is healthy. It
12 should be a check and balance.

13 But I do hear many times when I
14 talk with people about Philadelphia and
15 exporting natural gas in the form of LNG,
16 and I just remind people we don't have an
17 export license, we've never applied for
18 one.

19 So that is kind of an issue of
20 an area where we want to have discussion,
21 and it's possibly too late for that.
22 Maybe it never mattered. Maybe it still
23 matters. But anyway, I do think that is
24 where Council comes in in the balance of
25 what we do legislatively versus sometimes

1 4/30/14 - ENVIRONMENT - BILL 140313
2 agendas for the City that represent a
3 group of people, but we do want to take a
4 look at the entire group. I know the
5 Mayor does that. That's his job, but it
6 is, I think, healthy that when the Mayor
7 looks at the agenda in toto, that there
8 is a check and a balance through an
9 elected body.

10 Thank you very much,
11 Chairwoman.

12 COUNCILWOMAN BROWN: I
13 appreciate that input. Appreciate that
14 input.

15 So as we grow our list of
16 subsequent tasks, language that we can
17 review would be welcomed. You can submit
18 that to the Chair. Thank you very much.

19 Any other comments for this
20 panel?

21 (No response.)

22 COUNCILWOMAN BROWN: Very well.
23 We'll move to our next panel. Please
24 invite Logan W-E-L-D-E of the Clean Air
25 Council and anyone else who desires to

1 4/30/14 - ENVIRONMENT - BILL 140313
2 testify on this bill is welcome to come
3 to the witness table.

4 (Witnesses approached witness
5 table.)

6 COUNCILWOMAN BROWN: Good
7 afternoon. State your name for the
8 record and proceed with your testimony.

9 MR. CHAPMAN: Hi. I'm Saleem
10 Chapman. That's S-A-L-E-E-M, also from
11 the Clean Air Council.

12 MR. WELDE: Good afternoon.
13 Logan Welde, W-E-L-D-E. I'm a staff
14 attorney at the Clean Air Council.

15 COUNCILWOMAN BROWN: Terrific.
16 Please proceed with your testimony.

17 MR. WELDE: Thank you for
18 allowing us to testify, Councilwoman
19 Reynolds Brown.

20 COUNCILWOMAN BROWN:
21 Absolutely.

22 MR. WELDE: Councilman Oh and
23 Councilman O'Brien, we appreciate your
24 time.

25 I'll just give you a brief

1 4/30/14 - ENVIRONMENT - BILL 140313
2 overview of the Clean Air Council, our
3 position, and then I'll delve into some
4 of the details and discuss some of the
5 prior testimony that you heard and answer
6 any questions that you may have.

7 COUNCILWOMAN BROWN: Sure.

8 MR. WELDE: The Clean Air
9 Council would obviously like to thank you
10 for your efforts in improving the air
11 quality in Philadelphia. We strongly
12 support this proposed bill as written.
13 We do believe that the Air Pollution
14 Control Board is the best deciding body,
15 with obviously the City Council being the
16 ultimate backstop to it.

17 The Clean Air Council has been
18 working for over 40 years in
19 Philadelphia, and our mission is to
20 protect everyone's right to breathe clean
21 air. We have over 3,000 members that
22 reside in Philadelphia.

23 We do believe that because of
24 the expertise of the Board, the Air
25 Pollution Control Board, that they are

1 4/30/14 - ENVIRONMENT - BILL 140313

2 the best group to decide on the air
3 quality issues in Philadelphia.

4 So I just want to jump into,
5 unless you have any questions at this
6 point, I'm just going to jump into some
7 of the stuff that I wanted to get across
8 to you today.

9 As the City has already
10 elucidated, this would be the only air
11 quality type thing that would be taken or
12 kept from the Air Pollution Control
13 Board. They have for decades been able
14 to take control of the air quality in
15 Philadelphia, and as PES stated, they've
16 done an excellent job of that.

17 So I actually do agree with a
18 lot of what Paul said, the attorney from
19 PES. At the end of the day, we do
20 believe that the City Council, you, would
21 come to the same conclusion as the Air
22 Pollution Control Board. The Air
23 Pollution Control Board actually does
24 have industry represented on it. They do
25 have a public comment period. When the

1 4/30/14 - ENVIRONMENT - BILL 140313

2 attorney from PES made his statement, I
3 actually agreed with most of them. We
4 should take into account the surrounding
5 jurisdictions. We should take into
6 account the cost of fuel and the economic
7 impact on Philadelphia, and we should do
8 an analysis of cost, a cost-benefit
9 analysis. And the Air Quality Control
10 Board does that. They have a public
11 testimony period. They have the
12 opportunity for industry to come --
13 industry who is already represented on
14 the Air Pollution Control Board.

15 So much of what the attorney
16 from PES said we do actually agree with,
17 and he did say that Philadelphia is doing
18 a very good job. I think the words were
19 "they do it well." Most municipalities
20 do have boards like this, large cities,
21 do have boards like this that take the
22 expertise of the community, so the
23 environmental groups, the business
24 groups, doctors within the community, and
25 community advocates, and what they do is,

1 4/30/14 - ENVIRONMENT - BILL 140313

2 they make recommendation to the city.

3 And that's at the end of the day, that's

4 all the APCB does. They come up with

5 something that protects the health and

6 the quality and the economics of

7 Philadelphia, and then you, the City

8 Council, are the ultimate backstop.

9 So I know there is worry about

10 it being taken from your hands, but all

11 they're really doing -- and I know that

12 you all appreciate this -- they're

13 lightening your workload.

14 COUNCILWOMAN BROWN: We're not

15 interested in that.

16 MR. WELDE: So they're allowing

17 you to make the ultimate decision at the

18 end of the day. I know that we all know

19 that you're elected by the people and

20 you're here to protect the City just as

21 we are and just as PES is. They live and

22 they work in the City just like everyone

23 else. They want good air quality.

24 The APCB are the designated

25 experts and, as I said, for decades

1 4/30/14 - ENVIRONMENT - BILL 140313

2 they've protected the air in
3 Philadelphia. They do have a couple of
4 public comment periods. So I know that
5 some of the concerns were that the public
6 is not going to have a chance, the people
7 that you represent, are not going to have
8 a chance to give any input. That's
9 completely not true. There is a public
10 comment period, and the APCB does take
11 that into account.

12 They have industry
13 representation, and believe me, industry
14 does represent. They do put their
15 comments in and they do work with the Air
16 Pollution Control Board when they have
17 issues that are concerns for them.

18 Councilman Oh, you did state
19 earlier today the dry cleaning, the PERC.
20 Every time industry is faced with some
21 sort of new regulation, their immediate
22 reaction is to fight it. And I worked in
23 business for ten years before I became an
24 attorney at the Clean Air Council. I
25 worked for Marvel Comics. Every single

1 4/30/14 - ENVIRONMENT - BILL 140313

2 toy that we made in China, we had a voice
3 in what the regulations were in China on
4 that, because it was hundreds of millions
5 of dollars to us. We agree, but at the
6 end of the day, the PERC, it didn't put
7 dry cleaners out of business and, you
8 know what, Philadelphia was able to
9 breathe cleaner because of that
10 regulation.

11 So I don't think we're actually
12 here to talk about this one regulation.
13 I know the attorney mentioned 2018 as the
14 year. It's actually 2016, if I'm
15 correct. So I just wanted to make the
16 record clear on that point.

17 And PES did also state one
18 thing that I think is very important. We
19 don't live on an island here. A lot of
20 their gas goes out of Philadelphia, goes
21 to New York, New Jersey, and Delaware.
22 New York, New Jersey, and Delaware are
23 actually going to have cleaner air from
24 this than Philadelphia. So the place
25 where they're making this gas is going to

1 4/30/14 - ENVIRONMENT - BILL 140313

2 have a dirtier air quality than the
3 states where they're selling other gas.
4 So at the end of the day, they will have
5 to comply with those standards in other
6 areas. They will have to put those
7 controls in. And so they're not going to
8 make different batches of gasoline.
9 They're going to put those quality
10 control measures on by 2016.

11 This discussion is really about
12 who has the power to decide on this
13 issue, and what it really is about is,
14 the Air Pollution Control Board has the
15 expertise and industry's voice to do
16 this, with City Council ultimately having
17 the final say. If something happens,
18 which the City has already represented
19 that in the 27 years, I believe, Patrick
20 has not seen any instances where the Air
21 Pollution Control Board has come up with
22 some sort of standard that was so onerous
23 on business that the business community
24 came to the City Council to overrule it.

25 Yes, Councilman.

1 4/30/14 - ENVIRONMENT - BILL 140313

2 COUNCILMAN KENNEY: If I may?

3 COUNCILWOMAN BROWN: Please.

4 COUNCILMAN KENNEY: Then what
5 are we doing? What are we changing? Why
6 are you and they supporting a bill that
7 doesn't change anything, or it does?
8 What does the bill actually change, in
9 your view?

10 MR. WELDE: So what the bill
11 does is, it changes the standard-making
12 process. So right now City Council is
13 the standard-making body of this. What
14 it does is, it just changes that so that
15 the Air Pollution Control Board is the
16 body that makes that decision, and then
17 City Council, if there are any problems
18 with it, will ultimately have the
19 decision whether they want to change the
20 law or not.

21 COUNCILMAN KENNEY: How? How
22 will City Council have the final
23 decision?

24 MR. WELDE: You can write a new
25 bill.

1 4/30/14 - ENVIRONMENT - BILL 140313

2 COUNCILMAN KENNEY: Oh, no.
3 They're not bringing it back here for
4 approval?

5 MR. WELDE: No.

6 COUNCILMAN KENNEY: So I have
7 to legislate the number down, is what
8 you're saying.

9 MR. WELDE: Well --

10 COUNCILMAN KENNEY: That's not
11 tenable. I mean, that's like closing the
12 barn door after the horse is gone.

13 What's going to happen is,
14 they're going to come up with a standard.
15 They're going to impose the standard.
16 We're going to disagree, and then we're
17 going to come in and do a bill to
18 downgrade the standard, and that's going
19 to create a public dialogue of any value?

20 MR. WELDE: Councilman --

21 COUNCILMAN KENNEY: No.
22 Because the Chair is telling me that
23 Council under this bill has the final
24 decision-making process on the standard
25 that the Board is going to set. That's

1 4/30/14 - ENVIRONMENT - BILL 140313

2 not what the case is. They're going to
3 set the standard and we're going to have
4 to reverse it or downgrade it, is what
5 you're saying. That's the final say.

6 MR. WELDE: The City Council
7 does always have the final say in this.

8 COUNCILMAN KENNEY: No. What
9 you're saying is we have to either
10 downgrade or reverse what the Air
11 Pollution Control Board does in order for
12 us to have the final say. That's a
13 different dialogue than having us set the
14 standard based on their advice. That's a
15 totally different standard. So you're
16 saying we have the final say. Yeah,
17 technically we do, but after we have a
18 room full of people screaming and yelling
19 that we're reducing the standard of air
20 quality in the City against the
21 recommendations of the experts. I mean,
22 come on, that's not tenable.

23 MR. WELDE: Councilman, I would
24 say that technically the Council does
25 have the final say. There is a public

1 4/30/14 - ENVIRONMENT - BILL 140313

2 comment period during any of their
3 recommendations.

4 COUNCILMAN KENNEY: They're
5 going to ordain something first and then
6 if we don't agree with it, we have to
7 reverse it. That's not a tenable
8 position. It's not. I mean, this is a
9 City Council that has banned indoor
10 smoking, that has gone along with the
11 Mayor on outdoor smoking, that has done
12 tons of things in the time I've been here
13 to clean up the environment and the air.
14 Why are we not trustworthy enough to
15 continue doing what we've been doing?
16 What is the need for the change? This is
17 what I'm trying to figure out.

18 MR. WELDE: And I would only
19 say this is the only air standard that
20 the City Council does currently have.
21 The Air Pollution Control Board does
22 control the air, and they've done -- as
23 PES stated, they're doing it very well.

24 COUNCILMAN KENNEY: I
25 understand that. So I don't understand

1 4/30/14 - ENVIRONMENT - BILL 140313

2 the need for the change. What is the
3 purpose of the legislation? What do we
4 need to change that needs to be fixed?
5 Usually when we legislate something, we
6 fix something. What's broken that needs
7 to be fixed?

8 MR. CHAPMAN: So I would add
9 that --

10 COUNCILMAN KENNEY: Could you
11 identify yourself.

12 MR. CHAPMAN: Sure. I'm Saleem
13 Chapman. I'm the Director of
14 Environmental Justice for the Clean Air
15 Council.

16 I will add that with this bill,
17 it gives the Air Pollution Control Board
18 the flexibility and versatility to be
19 able to change the standard as public
20 health concerns see fit.

21 While we've done all these
22 things to address air quality,
23 Philadelphia still ranks last in the
24 state among regions in public health
25 outcomes. That says --

1 4/30/14 - ENVIRONMENT - BILL 140313

2 COUNCILMAN KENNEY: Wait. All
3 directed at air quality?

4 MR. CHAPMAN: No. I'm not
5 saying that that's --

6 COUNCILMAN KENNEY: It's
7 obesity and smoking. It's drinking.
8 It's doing drugs. Quality of health
9 outcomes is not just air.

10 MR. CHAPMAN: No. I completely
11 agree. I'm just answering the fact that
12 we need to be able to do everything to
13 move ourselves forward, and that gives us
14 the versatility --

15 COUNCILMAN KENNEY: Well, I'll
16 give you an example. I've had an ongoing
17 dialogue and go-around with the Air
18 Management folks, in a productive way,
19 over construction equipment and the
20 retrofitting of construction equipment
21 relative to diesel fuel emissions. What
22 you're telling me if this bill were in
23 place then, I wouldn't have any say other
24 than to introduce a bill to change the
25 law, because they have already set the

1 4/30/14 - ENVIRONMENT - BILL 140313

2 standard, and they would have shut down
3 jobs potentially, both paving jobs, other
4 construction jobs, because they decided
5 that the air standard should be X and we
6 don't agree, it should be Y. So in order
7 for me to change that, I'd have to
8 introduce a bill and, in a proactive way,
9 change what they've already said. To me
10 that's -- and it would take a period of
11 time to do that.

12 So they set the standard. They
13 tell the construction industry, You can't
14 use this equipment anymore, it's off,
15 because that's what they would have done
16 had we not interceded, and they thought
17 they were right doing it, and I respect
18 their opinion, but they would have taken
19 tons of equipment off of the street,
20 paving streets, doing stuff, paving --
21 whatever they're doing out there, and we
22 would have had to introduce a bill,
23 schedule a hearing, have a hearing, have
24 a vote, and the standard would still be
25 in place while we're debating change of

1 4/30/14 - ENVIRONMENT - BILL 140313

2 the standard. That is not -- we should
3 be the levelers of the playing field.

4 MR. CHAPMAN: And I completely
5 agree, but I will argue that that's the
6 purpose of an administration. An
7 administration is supposed to take the
8 general goals and outlines that the
9 legislative body set out and they're
10 supposed to use their expertise in order
11 to --

12 COUNCILMAN KENNEY: To expand
13 it?

14 MR. CHAPMAN: Not
15 necessarily --

16 COUNCILMAN KENNEY: Well,
17 that's a potential in this bill. We set
18 a standard. They're going to change it.
19 They may expand it, without our consent.

20 MR. CHAPMAN: Right, but I
21 would say that the way that things are
22 outlined now with City Council actually
23 setting the standards, that's essentially
24 out of whack with what you see normal
25 rules and regulations that are imposed.

1 4/30/14 - ENVIRONMENT - BILL 140313

2 I would say that every industry,
3 regardless of whether it's restaurants or
4 corner stores or food stores, they are
5 having to fall in line with certain
6 standards and rules that are put forth by
7 other administrative bodies. This would
8 be no different.

9 COUNCILMAN KENNEY: Well, I
10 mean, my experience with that particular
11 instance, with the construction industry,
12 would have been a totally different
13 outcome if this law had been in place. I
14 would have had to fight upstream to keep
15 equipment on the street that they wanted
16 off, while at the same time SEPTA is
17 spewing diesel fuel all over the place
18 and nobody is dealing with them. I mean,
19 that's sometimes the incongruities you
20 deal with, is that I have 30, 40 pieces
21 of construction equipment that have to go
22 away while I have 700 SEPTA buses that
23 are doing worse, and no one is talking
24 about them.

25 It's just to me -- I would

1 4/30/14 - ENVIRONMENT - BILL 140313

2 rather keep control of the discussion as

3 to put it in the hands of a board that

4 have their own view of the world. I'm

5 not saying their view is wrong. It's

6 just different. And I'm not -- I

7 wouldn't put it in PES's hands either,

8 because their view of the world is

9 certainly different than theirs.

10 Somewhere in the middle are we, and we

11 are elected by people to make those

12 decisions, and I don't want to necessary

13 take it out of my hands to give it to

14 someone who views the world just one way.

15 That's just my position.

16 COUNCILWOMAN BROWN: Well,

17 thank you very much, Mr. Jim Kenney.

18 MR. WELDE: Thank you,

19 Councilwoman.

20 COUNCILWOMAN BROWN: Other

21 comments, observations, remarks?

22 Councilman Oh.

23 COUNCILMAN OH: Thank you,

24 Chairwoman.

25 I very much appreciate your

1 4/30/14 - ENVIRONMENT - BILL 140313
2 perspectives and sharing them. They're
3 all very reasonable. What I have kind of
4 tried to hear is something that
5 Councilman Kenney stated and, that is,
6 the reason why we're here. So so far
7 what I understand is that Air Management
8 has done a good job, and over this entire
9 period with this system, which they come
10 up with recommendations, Council looks at
11 it, approves it, that there has been no
12 controversial problem. There's been no
13 problem, as far as I can tell, whether it
14 has to do with dry cleaning or
15 construction or the sulfur content.

16 Usually when we are looking at
17 changing a system, not just changing a
18 number in the law, it is because there's
19 a best practice or there is something
20 that we're not doing well and you can
21 illustrate a problem and, therefore, we
22 should change the system. But so far
23 from the testimony, I'm not getting that
24 here's the problem, here's the answer,
25 let's change the system because

1 4/30/14 - ENVIRONMENT - BILL 140313

2 systemically this isn't working. What I
3 am hearing is, it would be better if we
4 change the system. And without a
5 problem, I think at least it raises the
6 issue of is it better because you're
7 planning to do something that you could
8 not do while we're in the system? Is it
9 just generally a better system?

10 In other words, it does raise a
11 suspicion, at least in my mind, that once
12 we're out of the process, something
13 begins to happen that cannot happen now,
14 because you've not articulated to me why
15 this is a bad system. I mean,
16 theoretically it may be a bad system, but
17 nothing really kind of came up so far
18 that would bring you here.

19 So if you're not addressing a
20 problem, you appear to be addressing a
21 future interest, and would you identify
22 that future interest?

23 MR. WELDE: Yes. And I would
24 actually say that it has been a problem.
25 So just today, an air quality report came

1 4/30/14 - ENVIRONMENT - BILL 140313

2 out. I'm sure you're familiar with it.

3 And it stated that the Lung Association

4 estimates that there are about 1.5

5 million people in the larger Philadelphia

6 metropolitan area that are affected by

7 that. And by "that," they mean asthma or

8 other lung diseases. As so too is part

9 of the ozone problem. It is undeniable

10 that days are getting warmer. We are

11 experiencing warmer summers every year.

12 And as the temperatures rise, so too do

13 the ozone days that we must deal with.

14 The City is facing tremendous

15 cutbacks in the school system. I'm sure

16 everyone is familiar with Laporshia

17 Massey, the student that suffered an

18 asthma attack and passed away. And I'm

19 not saying that fixing this would have

20 solved that problem, but Philadelphia

21 faces a severe ozone problem, and SO2 is

22 part of that problem.

23 If the Air Pollution Control

24 Board had had the power to change the

25 standards of SO2 in the past, we might be

1 4/30/14 - ENVIRONMENT - BILL 140313

2 right now in a better air quality
3 situation than currently.

4 City Council is not the health
5 quality experts. The Air Pollution
6 Control Board, they are the health
7 quality and industry experts. They come
8 together and they make these decisions.

9 You said is there a problem.
10 The problem is, this is the only thing
11 that the City Council does control from
12 an air quality perspective. The Air
13 Pollution Control Board does control the
14 rest of it, and -- I know I've repeated
15 this over and over, but PES stated
16 they're doing it very well. The problem
17 is is that by having City Council keep
18 this in their wheelhouse, let's just say,
19 we're going to continue to lag, and the
20 Air Pollution Control Board will be a
21 more proactive organization and they do
22 have the expertise to deal with these
23 issues.

24 The air quality in Philadelphia
25 has gotten better from an overall

1 4/30/14 - ENVIRONMENT - BILL 140313

2 perspective, but from an ozone
3 perspective, we're getting worse.

4 MR. CHAPMAN: If I could just
5 add, Councilman. I would say that as
6 Councilman Kenney pointed out, our
7 economics in the area are changing. So
8 we're going to be confronted with new
9 challenges. And as he also pointed out,
10 that things through City Council move
11 slow from time to time, and I believe
12 that with this new process in place, it
13 will give us the period -- the ability to
14 adapt to these things, as my colleague
15 said, proactively. No, it maybe is not a
16 problem now, but we can see the
17 challenges as we go forward and things
18 will begin to challenge us as they come
19 about, and we need to have the
20 flexibility to do so.

21 COUNCILMAN OH: All right.
22 Thank you very much.

23 Thank you, Chairwoman.

24 COUNCILWOMAN BROWN: You are
25 very welcome.

1 4/30/14 - ENVIRONMENT - BILL 140313

2 I thank you also for your
3 testimony.

4 The record needs to reflect
5 that one of the principle impetuses for
6 even taking up this issue is that this
7 area has not been addressed since 1978,
8 and we're passed time where we need to
9 look at this, reexamine this in the new
10 environment and world that we live in.
11 And this Committee evolved, if you will,
12 because of the growing interest, concerns
13 of the environmental and sustainability
14 community. So we in many ways become
15 irresponsible not to look at matters that
16 haven't been dealt with since 1978 and
17 cannot be and will not be benign about
18 it.

19 So with that said, I need the
20 gentleman to please come back to the
21 witness table so I can have closing
22 questions for you. We are going to
23 recess this at the call of the Chair, but
24 the expectation is that interested
25 stakeholders will join us eyeball to

1 4/30/14 - ENVIRONMENT - BILL 140313

2 eyeball with Councilmembers where we can
3 get through the parts of this bill where
4 there's consensus, because the good news
5 is that there is some consensus and we're
6 going to act on those, but there's still
7 work to be done. And so I really do need
8 a commitment from one or both of you that
9 you will join us in meetings with the
10 City and with the Philadelphia Energy
11 Solutions so that we can seek to resolve
12 the still -- that part of the ground
13 where there's not consensus yet. Can I
14 count on you for that?

15 MR. CHAPMAN: Yes, ma'am.

16 MR. WELDE: Yes.

17 COUNCILWOMAN BROWN: Very well.
18 Thank you very much.

19 Philadelphia Energy Solutions,
20 please return to the witness table.

21 (Witnesses approached witness
22 table.)

23 COUNCILWOMAN BROWN: So we've
24 heard from all of you, and we have a
25 firmer handle on where a couple of the

1 4/30/14 - ENVIRONMENT - BILL 140313
2 concerns are, and as has been indicated
3 by members, eloquently stated by
4 Councilman Kenney, there's the interest
5 that this particular Committee becomes
6 the final arbiter. What I need from you
7 based on your testimony, separate from
8 amendments, because I want to separate
9 out the principal core issues. There
10 were three criteria - what surrounding
11 districts, the standards regarding
12 surrounding districts; your preferred
13 methodology for how you would want these
14 standards to be reviewed or considered;
15 and -- those are two that I can actually
16 make sense of out of my notes. I'll
17 probably have a better handle on this
18 after I reread the notes of testimony.

19 What I need to hear, however,
20 is going forward that you are prepared to
21 participate in meetings with me and
22 members so that we can address the other
23 remaining concerns you may have.

24 MR. HAZZOURI: Yes, we do --
25 yes, we will.

1 4/30/14 - ENVIRONMENT - BILL 140313

2 COUNCILWOMAN BROWN: So I can
3 expect Ed Hazzouri and/or members of his
4 team. I need to know that one of you two
5 gentlemen will be and attend the meeting
6 so that we hear eyeball to eyeball
7 specifically what your concerns are so
8 that we can move to a resolution and fix
9 and improve a circumstance that hasn't
10 been looked at since 1978.

11 MR. AMUNDSEN: Yes, ma'am.

12 MR. BRANDON: Yes, I will.

13 COUNCILWOMAN BROWN: One or the
14 two of you will attend those meetings?

15 MR. AMUNDSEN: That's correct.

16 COUNCILWOMAN BROWN: Okay,
17 then. Thank you very much.

18 This hearing is recessed to the
19 call of the Chair.

20 (Thank you.)

21 COUNCILWOMAN BROWN: You're
22 welcome.

23 (Committee on the Environment
24 concluded at 2:05 p.m.)

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CERTIFICATE

I HEREBY CERTIFY that the
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A abdicate 36:16 ability 15:7 25:23 31:25 38:24 39:7 43:7 77:13 able 4:8 24:7 50:8 57:13 61:8 67:19 68:12 absolutely 18:12 41:15 47:19,23 52:13 55:21 accelerate 49:19 accept 5:17 acceptable 40:24 account 39:22 58:4,6 60:11 accurate 37:17 accurately 82:5 achieve 37:15 38:25 39:5 acid 10:11 acknowledge 4:4 4:15 23:7 act 11:5 79:6 acts 25:4 adapt 4:2 77:14 add 45:2,24 67:8 67:16 77:5 added 4:10 addition 25:22 additional 29:17 address 16:23 67:22 80:22 addressed 78:7 addressing 74:19 74:20 adjustments 31:8 administration 6:13 15:20 53:7 53:11 70:6,7 administrative 9:19 71:7 admire 34:22 admit 41:11 adopt 12:11 adopted 12:14,16 13:5	advance 52:7 advantage 36:23 adverse 7:18 advice 65:14 Advisory 50:16 advocates 58:25 afternoon 7:6 23:18,21 41:20 55:7,12 agency 7:15 32:20 37:4 agenda 54:7 agendas 54:2 aggressive 16:15 32:23 ago 14:15 17:18 agree 57:17 58:16 61:5 66:6 68:11 69:6 70:5 agreed 58:3 air 1:16 2:18 3:3 3:24 4:11,12 6:22 7:9,14,19 7:21 8:6 9:9,12 9:14,17,21 11:7 11:8,16,19,23 12:4,5,15,15 13:2,8,11,12,15 13:21,24 14:4,8 14:14 15:2 16:2 18:3,16,25 20:13,20 21:6 25:17,18 30:19 31:6,9,12 34:22 44:4 45:25 46:15,23 47:2 50:15,21 54:24 55:11,14 56:2,8 56:10,13,17,21 56:24 57:2,10 57:12,14,21,22 58:9,14 59:23 60:2,15,24 61:23 62:2,14 62:20 63:15 65:10,19 66:13 66:19,21,22	67:14,17,22 68:3,9,17 69:5 73:7 74:25 75:23 76:2,5,12 76:12,20,24 alignment 37:16 38:6,10 allowable 7:24 8:7,16 9:3 allowed 31:7,14 allowing 10:18 50:11 55:18 59:16 allows 28:17 alter 16:6 alternatives 24:16 altogether 17:6 amend 8:6 9:11 9:16 amended 3:9,15 8:15 14:22 amending 1:14 2:13 amendment 4:16 amendments 4:5 4:8 6:2,5,7,9 13:23 25:12 80:8 amends 7:13 America 22:11 amount 39:13 51:11 AMS 5:22 7:14,19 46:24,24 AMS's 7:16 Amundsen 41:8 41:22,23 44:10 45:20,23 46:14 47:10,19,23 81:11,15 analysis 42:22,24 43:3 58:8,9 and/or 81:3 82:22 anomalous 12:19 answer 10:20 11:10 26:25 27:4 33:14 47:9	50:17 56:5 73:24 answering 68:11 anticipated 8:22 anticipation 9:4 anybody 19:21 anymore 69:14 anyway 53:23 APCB 59:4,24 60:10 apologize 33:16 33:16 appear 74:20 applied 53:17 apply 82:20 appreciate 4:10 22:20 34:23,24 54:13,13 55:23 59:12 72:25 approached 6:25 19:15 23:15 41:17 55:4 79:21 appropriate 9:22 9:24 14:20 16:13 46:6 approval 11:15 64:4 approves 73:11 April 1:7 arbiter 35:4 40:7 40:13 46:11 50:14 51:25 80:6 arbitrating 36:5 arcane 26:5 area 13:7 29:11 30:11 32:11 53:20 75:6 77:7 78:7 areas 12:2 26:11 37:21 46:17 62:6 argue 46:10 70:5 arguments 46:5 Argyle 48:11 51:10	arose 22:7 articulated 74:14 asking 13:14 16:25 assist 11:10 Assistant 41:25 associated 10:9 Association 75:3 asthma 75:7,18 attack 75:18 attend 81:5,14 attention 47:14 attorney 55:14 57:18 58:2,15 60:24 61:13 authority 4:25 5:21 9:16 24:21 25:11 39:21 authorize 3:3 authorized 12:17 authorizes 8:5 9:9 availability 42:20 available 43:17 aware 38:11,14
				B back 4:23 13:18 14:7 15:7 17:25 20:6 21:3,6 30:6 64:3 78:20 backstop 56:16 59:8 bad 22:14 51:15 74:15,16 balance 18:14 35:4 36:19,21 49:9 50:9 51:7 53:12,24 54:8 balancer 35:14 banned 66:9 barn 64:12 barrels 28:12 29:4 30:4 based 43:11 65:14 80:7 basically 12:7,25 21:23,25 48:7

48:15 batches 62:8 begins 74:13 behalf 17:2 31:9 believe 6:6 25:25 27:24 41:6 42:15,22 56:13 56:23 57:20 60:13 62:19 77:11 bell 14:16 17:19 bells 14:23 beneficial 29:23 benefit 43:4 benefits 42:25 43:23 benign 78:17 best 25:8 36:6 56:14 57:2 73:19 better 6:7 17:9 50:14 74:3,6,9 76:2,25 80:17 biased 20:21 bigger 44:20 biggest 49:12 bill 1:14 2:4,11,24 3:1,2 4:1 5:1 6:1 6:7 7:1,12,23 8:1,5 9:1,6 10:1 11:1 12:1 13:1 14:1 15:1 16:1,5 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1,12,13 24:21 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1,22 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1,2 56:1,12 57:1	58:1 59:1 60:1 61:1 62:1 63:1,6 63:8,10,25 64:1 64:17,23 65:1 66:1 67:1,16 68:1,22,24 69:1 69:8,22 70:1,17 71:1 72:1 73:1 74:1 75:1 76:1 77:1 78:1 79:1,3 80:1 81:1 bills 27:19 Blackwell 1:10 2:8 blanche 25:20 48:18 Blondell 1:10 33:25 board 1:16 2:19 3:4,25 4:11,13 8:6 9:10,11,15 9:18,19 11:9,17 11:20 12:6,16 13:2,9,16,25 14:5,9 15:2 18:3 18:17 19:2,16 20:13,20 25:18 30:20 42:6 46:15,23 47:3 49:3 50:16 56:14,24,25 57:13,22,23 58:10,14 60:16 62:14,21 63:15 64:25 65:11 66:21 67:17 72:3 75:24 76:6 76:13,20 boards 58:20,21 bodies 46:22 71:7 body 32:19 54:9 56:14 63:13,16 70:9 boiler 18:8 boundaries 11:21 branch 17:10 Brandon 23:11	24:4 26:24 27:4 27:10,11 30:23 31:3,10 33:2,9 33:13 37:10,19 37:23 38:13,20 45:2 47:25 48:13 81:12 breathe 56:20 61:9 Brian 5:9 brief 55:25 bring 6:23 9:2 41:8 53:3 74:18 bringing 64:3 broken 67:6 brought 47:13 Brown 1:10 2:2 2:21 5:8,13 6:14 7:3,7 10:22 11:12 15:10 22:24 23:5,17 27:7 30:13,25 33:25 34:17 35:18 37:7,12 37:20 38:3,15 39:14 40:3,8,19 41:14,19 44:7 45:14,22 46:4 47:12,20,24 48:2 52:5,15,22 54:12,22 55:6 55:15,19,20 56:7 59:14 63:3 72:16,20 77:24 79:17,23 81:2 81:13,16,21 burdened 16:18 bureaucratic 37:3 burned 8:2,12 burning 10:8 buses 49:14 71:22 business 15:5 26:14 32:23 50:19,20 58:23 60:23 61:7 62:23,23 businesses 36:13	businessman 18:8 C call 78:23 81:19 called 27:17 capable 46:25 51:4 capacity 29:25 cardiovascular 10:17 care 51:20,22 carte 25:20 48:18 case 19:22 65:2 cases 29:17 cause 43:18 Center 24:2 certain 2:20 8:17 14:23 71:5 certainly 20:11 33:20 46:21 72:9 CERTIFICATE 82:2 certification 82:19 CERTIFY 82:3 certifying 82:23 Chair 1:10 5:7,15 23:8 24:13 34:20 54:18 64:22 78:23 81:19 Chairman 35:19 Chairwoman 7:7 15:14 22:23 30:17 34:16 54:11 72:24 77:23 challenge 77:18 challenges 77:9 77:17 chance 60:6,8 change 4:24 13:19 14:7 15:7 63:7,8 63:19 66:16 67:2,4,19 68:24 69:7,9,25 70:18	73:22,25 74:4 75:24 changed 17:20,25 changes 9:5 16:18 63:11,14 changing 10:2 15:19 63:5 73:17,17 77:7 Chapman 55:9,10 67:8,12,13 68:4 68:10 70:4,14 70:20 77:4 79:15 Charter 11:19 18:4 22:18 Charter-manda... 9:11 check 53:12 54:8 China 61:2,3 choose 35:19 church 14:16,23 14:23 17:19 circulated 4:16 circumstance 14:18 45:18 81:9 circumstances 24:25 28:16,22 cities 48:15 51:16 58:20 citizen 18:10 citizens 19:10,21 25:9 city 1:2,6 3:5,16 3:18 4:23 7:15 7:21 8:5,13 9:9 9:19,20 11:4,6 11:18,22,22 12:18,24 13:16 13:18,20,23 14:3,6 15:6,16 16:10,14 17:23 18:4 19:21 20:23,25 22:3 22:10 24:2,22 25:2,8 35:6 36:7 36:21 42:5 44:5
--	--	--	--	--

46:9,14,18,19 46:21 47:4,4,5,7 49:13 50:18 53:4 54:2 56:15 57:9,20 59:2,7 59:20,22 62:16 62:18,24 63:12 63:17,22 65:6 65:20 66:9,20 70:22 75:14 76:4,11,17 77:10 79:10 City's 9:2 16:19 claiming 14:4 clean 13:11 31:11 49:23 50:21 54:24 55:11,14 56:2,8,17,20 60:24 66:13 67:14 cleaned 50:12 cleaner 19:9 31:9 61:9,23 cleaners 16:11 20:2 61:7 cleaning 18:20 20:25 60:19 73:14 clear 61:16 clearly 4:18 Clerk 2:10,12 climb 44:21 closing 64:11 78:21 code 1:14,15 2:14 2:15 3:2,8,14,23 7:14 8:10,21 9:8 11:22,23 12:13 12:18,24 13:6 13:23 14:17,22 14:24 17:22 18:15 codes 14:14 cold 26:2 colleague 77:14 combustion 1:16 2:17 28:8	come 4:22 15:23 19:11,22 20:23 41:16 55:2 57:21 58:12 59:4 62:21 64:14,17 65:22 73:9 76:7 77:18 78:20 comes 11:14 15:21 22:17 49:24 53:24 comfortable 16:24 32:18 33:18 38:19 39:17 Comics 60:25 coming 19:14 34:2 45:4 49:15 comment 19:19 31:2 46:12 48:5 52:21 57:25 60:4,10 66:2 comments 37:7 43:8,9 52:17 54:19 60:15 72:21 commerce 18:18 commercial 7:25 8:12,17 commitment 79:8 committee 1:3 2:3 7:8 15:11 23:3,9 24:16 25:10 30:14 35:18,19 35:20,22 40:6 40:11 50:14 51:23,24 52:18 78:11 80:5 81:23 common 37:24 Commonwealth 8:3 community 58:22 58:24,25 62:23 78:14 company 43:21 competent 35:25	42:23 competitive 36:23 completely 60:9 68:10 70:4 compliance 3:11 3:20 comply 22:3 32:16,17 62:5 complying 42:24 composed 46:16 Compounds 9:14 comprehensive 6:10 concern 14:25 17:18 19:24 31:6 concerned 33:23 concerns 18:14 34:2 60:5,17 67:20 78:12 80:2,23 81:7 concluded 81:24 conclusion 57:21 condition 31:19 conditions 2:20 26:3 28:4 conform 8:2 confronted 77:8 Connecticut 45:6 consensus 4:17 79:4,5,13 consent 70:19 consider 22:19 52:8 consideration 18:18 42:16,19 47:5 considered 19:2 25:17 40:21 41:2 80:14 consistent 10:6 45:9 constituencies 50:17 constituents 17:3 47:6 construction	49:16 68:19,20 69:4,13 71:11 71:21 73:15 consumers 43:19 contained 82:5 container 29:2 content 5:17 7:24 8:4,11,16,24 9:3 10:12,13 24:23 25:3 27:20 73:15 contention 37:25 contentious 20:16 continue 66:15 76:19 contract 23:25 control 1:16 2:19 3:3,23,25 4:11 4:12 7:15 8:6 9:10,13,15,18 11:9,17,20 12:6 12:16 13:2,9,15 13:24 14:4,9 15:2 18:3,16 19:2 20:13,20 25:18 36:4 46:15,23 47:3 56:14,25 57:12 57:14,22,23 58:9,14 60:16 62:10,14,21 63:15 65:11 66:21,22 67:17 72:2 75:23 76:6 76:11,13,13,20 82:22 controls 62:7 controversial 73:12 controversy 22:11 conversations 24:15 core 80:9 corner 71:4 corners 49:17 correct 30:22,23	32:14,24,25 37:19 40:23 41:7 61:15 81:15 82:8 cost 29:17 30:2,3 35:12 42:20,24 58:6,8 costs 29:15,21 43:5,25 cost-benefit 43:3 58:8 Council 1:2 3:6 4:23,24 11:22 13:17,18,23 14:3,6 15:6,21 16:10 17:24 19:21 20:23 21:2 24:22 25:3 25:4,5 40:12 42:5 46:9,19,19 46:21 47:4,5,15 53:3,10,24 54:25 55:11,14 56:2,9,15,17 57:20 59:8 60:24 62:16,24 63:12,17,22 64:23 65:6,24 66:9,20 67:15 70:22 73:10 76:4,11,17 77:10 Councilman 1:11 1:11,12 2:9 5:6 5:9,11,14 14:19 15:12,13 17:16 17:17 21:8 22:6 23:8 30:15,16 31:5 32:13 33:6 33:11,15 34:14 34:17,19 37:8 46:8 48:2,4,14 52:9,20,23,24 53:2 55:22,23 60:18 62:25 63:2,4,21 64:2,6 64:10,20,21
---	---	---	---	--

65:8,23 66:4,24 67:10 68:2,6,15 70:12,16 71:9 72:22,23 73:5 77:5,6,21 80:4 Councilmembers 2:6,7 79:2 Councilpeople 51:21 Councilwoman 1:10,10 2:2,8,21 5:8,13 6:14 7:3 10:22 11:12 13:14 15:10 22:24 23:5,17 27:7 30:13,25 33:24 34:17 35:18 37:7,12 37:20 38:3,15 39:14 40:3,8,19 41:14,19,23 44:7,12 45:14 45:22 46:4 47:12,20,24 48:2 52:5,15,22 54:12,22 55:6 55:15,18,20 56:7 59:14 63:3 72:16,19,20 77:24 79:17,23 81:2,13,16,21 Council's 47:4 counsel 11:5 42:2 count 79:14 counties 34:4 countries 50:4 country 35:7 50:2 50:6 couple 60:3 79:25 course 13:15,18 32:18 crafting 11:15 create 26:9 34:8 64:19 criteria 1:15 2:17 5:20 25:16 28:11 40:15,21	40:25 42:8,13 43:24 44:2 80:10 critical 21:10 48:21 crude 27:15 current 1:15 2:15 8:7 9:12 15:18 24:25 25:24 30:9 39:2 40:24 currently 3:11,19 8:9,20 11:13 28:3,10,11 31:22 38:13,24 39:16 44:8 45:16 66:20 76:3 cursory 5:19 cut 20:10 cutbacks 75:15 cycle 21:22,24 D date 21:21 David 1:12 2:9 15:12 30:15 day 39:7 49:12,17 57:19 59:3,18 61:6 62:4 days 75:10,13 deal 22:9 71:20 75:13 76:22 dealing 71:18 dealt 78:16 death 10:10 debating 69:25 decades 57:13 59:25 December 20:10 decide 39:20 52:12 57:2 62:12 decided 19:7 51:11 69:4 decides 24:16 25:10 deciding 56:14	decision 15:24 32:20 36:19 37:3,4 47:7 59:17 63:16,19 63:23 decisions 16:3 72:12 76:8 decision-making 64:24 deficiencies 5:19 degree 39:10 Delaware 26:8 34:6 45:5 61:21 61:22 delegate 39:21 40:14 42:5 52:12 delegates 24:21 delegating 3:23 5:21 deleting 1:15 2:15 delve 56:3 demand 31:17 demanding 32:4 Dennis 1:11 5:12 Denny 2:7 Department 6:21 7:10 8:14 10:4 24:24 25:2,19 departments 11:7 depend 36:14 Deputy 11:3 described 42:18 44:9 45:19 designated 59:24 desire 31:11 desires 54:25 detail 26:24 details 56:4 dialogue 64:19 65:13 68:17 diesel 28:6,6 49:14 68:21 71:17 difference 53:10 different 25:15 36:2 46:17 51:5	62:8 65:13,15 71:8,12 72:6,9 difficult 16:6 39:4 digest 15:23 dioxide 10:9,12 direct 82:22 directed 12:6 68:3 direction 6:11,12 directly 27:5 50:2 52:25 Director 6:20 7:9 27:13 41:24 67:13 dirtier 62:2 disagree 64:16 disagreement 21:15,17 discuss 56:4 discussion 4:19 14:13 36:4 38:22 53:20 62:11 72:2 disease 10:10,17 diseases 75:8 distribution 48:24 50:2,3 districts 80:11,12 Division 6:22 Divisional 11:3 doctors 58:24 doing 5:23 15:3 20:15 38:9 46:2 48:11 58:17 59:11 63:5 66:15,15,23 68:8 69:17,20 69:21 71:23 73:20 76:16 dollars 61:5 door 64:12 doors 25:5 downgrade 29:18 64:18 65:4,10 drafted 6:3 drafting 11:15 drastic 16:18 draw 46:22	drillers 51:21 drinking 68:7 drugs 68:8 dry 16:11 18:20 19:9 20:2,25 60:19 61:7 73:14 ducks 15:22 duration 29:2 duties 17:11 21:13 E earlier 14:12 24:20 25:13 27:2 60:19 economic 30:9 58:6 economically 29:6 economics 59:6 77:7 economy 36:7,13 Ed 4:5 23:12,22 33:2 40:22 47:21 51:12 81:3 effect 8:21 19:5,6 effects 7:18 18:18 effort 22:9 efforts 56:10 eight 18:6 either 28:17 29:25 30:7 48:21 50:10 65:9 72:7 elected 17:3 25:6 25:7 35:14 54:9 59:19 72:11 eloquently 52:9 80:3 elucidated 57:10 emerging 10:3 emissions 9:13 10:15 49:14 68:21 emphasis 3:17 employee 24:4
--	--	---	--	--

27:12 employees 23:25 employer 51:13 employment 35:9 empowered 7:20 9:20 Energy 23:11,24 24:5 27:11 34:11,25 41:9 42:2 43:21 45:7 79:10,19 enforce 7:20 enforces 14:15 engines 28:7,8 enhance 50:10 ensure 4:20 34:12 entertain 10:25 entire 48:15 54:4 73:8 entitled 1:14 2:14 entity 16:3 32:21 environment 1:3 2:3 3:1 4:1 5:1 6:1 7:1,8 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1,9 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1,17 36:1 37:1 38:1 39:1 40:1 41:1 41:25 42:1 43:1 44:1 45:1 46:1 47:1 48:1,20 49:1 50:1,12 51:1,20,22 52:1 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1,13 67:1 68:1 69:1 70:1 71:1 72:1	73:1 74:1 75:1 76:1 77:1 78:1 78:10 79:1 80:1 81:1,23 environmental 8:14 11:4,5 58:23 67:14 78:13 environmentally 3:18 35:21 equipment 21:22 22:2 28:20 30:6 31:22 35:10,11 39:6,9,12 68:19 68:20 69:14,19 71:15,21 especially 36:7 essentially 70:23 established 1:16 2:18 establishes 8:10 establishing 42:8 estimates 75:4 Europe 29:15,16 everybody 37:4 everyone's 56:20 evidence 82:4 evolved 78:11 example 12:14 14:13 68:16 exceed 38:21 excellent 57:16 excited 51:9 Excuse 5:13 exempt 14:22 exemption 25:23 exercise 25:7,11 exist 51:18 existence 35:23 exists 25:24 39:16 expand 70:12,19 expansion 50:19 50:23 expect 81:3 expectation 78:24 experience 71:10 experiencing	75:11 expert 5:16 18:9,9 18:11 expertise 9:23 15:21 17:5 46:17,22 56:24 58:22 62:15 70:10 76:22 experts 4:13,21 36:18 59:25 65:21 76:5,7 export 53:5,17 exporting 53:5,15 extent 29:19 35:8 38:20 extraction 48:23 extreme 36:11 extremely 26:2 eyeball 47:16,16 78:25 79:2 81:6 81:6	felt 14:2 16:17 20:19,22 21:2 field 15:3 70:3 fight 60:22 71:14 figure 66:17 final 3:6 20:10 32:20 40:7,12 46:11 51:24 62:17 63:22 64:23 65:5,7,12 65:16,25 80:6 finally 20:6 24:9 findings 43:14,15 43:23,25 fine 10:14 firmer 79:25 first 5:4 6:16 12:21 17:14 27:9 66:5 fit 14:7 31:8 67:20 five 18:24 fix 67:6 81:8 fixed 67:4,7 fixing 75:19 flesh 17:7 flexibility 4:2 67:18 77:20 Florida 44:17,18 focus 3:17 folks 15:6 20:4,12 26:14 48:11 51:10 68:18 follows 2:24 food 71:4 foregoing 82:7,19 foreign 50:4 forgive 6:17 40:8 form 40:24 53:15 formerly 27:13,17 forth 46:18 71:6 forward 9:17 41:2 68:13 77:17 80:20 fossil 50:24 found 17:18 four 14:21 17:21 framework 42:8	frankly 5:22 18:25 50:14 friendly 3:18 fuel 1:15,16 2:14 2:18,25 3:9,15 3:24 4:22 5:17 7:25 8:4,7,12,17 8:24 9:3,7,24 10:6,8,14 12:23 24:8,10 26:5 29:16 42:20 43:15,20 48:12 50:24,25 58:6 68:21 71:17 fueling 28:7 fuels 18:9 24:23 25:4 27:15,16 fuel's 10:11 fulfill 12:8 full 7:4 65:18 fully 82:5 fundamental 5:25 further 6:9 8:23 27:24 29:20,20 36:15 future 1:15 2:16 3:4 8:25 9:5 49:2 51:3 74:21 74:22
F				
faced 31:18 60:20 faces 75:21 facility 27:14 28:13 30:5 facing 75:14 fact 6:18 18:14 33:24 36:8 51:9 68:11 factored 40:25 fair 32:9 fall 71:5 familiar 16:8 75:2 75:16 families 20:3 far 14:2 20:23 21:2 49:15 73:6 73:13,22 74:17 fast 35:7 favorably 29:6 February 8:13 federal 3:12,20 7:20 16:16 19:3 21:20 22:4 42:11 44:15,20				
G				
gas 48:23 50:23 53:15 61:20,25 62:3 gasoline 62:8 general 12:2 13:7 31:13,16 32:10 41:25 70:8 generally 11:6 28:4,10 74:9 gentleman 47:22 78:20 gentlemen 23:6 23:18 81:5 getting 19:13 73:23 75:10 77:3				

give 25:20 33:9 48:18 55:25 60:8 68:16 72:13 77:13 given 3:16 4:7 gives 67:17 68:13 glad 33:13 go 13:13,18 14:7 15:7,16 21:3 26:9 36:11 49:20 71:21 77:17 goal 13:11 goals 3:4,22 13:7 70:8 goes 61:20,20 going 5:3 9:17 15:3,4 19:5 20:8 26:23 29:21 32:17 39:20 40:14 41:2 42:5 44:18 51:2 52:12 57:6 60:6 60:7 61:23,25 62:7,9 64:13,14 64:15,16,17,18 64:25 65:2,3 66:5 70:18 76:19 77:8 78:22 79:6 80:20 good 7:6 19:13 23:17,21 35:2 41:19 55:6,12 58:18 59:23 73:8 79:4 gotten 76:25 government 21:20 22:4 governments 44:11,15,16 go-around 68:17 grades 8:17 great 21:9,11 22:13 30:2,3 greater 32:10 38:25	green 36:21 50:18 greenest 22:10 35:6 ground 79:12 group 16:17 18:13 35:25 54:3,4 57:2 groups 20:2 58:23 58:24 grow 54:15 growing 3:17 78:12 growth 50:10,11 50:20 guess 12:20 17:13 33:4 guidance 38:22 guidelines 31:13 H hail 44:17 half 20:9 Hall 1:6 hand 49:10 handle 79:25 80:17 handling 45:17 hands 35:24 49:2 51:4 59:10 72:3 72:7,13 happen 44:24 64:13 74:13,13 happened 15:9 16:22 happens 28:21 62:17 happy 10:19 47:17 hardship 43:18 Harrisburg 34:3 36:8,12 hasten 45:24 Hazzouri 4:6 23:12,21,22 33:4,17 37:11 38:17 39:19 40:4,10,22 41:4	41:16 42:18 45:3 47:8,11,17 47:21 52:11 80:24 81:3 Hazzouri's 51:12 health 6:21 7:11 7:17 9:23 10:4 24:24,25 25:19 41:24 59:5 67:20,24 68:8 76:4,6 healthy 53:11 54:6 hear 2:4 10:24 38:9 53:13 73:4 80:19 81:6 heard 24:20 37:14 37:18 38:16 53:6 56:5 79:24 hearing 2:4 19:20 21:18 47:16 69:23,23 74:3 81:18 heating 27:18,21 27:25 28:19 48:24 50:4,24 50:24 heck 26:15 heightened 42:13 helped 13:21 he'll 24:7 Hi 55:9 high 39:10 higher 28:17 29:22 30:11 hill 44:21 history 49:7 home 27:17,21,25 28:18 48:24 49:20 50:4 horse 64:12 householders 46:18 huge 48:6 hundreds 23:25 61:4 Huynh 7:6,9	11:11 H-A-Z-Z-O-U-... 23:22 H-U-Y-N-H 6:20 I idea 6:10 12:22 22:13,14 identify 27:8 67:11 74:21 III 9:13 illustrate 73:21 illustrates 53:9 immediate 60:21 impact 20:12 25:8 25:15 26:11,12 31:21 35:9 48:23 58:7 impacted 39:8 impacts 26:5 imperative 26:4 impetuses 78:5 importance 10:5 important 16:23 46:9 61:18 impose 50:9 64:15 imposed 27:23 70:25 improve 10:16 81:9 improvement 44:4 improving 56:10 include 30:10 43:14 includes 42:10 43:6 incongruities 71:19 incorporating 48:6 incorrect 32:25 incur 29:15 indicated 80:2 individual 20:2 indoor 66:9 industry 14:2	16:19 18:12,19 19:15,22,23,25 36:3,18 38:23 48:8 49:8,16 57:24 58:12,13 60:12,13,20 69:13 71:2,11 76:7 industry's 62:15 infancy 50:6,7 information 5:24 43:12,13 initial 33:23 initially 18:25 injurious 15:4 input 54:13,14 60:8 instance 31:16 32:12 71:11 instances 62:20 intend 30:24 31:3 intention 6:8 interceded 69:16 interest 17:10 36:6 37:15 74:21,22 78:12 80:4 interested 35:16 59:15 78:24 interval 45:12 introduce 16:5 68:24 69:8,22 invest 31:24 51:11 invested 39:5 51:12 investment 39:2 48:7,10 49:25 51:14 invite 5:4 54:24 involved 16:11 22:15 40:6 iron 47:15 irresponsible 78:15 island 34:7 61:19 issue 6:2 14:11,16 16:13 20:25
--	--	--	--	--

21:17 22:6,15 22:19 36:9,24 45:15 53:19 62:13 74:6 78:6 issued 36:9 issues 5:15 25:15 36:14 47:13 57:3 60:17 76:23 80:9 issuing 36:9 item 11:25	14:19 17:16 23:8 33:6,11,15 34:18,19 48:3,4 48:14 52:9 53:2 63:2,4,21 64:2,6 64:10,21 65:8 66:4,24 67:10 68:2,6,15 70:12 70:16 71:9 72:17 73:5 77:6 80:4 Kenney's 37:8 46:8 kept 57:12 key 27:16 kidding 33:8 kind 14:18 15:22 16:19 19:13 44:25 53:19 73:3 74:17 kinds 35:13 36:14 42:7 knocked 25:5 know 4:24 14:3 15:8 18:21 20:21,24 21:2 44:8,17 45:20 47:20 48:22 51:2,19 54:4 59:9,11,18,18 60:4 61:8,13 76:14 81:4 knowledgeable 22:7	law 8:8 11:4 13:19 25:24 27:23 42:6,10 63:20 68:25 71:13 73:18 lawyer 41:9 left 15:3 legislate 4:25 64:7 67:5 legislation 5:20 15:25 39:15 67:3 legislative 17:10 32:19 70:9 legislatively 53:25 lessen 10:16 let's 6:16 73:25 76:18 level 4:17 29:9 30:11 levelers 70:3 levels 4:22 9:7 28:23 39:24 Lewis 2:10 license 53:5,17 life 7:17 21:21,23 light 36:7 lightening 59:13 limit 32:4 limits 8:11 9:24 line 9:3 52:2 71:5 list 54:15 listen 37:2 listening 36:17,18 little 12:19 17:7 22:11 live 59:21 61:19 78:10 lives 26:12 living 26:15 LNG 53:5,15 local 7:14 locally 29:10 Logan 54:24 55:13 long 33:20 50:21 51:25	longer 25:11 51:17 look 28:24 29:14 38:18 40:17 52:6 54:4 78:9 78:15 looked 40:16 81:10 looking 73:16 looks 54:7 73:10 losing 21:16 lot 46:5 48:6 57:18 61:19 love 49:11 lower 10:11 31:25 lowered 8:3,16 lowering 10:5,13 lung 75:3,8	82:7 mattered 53:22 matters 46:11 53:23 78:15 maximize 35:2 maximized 26:19 Mayor 54:5,6 66:11 ma'am 45:21 79:15 81:11 mean 19:17 32:14 48:9 50:5,19 64:11 65:21 66:8 71:10,18 74:15 75:7 means 82:21 measurable 44:4 measures 62:10 meet 16:19 28:11 29:8 30:24 31:3 31:15,19,22 40:2 meeting 30:20 81:5 meetings 19:17 79:9 80:21 81:14 meets 42:21 43:15 members 7:7 9:21 15:11 18:6 23:2 25:5 30:14 47:15 56:21 80:3,22 81:3 mentioned 14:12 18:21 61:13 methodology 80:13 metropolitan 75:6 MICHELE 82:14 middle 36:5 51:8 72:10 million 28:10,24 29:9 30:3,12 31:17 32:4,8 45:5 75:5 millions 61:4
J				
James 1:11 23:8 48:3 52:9 Jannie 1:10 2:8 Jason 2:10 jeopardy 36:15 Jersey 26:7,7 34:6 37:16 38:8,10 38:11 39:4,16 45:4 61:21,22 jet 48:12 Jim 72:17 job 19:13 21:9,11 54:5 57:16 58:18 73:8 jobs 35:3 36:13 48:16 69:3,3,4 join 23:12 78:25 79:9 joined 17:16 23:9 judgment 25:8 July 8:21 45:13 jump 57:4,6 juncture 48:22 jurisdictions 39:23,25 41:11 42:18 58:5 Justice 67:14 justify 44:21	J			
K				
keep 9:25 71:14 72:2 76:17 keeping 19:8 38:16 Kenney 1:11				

mind 53:3 74:11 minutes 6:3 mission 7:16 32:21 34:23 56:19 modes 38:2 money 21:25 29:18 51:11 Monroe 48:13 months 28:19 mouth 33:12 move 29:5,8 54:23 68:13 77:10 81:8 moving 38:8 municipalities 44:8,12 45:24 58:19 municipality 38:4 44:14 45:16 MURPHY 82:14 N name 6:18 7:4 10:23 11:2 23:19 27:10 41:20 44:13 55:7 national 10:2 52:3 natural 48:23 50:23 53:15 nature 50:25 near 8:24 necessarily 70:15 necessary 4:19 12:8 72:12 need 4:15 20:22 21:3 35:10,11 40:15,16 51:7 66:16 67:2,4 68:12 77:19 78:8,19 79:7 80:6,19 81:4 needed 11:11 needs 28:20 37:23 39:22 40:16 67:4,6 78:4	neighbors 45:10 never 13:24,25 14:7 21:2,5 53:17,22 new 3:16 8:3,18 10:7 22:2 26:7,7 34:6 35:10 38:7 38:8,8,11 39:3 39:16 42:25 43:2 45:3 60:21 61:21,21,22,22 63:24 77:8,12 78:9 news 79:4 noise 14:13,17,22 14:24 17:19 normal 28:4 70:24 Northern 26:8 note 24:12 notes 40:23 80:16 80:18 82:6 number 4:7 18:5 19:16 25:15 29:3 64:7 73:18 numbers 12:25 numerical 3:8,14 3:22 numerous 24:14 O obesity 68:7 object 31:11 objection 30:19 32:6 objections 82:4 obliged 20:19 observations 72:21 obviously 35:16 56:9,15 occasionally 13:22 offer 23:19 27:8 52:7 office 25:6 Oh 1:12 2:9 15:12	15:13 21:8 30:15,16 31:5 32:13 34:14 52:20,23,24 55:22 60:18 64:2 72:22,23 77:21 oil 1:15,16 2:15 2:18 7:25 8:12 8:24 9:3,7,24 10:6,8,14 12:23 24:8 27:15,18 27:21,25 28:23 42:20 43:15,20 51:21 oils 24:10 28:19 Okay 6:15 11:12 20:6 27:10 32:13 40:3,19 45:14,22 81:16 old 51:13 once 74:11 onerous 14:2 15:5 20:22 62:22 ongoing 68:16 online 30:6 open 24:14 opening 2:23 open-minded 36:25 operating 11:6 27:14 34:7 operations 24:6 operators 19:9 opinion 32:22 33:10 69:18 opportunity 6:5 7:11 29:7,13 58:12 opposed 32:20 50:15,24 opposition 24:11 Optimization 27:12 optimum 29:3 ordain 66:5 order 9:2 15:22	65:11 69:6 70:10 ordinance 1:14 2:12 17:20 organization 25:21 39:17 76:21 originally 17:24 ought 24:17 25:16 42:14 44:24 outcome 71:13 outcomes 67:25 68:9 outdated 2:25 outdoor 66:11 outlets 30:9 32:3 outlined 70:22 outlines 44:24 70:8 outside 14:21 17:21 29:11,14 outweigh 43:2,4 43:24 out-trump 49:15 overall 76:25 overrule 21:3 62:24 oversight 17:12 overview 56:2 over-the-top 14:5 Oxides 9:14 ozone 75:9,13,21 77:2 O'Brien 1:11 2:7 5:6,11,12,14 55:23 O'Neill 5:10 11:2 11:3,18 17:13 P pace 9:25 PADEP 8:15,22 panel 5:4 6:17 23:3,14 54:20 54:23 part 26:19 29:9 32:4 33:18 43:9	75:8,22 79:12 participate 80:21 participation 43:7 particular 11:7 15:20 44:17 45:17 49:6,7,8 71:10 80:5 particularly 15:15 particulate 10:15 parts 26:8 28:9,24 30:12 31:17 32:8 45:4 79:3 pass 13:19 53:3 passed 19:20 20:17 75:18 78:8 passes 13:16 passing 13:3 Patrick 11:3 62:19 Paul 41:8,13,23 57:18 pave 35:12 paving 69:3,20,20 Pennsylvania 1:6 8:3,14 26:9 27:22 31:4 34:4 37:22 42:17 people 16:17,21 17:3 19:8 22:12 22:13 26:17 35:25 46:25 48:16 51:5 53:14,16 54:3 59:19 60:6 65:18 72:11 75:5 people's 26:12 PERC 60:19 61:6 perfect 18:22 period 18:23 19:19 20:5 57:25 58:11 60:10 66:2 69:10 73:9
---	---	--	--	--

77:13 periods 60:4 permit 12:17 permitted 8:20 permitting 12:15 persons 42:23 46:16 perspective 76:12 77:2,3 perspectives 73:2 PES 48:5,10 50:3 51:10 57:15,19 58:2,16 59:21 61:17 66:23 76:15 PES's 72:7 phase 45:11 phased 20:8 phase-in 45:6,12 Philadelphia 1:2 1:6,14 2:14 3:2 3:5,7,10,13,19 3:25 6:21 7:9,14 7:16,22 8:2,8,10 8:20 9:8,12,25 23:11,23 24:3,5 25:9 26:6 27:11 27:14 31:9,12 33:20 34:11,24 41:9 42:2 43:21 45:7,9,25 48:8 49:13 50:7 53:14 56:11,19 56:22 57:3,15 58:7,17 59:7 60:3 61:8,20,24 67:23 75:5,20 76:24 79:10,19 Philadelphians 7:18 34:12 piece 20:10 pieces 71:20 pipeline 49:25 place 61:24 68:23 69:25 71:13,17 77:12 places 51:17	planning 74:7 plant 51:13 playing 70:3 please 2:10 5:8,9 5:9 6:16,17 7:3 10:22 11:13 23:10,12,18 27:8 30:15 41:20 52:22 54:23 55:16 63:3 78:20 79:20 pleasure 27:6 Plus 31:24 PM2.5 10:15 point 12:11 14:11 19:11 26:13 28:2 29:3,22 33:23 46:9 57:6 61:16 pointed 77:6,9 points 26:25 pollutant 10:9 polluters 49:13 polluting 48:19 pollution 1:16 2:19 3:3,24 4:12 7:15,19,21 8:6 9:10,15,18,21 11:9,17,19 12:4 12:5,16 13:2,8 13:13,15,21,24 14:4,8 15:2 18:3 18:16,25 20:13 20:20 25:18 45:25 46:15,23 47:2 50:16 56:13,25 57:12 57:22,23 58:14 60:16 62:14,21 63:15 65:11 66:21 67:17 75:23 76:5,13 76:20 portion 28:3 position 37:9 47:14 56:3 66:8	72:15 possibly 53:21 post 47:16 potential 49:25 70:17 potentially 17:19 69:3 power 21:4 42:6 42:10 62:12 75:24 practice 11:14 73:19 prefer 38:6,23 preferred 40:5,10 80:12 premature 10:10 prepared 80:20 present 1:9 2:6 7:12 10:19 pretty 44:23 preventing 12:4,5 price 26:18 43:17 principal 80:9 principle 78:5 prior 56:5 privilege 46:2 proactive 69:8 76:21 proactively 77:15 probably 6:19 20:16 80:17 problem 34:21 73:12,13,21,24 74:5,20,24 75:9 75:20,21,22 76:9,10,16 77:16 problems 63:17 proceed 7:5 47:2 55:8,16 proceedings 82:4 process 5:16 6:2 16:6 17:4,9,15 43:6 63:12 64:24 74:12 77:12 produce 27:15,17	28:4,12,15 29:2 29:2,4,23 produced 24:9 produces 10:8 product 26:18 28:5,9 29:6,19 30:3,10 31:18 32:2 35:3 production 27:25 productive 68:18 products 28:18 29:8,24 31:15 professionals 46:24 profits 35:2 program 12:15 progressive 4:2 promulgate 9:20 11:20 pronounce 6:18 properly 6:18 proposed 15:25 20:21 42:21 56:12 protect 7:17 56:20 59:20 protected 34:13 60:2 protecting 19:9 Protection 8:15 protects 59:5 provide 17:12 25:23 35:2 provided 12:12 provides 11:19 providing 1:15 2:16 provision 17:22 18:15 public 2:4 6:21 7:10 9:23 10:4 17:9 19:17,19 19:19 21:18 43:6 57:25 58:10 60:4,5,9 64:19 65:25 67:19,24 82:15	purchase 22:2 35:10 43:19 purpose 6:11 7:23 67:3 70:6 pursue 53:4 put 12:22 13:21 24:24 35:23 36:10,22 43:10 48:25 51:3 60:14 61:6 62:6 62:9 71:6 72:3,7 putting 36:12 p.m 1:7 81:24 Q qualified 35:25 quality 7:17 44:4 56:11 57:3,11 57:14 58:9 59:6 59:23 62:2,9 65:20 67:22 68:3,8 74:25 76:2,5,7,12,24 quantifiable 44:3 quarrel 45:8 question 44:11 45:15 questions 10:20 10:25 11:10 15:11 23:3 26:25 27:5 30:14 52:17 56:6 57:5 78:22 quickly 18:2 35:8 36:22 quite 17:25 quote/unquote 18:10 R rain 10:11 raise 74:10 raises 74:5 raising 21:10,12 ranks 67:23 ratcheting 27:22 ratchets 27:23 rate 4:14
---	---	---	---	--

rates 4:22,23 5:2 reach 13:10 reaction 46:12 60:22 read 2:11 readily 43:16 real 19:23 realized 19:12 20:13 really 13:7 14:20 19:4 26:4 31:24 50:13 51:2,15 51:19 53:8 59:11 62:11,13 74:17 79:7 reason 12:20 13:17 26:14 53:6 73:6 reasonable 73:3 recall 41:12 receive 27:16 received 26:18 recess 78:23 recessed 81:18 recognizes 10:5 recommendation 59:2 recommendatio... 25:2 47:3 65:21 66:3 73:10 recommending 36:12 record 4:6 7:5 10:23 33:16 41:21 43:10,13 55:8 61:16 78:4 reduce 7:24 10:14 39:12 reducing 65:19 reexamine 78:9 refer 26:23 reference 12:12 referred 25:13 refinery 24:3,7,9 26:16 reflect 4:7 39:15 78:4	regarding 12:23 37:8 80:11 regardless 16:20 71:3 region 36:23 regional 49:24 regions 67:24 regulate 45:25 regulating 12:3 regulation 1:17 2:19 9:13 13:3,4 13:16 18:20 19:3,20 20:17 21:7 60:21 61:10,12 regulations 2:25 3:12,21 8:8,15 9:20 11:16,20 12:10,11 13:22 15:17 46:20,21 61:3 70:25 reiterate 17:17 related 9:21 52:25 relative 24:22 48:5,19 68:21 released 10:13 reliable 39:12 43:12 remaining 80:23 remains 4:19 remarks 2:23 37:8 72:21 remember 33:21 remind 53:16 remove 2:24 17:2 removing 3:22 17:11,14 repairs 28:21 repeated 76:14 replaces 9:6 report 74:25 reporter 82:23 represent 54:2 60:7,14 representation 60:13 representatives	18:5,7,11 19:15 19:25 represented 18:13 57:24 58:13 62:18 representing 23:23 represents 32:9 reprocess 30:5 reproduction 82:20 requested 6:12 required 18:4 22:4 31:15 39:6 39:9 52:13 requirement 28:15 requirements 1:15 2:16 27:20 28:8 32:10 requires 28:9 39:9 reread 80:18 reside 56:22 resolution 53:4 81:8 resolve 79:11 respect 69:17 respiratory 10:10 10:17 response 23:4 46:12 52:19 54:21 responses 43:8 responsibility 5:18 13:9 24:22 25:12 36:17 responsible 27:13 47:6 rest 34:5 76:14 restaurants 71:3 result 16:12 32:7 35:12 44:3 retard 50:10 retrofit 35:11 retrofitting 68:20 return 79:20	reverse 65:4,10 66:7 review 4:8 5:19 6:5 52:8 54:17 reviewed 80:14 revisit 8:22 rewrite 14:8 21:6 Reynolds 1:10 7:7 33:25 55:19 ride 49:11 right 6:19 21:4 33:12 34:14 48:14 52:15 56:20 63:12 69:17 70:20 76:2 77:21 rise 75:12 road 28:6 room 1:6 65:18 route 40:5,11 RPR-Notary 82:15 rulemaking 44:25 rules 44:16 70:25 71:6 run 30:4 50:21 S safe 19:8 Safety 41:24 sale 1:14,16 2:14 2:17 Saleem 55:9 67:12 sales 24:8 28:3 satisfied 42:14 saved 48:9,15 saving 48:7 51:12 saying 16:12 17:5 17:6 22:18 42:4 48:17 49:22,24 64:8 65:5,9,16 68:5 72:5 75:19 says 13:6 67:25 schedule 69:23 school 75:15 scientific 9:22	screaming 65:18 secondly 24:7 33:22 Section 1:14 2:13 7:13 8:9 9:8 security 50:20 see 25:8 29:12 31:8 67:20 70:24 77:16 seek 29:4,10,24 79:11 seeking 4:20 seeks 2:24 3:2 seen 14:7 19:3 27:18 29:12 49:18 62:20 segregate 31:25 selling 30:10 62:3 Senior 41:24 sense 17:8 25:20 80:16 separate 80:7,8 SEPTA 49:14,14 71:16,22 serve 32:11 35:20 51:22 service 14:24 16:2 30:20 31:7 35:3 Services 6:22 7:10 11:8 14:14 25:17 set 3:4 4:21 9:16 9:24 11:21 12:3 12:9,21,25 13:8 13:10 16:14 17:24 21:20 42:13 64:25 65:3,13 68:25 69:12 70:9,17 sets 3:8,14 setting 70:23 severe 75:21 shale 50:2 shape 51:15 share 11:13 shared 41:6 sharing 73:2
---	---	--	--	--

short 22:5,8 28:25 showed 19:23 shower 49:21 shrink 29:13,25 shrinks 29:20 shrunk 27:25 shut 28:20 69:2 side 21:15,16,16 sides 37:2 significant 29:15 44:3 significantly 31:21 similar 28:5 simply 24:24 25:19 31:8 33:19 single 60:25 singular 32:21 Sir 47:24 sit 15:23 47:15 situation 15:18 16:9 34:9 36:10 76:3 slow 77:11 small 13:22 28:2 smog 12:5 smoking 66:10,11 68:7 sold 7:25 8:12,17 28:18 Solutions 23:11 23:24 24:5 27:12 34:11,25 41:9 42:3 43:21 45:8 79:11,19 solved 75:20 somebody 12:21 somewhat 11:24 32:24 sort 14:11 34:13 60:21 62:22 sorts 26:3 40:18 sound 35:21 sounds 14:24 sources 12:4 South 37:16	Southeastern 34:4 Southern 26:7 SO2 10:9 75:21 75:25 speaking 11:6 47:21 speaks 52:8 specific 8:11 13:10 25:16 43:14,22 specifically 18:7,8 18:9 41:5 81:7 specified 9:7 spell 6:19 spend 21:23 spewing 71:17 spoken 33:24 sponsor 24:13 staff 6:6 55:13 stakeholders 78:25 stand 37:5 49:17 standard 2:25 9:5 10:7 15:20 16:15 17:24 19:4 21:19 22:3 31:4,20 32:2,5 34:2 37:24 38:25 42:21,25 43:2,4,11,16 44:19,20 45:5 62:22 64:14,15 64:18,24 65:3 65:14,15,19 66:19 67:19 69:2,5,12,24 70:2,18 standards 3:9,15 3:24 4:3 5:21 7:21 8:4,7,18,24 9:17 10:2,6 12:2 12:17,23,24 13:10 15:17 16:16,20 20:7 26:6,10 30:21 31:23 32:16	36:10 38:5,7,11 38:18,21 39:3 40:13 42:7,9,12 42:16 44:5 50:15 51:25 52:3,3 62:5 70:23 71:6 75:25 80:11,14 standard-making 63:11,13 start 42:4 started 35:17 starting 29:13 state 3:11,20 7:4 7:20 8:18 9:4 10:2,23 15:16 15:17 23:19 30:20 31:5 32:16,24 34:5 38:4 40:21 41:20 42:12,17 44:15,18 52:2 55:7 60:18 61:17 67:24 stated 40:20 52:10 57:15 66:23 73:5 75:3 76:15 80:3 statement 37:18 58:2 states 26:20,22 27:20 29:12 32:11 37:17 40:17 62:3 statewide 8:18 state's 9:5 10:7 12:14 stationary 12:3 stenographic 82:6 steps 12:7 store 30:2 stores 71:4,4 stormwater 22:12 street 49:17 69:19 71:15 streets 35:12 69:20	strict 26:10 31:20 32:7 37:21 38:7 38:12,14 stricter 15:18 30:21 31:23 stringent 8:19 16:20 19:4 26:10 42:11 43:16,24 44:2 44:19 strongly 56:11 student 75:17 stuff 57:7 69:20 subject 4:12,13 4:21 submit 54:17 submitted 4:5 subsequent 54:16 substantially 43:24 suffered 75:17 suggest 42:12 suggested 45:13 sulfur 4:22 5:17 7:24 8:4,11,16 8:23 9:3,6,14,24 10:6,8,12,12,13 12:23 24:23 25:3 26:4 27:20 28:9,18 30:11 30:21 32:2 39:24 73:15 sum 47:8 summarize 27:6 summers 75:11 Sunoco 51:13 supervision 82:22 suppliers 43:20 supply 26:11 support 31:12 37:25 56:12 supported 43:12 supporting 63:6 supposed 18:17 70:7,10 sure 11:18 19:8 32:9 34:9 37:13	37:15 40:23 53:8 56:7 67:12 75:2,15 surely 46:19 surrounding 39:23 40:17 41:10 42:17 58:4 80:10,12 suspicion 74:11 sustainability 78:13 system 73:9,17,22 73:25 74:4,8,9 74:15,16 75:15 systemically 74:2 S-A-L-E-E-M 55:10
T				
table 6:24 7:2 23:13,16 41:18 47:22 55:3,5 78:21 79:20,22 take 8:21 12:7 18:17 19:5 32:14 33:3 49:20 54:3 57:14 58:4,5,21 60:10 69:10 70:7 72:13 taken 19:6 39:22 57:11 59:10 69:18 82:6 talk 24:6,8 25:22 53:14 61:12 talked 24:15,19 25:14 27:2 talking 71:23 targets 3:8,14 tasks 54:16 team 81:4 technical 9:23 technically 65:17 65:24 technology 10:3 tell 44:13 51:16 69:13 73:13				

telling 64:22 68:22	21:9,11,12 22:13,14 25:19	toto 54:7	understood 26:13 37:13	40:25 41:7
temperatures 75:12	35:14,23 36:5	towns 48:9	uneconomic 30:8	48:19,20,25
template 38:18	36:20,24 37:18	toy 61:2	unelected 49:2	49:8 50:8 51:3
ten 60:23	39:19,22 40:15	trade 19:25	unfair 14:20	51:19 53:20
tenable 64:11	43:5,13 44:23	Trainer 51:16	United 26:20,21	54:3 57:4 59:23
65:22 66:7	44:24 45:10	transcript 82:8,20	unusual 11:25	63:19 72:12
terms 2:20 30:21	46:6 48:11,21	transparent 43:6	14:18	80:8,13
terrible 14:6	49:4 50:13	transport 29:16	upstream 71:14	wanted 57:7
Terrific 55:15	51:14,23 53:9	31:14,25	urgency 5:23	61:15 71:15
testify 55:2,18	53:23 54:6	transportation	urging 53:4	warmer 75:10,11
testifying 24:11	58:18 61:11,18	18:11 24:10	use 27:21 38:18	wasn't 16:23 19:5
testimony 2:4 7:5	74:5	37:25	48:24 50:23	22:6
7:12 10:19 20:4	Thomas 6:20 7:8	treat 28:23	69:14 70:10	way 4:9 16:24
22:21 23:20	thought 12:21	tremendous	users 50:4	22:17 33:19
27:9 55:8,16	14:19 37:13	75:14	Usually 67:5	44:9 45:18
56:5 58:11	69:16	tried 21:6 73:4	73:16	46:25 68:18
73:23 78:3 80:7	thoughts 4:11	trucks 28:7		69:8 70:21
80:18	thousand 23:24	true 60:9 82:7	V	72:14
thank 2:21 5:11	three 14:21 17:20	trustworthy	value 64:19	ways 24:17 29:24
6:15 7:11 10:18	26:25 40:20,25	66:14	various 50:17	78:14
15:13 22:22	80:10	try 19:7 36:19	venture 48:6	weather 26:3
23:5 30:16	throw 49:9	49:23	verbatim 13:5	Wednesday 1:7
34:15,16,19,20	tighten 8:23	trying 22:10	Vermont 45:6	weeks 14:21
37:6 54:10,18	time 4:23 5:2 15:8	66:17	versatility 67:18	17:21
55:17 56:9	28:21,22 30:4	two 18:10 22:5,8	68:14	welcome 22:25,25
72:17,18,23	32:2 39:13	28:16 35:5	versus 53:25	55:2 77:25
77:22,23 78:2	45:11 49:6	36:20 48:9,15	Vice 23:8	81:22
79:18 81:17,20	50:11 55:24	80:15 81:4,14	Vidas 4:6	welcomed 54:17
theirs 72:9	60:20 66:12	two-year 20:5	view 36:2 50:18	Welde 55:12,13
theoretically	69:11 71:16	type 45:17 57:11	51:5 63:9 72:4,5	55:17,22 56:8
74:16	77:11,11 78:8	typical 32:5	72:8	59:16 63:10,24
thing 11:24 14:6	times 16:7 28:14	typically 28:16	views 72:14	64:5,9,20 65:6
14:10 34:13	30:2 53:13	30:8 32:3 44:14	violating 14:17	65:23 66:18
46:6 57:11	timing 16:14	U	17:19	72:18 74:23
61:18 76:10	39:25	ultimate 11:15	visibility 10:16	79:16
things 12:8 19:18	Tinicum 51:16	47:7 56:16 59:8	voice 61:2 62:15	well-meaning
25:13 26:3	title 2:11 3:7,13	59:17	volunteer 35:20	35:24 49:4,5,6
35:13,21 40:18	8:9 9:7 11:23	ultimately 40:12	vote 6:3,8 16:25	51:4
48:25 50:25	today 5:23 6:9	48:9 51:24	69:24	well-read 36:25
66:12 67:22	7:12 11:24 38:2	62:16 63:18	vulnerable 39:13	went 16:10 17:25
70:21 77:10,14	38:14 57:8	undeniable 75:9		18:23 48:10
77:17	60:19 74:25	understand 4:18	W	we'll 10:24 23:14
think 12:10 13:3	tons 66:12 69:19	5:22 15:15 17:4	Wait 68:2	52:14 54:23
13:13 16:21	total 36:3	66:25,25 73:7	want 4:4 6:23	we're 4:20 5:3,21
17:22 20:12	totally 65:15	understanding	25:11 26:17	19:8 23:23
	71:12	3:5 6:10	32:8 34:8,9,11	31:15 34:6
			35:6,8 38:10,17	35:16 39:13

51:20,21 52:2 59:14 61:11 64:16,16 65:3 65:19 69:25 73:6,20 74:8,12 76:19 77:3,8 78:8 79:5 we've 24:14,15,19 24:20 25:14 26:6 33:24 35:21 38:16 39:5 53:17 66:15 67:21 79:23 whack 70:24 whatsoever 17:15 wheelhouse 76:18 willing 36:16 winter 26:2 28:19 witness 6:24,25 23:13,15 41:17 41:17 55:3,4 78:21 79:20,21 Witnesses 6:25 23:15 55:4 79:21 wondering 33:7 word 19:14 words 58:18 74:10 work 22:20 24:18 39:11 59:22 60:15 79:7 worked 60:22,25 workers 24:2 working 13:20 56:18 74:2 workload 59:13 world 36:2 51:6 72:4,8,14 78:10 worry 59:9 worse 71:23 77:3 wouldn't 68:23 72:7 write 63:24 written 18:16 43:8,8 56:12	wrong 21:16 32:15,25 41:7 72:5 W-E-L-D-E 54:24 55:13 X X 69:5 Y Y 69:6 yeah 33:5,17 39:21 40:14 52:13 65:16 year 20:8 61:14 75:11 years 13:20 14:15 17:18 18:24 20:15,19 21:5 21:24,24 22:5,8 45:6 56:18 60:23 62:19 yelling 65:18 York 38:7,9 61:21 61:22 Z zeal 34:24,25 \$ \$50,000 21:23 1 1 12:10 1st 8:21 45:13 1.5 75:4 12:45 1:7 140313 1:14 2:5 2:11 3:1 4:1 5:1 6:1 7:1,12,23 8:1,5 9:1,6 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1,12 25:1 26:1 27:1 28:1 29:1 30:1	31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1 72:1 73:1 74:1 75:1 76:1 77:1 78:1 79:1 80:1 81:1 15 12:10 21:24 28:9,23 29:8 30:12 31:17 32:4,7 45:4 1970 12:20 1978 3:10,16 78:7 78:16 81:10 2 2:05 81:24 20 6:3 21:24 2013 8:13 2014 1:7 2016 8:21 61:14 62:10 2017 27:24 2018 45:13 61:13 2020 19:6 207 8:9 9:8 27 13:19 20:14,19 21:5 62:19 3 3 3:7,13 8:9 9:7 11:23 3,000 56:21 3-207 1:14 2:13 7:13 13:4 3-400 12:13 30 1:7 71:20 30-day 19:19	4 4/30/14 3:1 4:1 5:1 6:1 7:1 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1 72:1 73:1 74:1 75:1 76:1 77:1 78:1 79:1 80:1 81:1 40 56:18 71:20 400 1:6 7 700 71:22 9 9 8:13
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