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## L & I - Electrical Board

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### MEETING

July 27, 2023

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DEPARTMENT OF LABOR AND INDUSTRIES

STATE OF WASHINGTON

ELECTRICAL BOARD MEETING  
TRANSCRIPT OF PROCEEDINGS

July 27th, 2023

9:00 a.m.

Pages 1 through 120

Clark College, Penguin Union Building, Room 258A-C  
1933 Fort Vancouver Way  
Vancouver, Washington

**CERTIFIED  
TRANSCRIPT**

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A G E N D A

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15  
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22  
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24  
25

ITEM NO.		PAGE
1.	Safety Message	4
2.	Approve Transcript from April 27th, 2023 Electrical Board Meeting	5
3.	Appeals	
	a) Randy's Heating ECHBO01063, ECHBO01065, ECHBO01066 and ECHBO01067	6
	b) General Construction Company and William T Brown EJONV05509, EJONV05510, EJONV05511, EJONV05512, EJONV05513, EJONV05514	28
	c) Gabriel McCoy and EPRO EIMER00485, EIMER00486, EIMER00487	66
4.	Departmental/Legislative update, Lorin Lathorp	84
	Rulemaking Updates:	
	a) WAC 296-46B rulemaking to adopt the 2023 National Electrical Code and other housekeeping changes	84
5.	Certification/CEU quarterly report, Lorin Lathorp	86
6.	Secretary's Report, Lorin Lathrop	95
7.	Pre-Construction Meetings and Electrical Inspector Involvement, Lorin Lathrop	106
8.	Public comment regarding items not on agenda	108



1                   BE IT REMEMBERED that an Electrical Board  
2 Meeting was held at 9:06 a.m. on Thursday, July 27,  
3 2023, at Clark Community College, 1933 Fort Vancouver  
4 Way, Penguin Union Building, Room 258A-C, Vancouver,  
5 Washington.

6                   Board Members present: Jason Jenkins,  
7 Ivan Isaacson, Erick Lee, Jack Knottingham, Mike Nord,  
8 Dylan Cunningham, Don Baker, James Tumelson, Bobby  
9 Gray, Kerry Cox, and Dominic Burke.

10                  Present as standing Secretary: Lorin Lathrop.

11                  Assistant Attorney General present:  
12 Ben Blohowiak.

13                  WHEREUPON, the following proceedings were  
14 held,  
15 to wit:

16   --ooOoo--

17  
18   P R O C E E D I N G S

19  
20                  CHAIRPERSON JENKINS: So good morning. It's  
21 July 27th, 2023, in Vancouver, Washington, at  
22 approximately 9:06 a.m. I'd like to bring the  
23 Washington Electrical Board Meeting to order.

24                  Thank you-all for attending. I appreciate  
25 for you-all for being here. I know a lot of you



1 traveled more than others. Anyway, our secretary is  
2 not currently here today. We're going to have Lorin  
3 Lathrop who is going to be our secretary -- our  
4 standing secretary for today. For the record, we do  
5 have a quorum.

6 And I then, I asked Lorin Lathrop to do the  
7 safety message this morning, so if you would like, go  
8 ahead.

9 SAFETY MESSAGE

10 STANDING SECRETARY LORIN LATHROP: Thank  
11 you, Chair Jenkins.

12 Really quickly, just -- since we're in a  
13 space we may not be familiar with. We have -- in case  
14 of an emergency, we have evacuation routes here. It's  
15 actually posted here, by each door. And what they say  
16 is that in case of an emergency, please use the  
17 nearest exit following the red and white signs. Take  
18 anything you need, like keys, wallet, stuff like that,  
19 with you. Don't use the elevator, and the -- find any  
20 building coordinator. Go with them. Listen to their  
21 directions. Go to the assembly area, which I thought  
22 it was interesting. It's not on their list of where  
23 the assembly area is. It says go to the assembly  
24 area. And then, if there anyone who needs help, help  
25 assist disabled. So that's one side of it.





1 I guess we can jump into our Google transcript of last  
2 meeting, April 27th, 2023. The chair would indicate a  
3 motion.

4 BOARD MEMBER BAKER: Motion.

5 CHAIRPERSON JENKINS: We have a motion.

6 Do we have a second?

7 ERICK LEE: Second.

8 CHAIRPERSON JENKINS: We have a motion  
9 second. Any discussion?

10 Hearing none, all in favor of approving the  
11 April 27th, 2023, minutes, all signify by saying aye  
12 all.

13 BOARD MEMBERS: Aye.

14 CHAIRPERSON JENKINS: Any opposed?

15 Motion passes.

16 APPEALS

17 RANDY'S HEATING

18 Next item on our list here is Randy's  
19 Heating, LLC.

20 Do we have a representative from Randy's  
21 Heating here this morning?

22 MS. GRIMES: Yes. Alysa Grimes on behalf of  
23 Randy's Heating.

24 CHAIRPERSON JENKINS: All right. Take a  
25 seat right here.



1                   And do we have someone from the Department?

2                   MR. SOSA PADILLA: Yes. Good morning. I'm  
3 Wilson Sosa Padilla.

4                   CHAIRPERSON JENKINS: All right. Thank you  
5 very much. Have a seat here also.

6                   The matter before us today is an appeal of  
7 Randy's -- the Matter of Randy's Heating, LLC, Docket  
8 Number 052021-LI01646. This hearing is being held  
9 pursuant and due to proper notice to all of the  
10 parties in Vancouver, Washington on July 27th, 2023,  
11 at approximately 9:10 a.m.

12                   This is an appeal for an initial order  
13 issued by the Office of Administrative Hearings, on  
14 April 12th, 2022. It's my understanding that decision  
15 was affirmed; citation notices: ECHBO01063,  
16 ECHBO01064, ECHBO01065, ECHBO01066, and ECHBO01067,  
17 issued by The Department of Labor and Industries on  
18 December 12th of 2020. It is further my understanding  
19 that the appellant has timely appealed this decision  
20 to the Electrical Board.

21                   So the electrical board is a legal body  
22 authorized by Legislature not only to advise the  
23 Department regarding the electrical program, but to  
24 hear appeals when the Department issues citations or  
25 takes some other adverse action regarding the





1 electrical license certification and compliance.

2 The electrical board is a completely  
3 separate entity from the Department and as such will  
4 independently review the actions taken by the  
5 Department. When the Department issues penalties, the  
6 hearing is assigned to the Office of Administrative  
7 Hearings to conduct the hearing pursuant to the  
8 Administrative Procedures Act.

9 The ALJ who conducts the hearing issues a  
10 proposed decision and order. If either parties  
11 appeals, their -- the decision is subject to review by  
12 the Electrical Board.

13 Please keep in mind, while our review is de  
14 novo, for example, we sit in the same position as the  
15 administrative law judge and will review the entire  
16 record regardless of whether a certain piece of  
17 evidence is referenced by the ALJ. We are bound by  
18 the evidence and the record, and no new evidence can  
19 be submitted at this hearing.

20 Each party will be given approximately 15  
21 minutes today to argue the merits of their case. Any  
22 board member may ask questions at any time to -- and  
23 time may be extended at the discretion of the board.

24 At the conclusion of the hearing, the board  
25 will determine if the findings and the conclusions



1 reached by the ALJ are supported by the finding and  
2 rules pertaining to the electrical installations.

3 Are there any questions?

4 MR. SOSA PADILLA: No questions.

5 CHAIRPERSON JENKINS: Okay. As the  
6 appealing party, you have the -- prove to establish  
7 the proposed decision is incorrect. Therefore, we  
8 will hear from you first.

9 MS. GRIMES: Thank you.

10 Randy's Heating appeals the ALJ's denial of  
11 its motion for partial summary judgment and the ALJ's  
12 initial order. And I'll begin with the motion for  
13 partial summary judgment. Randy's Heating asks this  
14 Electrical Board to reverse the ALJ's denial because  
15 four of the Department's five citations should have  
16 been dismissed as barred by the statute of  
17 limitations. A statute of limitations is a time limit  
18 for the Department to issue citations, and the statute  
19 of limitations in this case is two years.

20 Generally, a statute of limitations will  
21 begin running when the citable conduct occurs;  
22 however, there is also something called the discovery  
23 rule. And the discovery rule states that a statute  
24 limitations will not start running until the  
25 Department discovers or should have discovered the



1 citable conduct. Importantly, the Department must  
2 exercise due diligence in order for the discovery rule  
3 to apply. If it does not, then the discovery rule  
4 will not apply.

5 Here, Randy's Heating was cited for conduct  
6 that occurred between May 2018 and May 2019. Randy's  
7 Heating received notice of these citations in  
8 January 2021. So if the statute of limitations had  
9 started running when the conduct occurred, then the  
10 January 2021 citations would be outside that two-year  
11 statute of limitations. However, in this case the ALJ  
12 relied on the discovery rule and held that the statute  
13 did not start running until December of 2019, when  
14 Inspector Ben Chavez reviewed Randy's Heating's  
15 affidavits of work experience.

16 Now, there are two issues with this: the  
17 point of discovery and due diligence. Inspector  
18 Chavez testified that before affidavits of work  
19 experience ever get to him, they are reviewed by  
20 Licensing. And Licensing will flag any suspect work  
21 affidavits and forward them to auditors for further  
22 review. Inspector Chavez also testified that he does  
23 not know how much time passed between when the  
24 affidavits were flagged and when he reviewed them.

25 So regarding the point of discovery, the ALJ



1 provided no authority for determining that Inspector  
2 Chavez's review was the point of discovery rather than  
3 when Licensing reviews the affidavit. And because we  
4 don't know the amount of time between when these  
5 affidavits were flagged and when Inspector Chavez  
6 reviewed them, the point of discovery could have been  
7 earlier.

8           Second, regarding due diligence, the  
9 earliest conduct that was cited occurred in May 2018.  
10 Inspector Chavez did not review that conduct until  
11 December 2019, over one-and-a-half years later. And,  
12 again, there's no evidence in the record as to how  
13 long Inspector Chavez had access to the flagged  
14 affidavits before he reviewed them. This is not due  
15 diligence.

16           Moreover, in December 2019, when the  
17 affidavits were reviewed, the Department was still  
18 within the statute of limitations. However, Randy's  
19 Heating was not cited with the original citations  
20 until June 2020, and those citations were eventually  
21 voided due to department error, and Randy's Heating  
22 was cited again for the same conduct in January 2021.  
23 At that point, we're almost three years outside of the  
24 cited conduct.

25           The Department argues that the discovery



1 rule must be applied because otherwise contractors  
2 will be able to break the rules with impunity, because  
3 the Department will not be able to cite them in time.  
4 However, the burden of citation is on the Department,  
5 and statutes of limitations exist for a reason. The  
6 Department cannot rely on the discovery rule to extend  
7 the statute of limitations to a time frame that suits  
8 its needs. The Department needs to work within the  
9 statute of limitations, if at all possible, and here  
10 it was possible.

11 For these reasons, the discovery rule should  
12 not apply here. And without the discovery rule, the  
13 statute of limitations started running when the  
14 citeable conduct occurred, and four of the five  
15 citations were noticed outside of the two years of the  
16 statute of limitations.

17 Therefore, Randy's Heating asks this  
18 Electrical Board to reverse the ALJ's denial of  
19 partial summary judgment and dismiss the four  
20 citations. Now I'll turn to the initial order.

21 Randy's Heating asked the Electrical Board  
22 to reverse the ALJ's conclusions of law and findings  
23 of fact that Leonard Tobin was not a full-time  
24 supervisory employee. On appeal from the initial  
25 order, Randy's Heating must show that Mr. Tobin was a



1 full-time supervisory employee by a preponderance of  
2 the evidence, and that just means that it's more  
3 likely than not.

4 So Randy's Heating must show that it was  
5 more likely than that not that Mr. Tobin was a  
6 full-time supervisory employee. And under the WAC,  
7 Mr. Tobin, to be a full-time supervisory employee, he  
8 must have been on the full-time payroll; he must have  
9 received a regular salary or a wage, similar to other  
10 employees; he must have had supervisory responsibility  
11 for work performed by the contractor; and he must have  
12 carried out the duties on RCW 19.28.

13 During the hearing, Randy Johnson, Randy's  
14 Heating's owner, he testified to all of these facts.  
15 He testified that Mr. Tobin was a full-time employee  
16 of Randy's Heating. He determined Mr. Tobin's  
17 schedule, the projects he worked on, and where and  
18 when he worked on them. Mr. Tobin supervised all the  
19 necessary electrical work under RCW 19.28. He ensured  
20 that all electrical work complied with installation  
21 laws, State rules, and safety procedures. And  
22 Mr. Tobin ensured that all required labels, permits,  
23 and licenses were used, and all corrective notices  
24 were issued and complied with.

25 Mr. Johnson also testified to these facts in



1 an affidavit and a declaration. He provided amended  
2 tax returns and affidavits of work experience. All of  
3 this evidence shows that Mr. Tobin was a full-time  
4 supervisory employee. However, in spite of this  
5 evidence, the ALJ concluded that Mr. Tobin was not a  
6 full-time supervisory employee based in part on  
7 Inspector Chavez's testimony and three findings of  
8 fact, which I'll address now.

9           Regarding Inspector Chavez's testimony, he  
10 testified that the main factor he considers when  
11 determining whether someone is a full-time supervisory  
12 employee is whether they're listed in the Employment  
13 Security Department's database. He continued that if  
14 that person is not listed in the database, then the  
15 burden shifts to the employer to provide documentation  
16 proving that the person is an employee.

17           Randy's Heating provided amended tax returns  
18 and tax -- and wage reports to show that while  
19 Mr. Tobin was initially misclassified, due to a  
20 misunderstanding of the law, the underlining facts at  
21 the time of the cited conduct show that Mr. Tobin was  
22 an employee.

23           However, the ALJ disagreed, and in that, the  
24 ALJ also made three findings of fact that should be  
25 reversed. First, the ALJ found that Randy's Heating's



1 tax returns initially identified Mr. Tobin as a 1099  
2 employee, and that counted against the conclusion that  
3 he would be a full-time supervisory employee.

4 However, Mr. Johnson explained -- he testified that he  
5 didn't understand the legal distinction. He didn't  
6 understand that a 1099 employee wasn't an employee as  
7 required by the Department. And once he knew of his  
8 mistake, he went through great pains and financial  
9 cost to correct those documents. Again, this is a  
10 situation where an employee was merely mislabeled, but  
11 the facts show that Mr. Tobin was a full-time  
12 supervisory employee.

13 Second, the ALJ found that Randy's Heating  
14 did not provide timecards. However, Randy's Heating  
15 is not required to provide timecards. The WAC  
16 requires pay records, timecards, or similar records to  
17 verify the working relationship. Randy's Heating  
18 provided amended tax returns and affidavits of work  
19 experience, which are pay records, or similar records  
20 showing the working relationship. They showed  
21 Mr. Tobin was paid as an employee, the hours that he  
22 worked, and the amount he was paid.

23 Third, the ALJ found that it was more likely  
24 than not that Mr. Johnson filed an amended tax return  
25 only after being notified. And it's unclear why this





1 would count against Randy's Heating. We would hope  
2 that anyone who is notified of their mistake would  
3 correct it, and that's just what Randy's Heating did.  
4 And if this finding is meant to infer some kind of  
5 nefarious intent, the ALJ provides no support for that  
6 inference.

7 Therefore, based on the foregoing, the ALJ's  
8 conclusions of law and findings of fact are in  
9 erroneous, and the evidence shows that Mr. Tobin was a  
10 full-time supervising employee by a preponderance of  
11 the evidence, and Randy's Heating asks this Electrical  
12 Board to reverse the ALJ's initial order and conclude  
13 that Mr. Tobin was a full-time supervisory employee,  
14 and therefore dismiss the remaining citation.

15 Thank you.

16 CHAIRPERSON JENKINS: Thank you very much.  
17 Department?

18 MR. SOSA PADILLA: Good morning, members of  
19 the Board. My name is Wilson Sosa Padilla. I am an  
20 assistant attorney general, and I represent the  
21 Department.

22 The preponderance of the evidence supports  
23 the initial decision finding that Tobin -- Mr. Tobin,  
24 as the master electrician, was not a full-time  
25 supervisory employee or a member of the firm as



1 required. And there are two reasons. One is, the  
2 evidence shows that Mr. Tobin was not a member of the  
3 firm on file with the Secretary of State as required.

4 Second, there are contracts between  
5 Mr. Tobin and Randy's Heating. There are IRS records  
6 and ESD records and lack of payroll records showing  
7 that Mr. Tobin was indeed not a full-time supervisory  
8 employee. And as a side issue, the Department also  
9 issued the citations within the two years of the  
10 statute of limitations. So the initial order denying  
11 the summary judgment motion was correct. So I will  
12 start with this summary judgment motion.

13 Mr. -- Randy's Heating is arguing that the  
14 Department wasn't noticed, that there was a problem  
15 with Mr. Tobin's classification when the Department  
16 received the affidavits in 2018. But if you look in  
17 the packet, which is a very long, big packet, page  
18 1471, you will find the affidavit. And these are  
19 affidavits -- as you might already know, these are  
20 affidavits in which an electrician is basically  
21 saying, I'm being trained, and I -- I'm certifying the  
22 hours.

23 If you look at page 471, 472, 473, and 474,  
24 there is absolutely nothing in there that would put  
25 the Department on notice that there was something



1 incorrect with Mr. Tobin's classification.

2 As Mr. -- Inspector Chavez said, when this  
3 was submitted with the Department, it was submitted  
4 with the part that deals with licensing. The problem  
5 with Mr. Tobin not being class -- properly classified,  
6 that goes in compliance.

7 So -- and we do know when the Department  
8 received these affidavits. Mr. Chavez didn't know.  
9 But if we go to page 1475, in there, it's called -- on  
10 the top you're going to see -- it says Exhibit C. If  
11 you go to the entry from November 19th of 2019, which  
12 is the one, two, three, four, fifth entry, it says,  
13 Affidavit submitted for Randy's Heating, dated  
14 August 1st, 2019, to -- sorry. Not that one. The  
15 second to last one, February 13th, 2018: Denied  
16 affidavit from Randy's Heating.

17 So we don't know when these 2018 affidavits  
18 were filed, but we know that they were denied in 2013.  
19 But they were denied and referred to audit, but it  
20 doesn't necessarily mean that the Department needed to  
21 check that everything for this company was in  
22 compliance, because if we -- if we agree with the way  
23 that Mr. -- Randy's Heating wants you to see how to  
24 address whether the Department should have checked in  
25 Mr. Tobin's classification, then every time -- the



1 Department has all the -- all the tools to check  
2 whether Mr. Tobin was or was not a full-time  
3 supervisory employee or a member of the -- of the  
4 firm. They have access to the Secretary of State  
5 records. They have access to ESD records, and they  
6 have the files.

7 The problem is we need to determine when it  
8 was reasonable, or we should expect the Department to  
9 do something. And the Department is expected to do  
10 something when they are working on something, and they  
11 see there is something wrong. When the Department was  
12 looking at the affidavit and they say, well, we are  
13 going to deny them, then later on, in 2019, we're  
14 going to deny them for untimely. Then in November of  
15 2019, notary date for the applicant's signature is  
16 altered. We're just talking about the affidavit.

17 At some point -- we don't know, but at some  
18 point -- maybe when the Department noticed that there  
19 was a notary date for applicant signature was altered,  
20 in November of 2019, that's when the Department  
21 probably started saying, okay, what's going on here.  
22 And that's when, two months later, Mr. Chavez --  
23 Inspector Chavez -- is that -- start digging deeper,  
24 and find out that Mr. Tobin was not a member of the  
25 firm or a full-time supervisory -- supervisory



1 employee.

2           So the Board -- the initial order issued by  
3 the administrative law judge was correct because it  
4 was proper for -- for that judge to apply the  
5 discovery rule. Something that also -- something that  
6 also -- the Supreme Court, in one case, applied the  
7 discovery rule in a case between a company, and the  
8 Department of Ecology explained, we need to apply  
9 discovery rule in this case because the Department of  
10 ecology is relying on self-reporting of these  
11 companies. So there is no other way for the  
12 Department to find out what is the problem unless they  
13 actually see the problem. Not just because somebody  
14 filed something they should know. So for those  
15 reasons is that the summary judgment motion was  
16 properly denied.

17           Now, I want to talk about -- about the other  
18 issue whether Mr. Tobin was a member of the firm or a  
19 full-time supervisory employee. Since Randy's Heating  
20 is not arguing that Tobin was a member of the firm, I  
21 will basically skip that, because they are not arguing  
22 that. They are arguing that Mr. Tobin was a full-time  
23 supervisory employee.

24           One of the problems of Randy's case is that  
25 basically, the only evidence Randy's presented was his



1 own testimony. So he was trying to show that  
2 Mr. Tobin was not -- was an employee based on what he  
3 was saying, that Mr. Tobin was paid, that Mr. Tobin  
4 was fulfilling all of his duties, and so on.

5 He presented some evidence that ESD records  
6 and IRS records were modified to reflect what he was  
7 saying, which is fine. The problem is that at the  
8 time of the inspection, Mr. Tobin was not a full-time  
9 supervisory employee, and that's what is needed.

10 So you can look and probably -- you don't  
11 need to go. But the 1099 forms -- so what does the  
12 evidence show at the time of the inspection that  
13 Mr. Tobin was not a full-time supervisory employee?

14 Well, we have 1099 forms show that he  
15 received non-employee compensation between 2016 and  
16 2019. Those forms are in page 1242 and 1245, W -- W-2  
17 forms for 2017 and 2018, showing that Tobin did not  
18 receive any wages from Randy's. Those ones -- those  
19 forms say they are correcting the original form  
20 saying, originally, Mr. Tobin was not paid any  
21 compensation, but we are changing, and he was getting  
22 some compensate -- compensation. The problem is that  
23 those forms were changed after the Department started  
24 the investigation.

25 When Mr. Chavez -- Inspector Chavez started



1 the investigation he asked for payroll information.  
2 He sent an e-mail to Randy's Heating. He sent an  
3 e-mail to Mr. Chavez, and there was no response. So  
4 there is no record showing that he was in the payroll.

5 So after the investigation started, as I  
6 said, Randy's changed Tobin's employee status with the  
7 IRS, and the reason that he put in those forms that  
8 are in page 1205 is that Tobin had -- Randy's had a  
9 subcontractor that was paid and issued as a 1099.

10 The ESD records amended reason was: Did not  
11 know that Leonard Tobin was an employee. But the  
12 problem is that all this happened after the Department  
13 issued -- started the investigation. And I understand  
14 that trying to comply with a government entity -- with  
15 the Department of Labor and Industries can be very  
16 complicated, and that Mr. -- Randy's Heating was  
17 trying to comply with that. The problem is that he  
18 did not.

19 And another reason why we know that he was  
20 not a full time supervisory employee is because  
21 Mr. Tobin and Randy's Heating entered into an  
22 agreement, two agreements actually, there, in  
23 page 1287, that -- they are saying -- actually, in  
24 page 1288, this is the agreement, I believe, from  
25 2016. In page 1288 it says, Section 2.3, employment



1 relationship: RH, Randy's Heating, hereby agrees that  
2 Member, that is Mr. Tobin is a self-employed member of  
3 the firm and paid as a 1099 employee. And that is the  
4 same that the 2019 agreement says in page 1291, RH  
5 hereby agrees that Member is a self-employed member of  
6 the firm and paid as a 1099 employee.

7 So, again, going back to -- I understand  
8 that it's hard to try to comply, but Mr. -- Randy's  
9 Heating was trying to comply, making Tobin a member of  
10 the firm. As the agreement says, the problem with  
11 that is that to be a member of the firm, just having  
12 an agreement is not enough. This member needs to be a  
13 member in the records of the Secretary of State. So  
14 he was not. So then they are try -- Randy's tries to  
15 make Mr. Tobin a full-time supervisory employee, and  
16 it's totally fine. The problem, again, is that that  
17 happened after the fact.

18 So the Department is not citing Randy's  
19 Heating after Mr. Tobin was made full-time supervisory  
20 employee. The Department is citing Randy's Heating  
21 for what happened before. And just because these --  
22 some of the paperwork presented made changes and  
23 reflected some changes, it doesn't mean that changes  
24 the fact that at the time of the violation or the  
25 inspection, Mr. Tobin was not a full-time supervisory





1 employee.

2           And one more thing is, I just want to  
3 highlight the policy reason. If companies could just  
4 do something like this on purpose, and I'm not saying  
5 that Mr. -- Randy's Heating did it, but if a company  
6 can just say, okay, let's just don't have a full-time  
7 supervisory employee or an -- an electrical  
8 administrator as a full-time supervisory employee, we  
9 are not going to pay anything. We will just wait  
10 until we get dinged by the Department. As soon as we  
11 get a citation, we go back two years, and we amend  
12 everything, and then we go to the Department and say,  
13 hey, we made a mistake.

14           How many companies do you think will be  
15 doing that or trying to do that to avoid paying  
16 full-time salary to a full-time supervisory employee?  
17 So that is one of the reasons. Not only because  
18 there's nothing in the RCW or the WAC that says that  
19 the companies can just go back and try to fix the  
20 paperwork, but your problem is that there will be no  
21 incentive for companies to comply.

22           Unless this Board has any questions, the  
23 Department requests to -- that the Board affirms the  
24 initial order.

25           Thank you.



1           CHAIRPERSON JENKINS: Thank you very much.

2           All right. Questions from the Board?

3           I would like to bring up that the -- I would  
4 like to affirm the -- the Department's situation  
5 simply because of the last comments he also made here  
6 about the contract being supplied showing he's a 1099  
7 employee versus he's actually part of the firm.

8           I don't need to point out multiple times the  
9 explanation and the case itself. We all read that.

10          Anybody have any discussions -- separate --  
11 different?

12          BOARD MEMBER KNOTTINGHAM: Well, looking at  
13 the record, you know, I -- what I took out of it was  
14 that they're trying to show that he's an employee, but  
15 I never saw full-time employee. So that was  
16 problematic for me. Plus the 1099s, so...

17          CHAIRPERSON JENKINS: Thank you.

18          BOARD MEMBER KNOTTINGHAM: You know, it  
19 looks from -- from the agreements that, you know what,  
20 when we have the permit, you're -- you're an employee.  
21 When we don't have a -- we're not going to pay.  
22 They're paying per job. They're not paying as an  
23 employee. It's more piecework.

24          CHAIRPERSON JENKINS: Thank you.

25          Something else that I'm going to point out



1 that during these times that he was supposed to be a  
2 full-time employee for Randy's Heating, he's also with  
3 Edlen Electric. He shows records for 293 hours in  
4 quarter two; 458 hours in quarter three; quarter four,  
5 419 hours, and so on and so forth, and yet in Randy's  
6 Heating has 520 hours per quarter. That's almost 80  
7 hours a week of working.

8 RANDY JOHNSON: Yeah. I do that. I do that  
9 now. I've been doing that for six years, but you're  
10 going to sit back and say that a man in America can't  
11 work?

12 CHAIRPERSON JENKINS: Hold on a second.  
13 Hold on. This is a discussion with the Board.

14 RANDY JOHNSON: Okay. God bless America  
15 then, right?

16 CHAIRPERSON JENKINS: To be a full-time  
17 employee on both, that to me is not proof of that.

18 Any other questions? Discussions? If not,  
19 let's hear the motion.

20 BOARD MEMBER KNOTTINGHAM: I'll make a  
21 motion to affirm the citations as issued.

22 CHAIRPERSON JENKINS: We have a motion.  
23 Do we have a second?

24 BOARD MEMBER NORD: I have second.

25 CHAIRPERSON JENKINS: We have a motion of



1 second.

2 Any discussion?

3 Hearing none, all in favor to uphold the  
4 ALJ's decision, all in favor by saying aye.

5 BOARD MEMBERS: Aye.

6 CHAIRPERSON JENKINS: Any opposed?

7 UNIDENTIFIED SPEAKER: Aye.

8 CHAIRPERSON JENKINS: The motion passes.

9 Thank you very much.

10 The Board has made its decision. I'm sorry,  
11 Mr. --

12 MR. SOSA PADILLA: Sosa Padilla.

13 CHAIRPERSON JENKINS: -- Sosa Padilla,  
14 you're the prevailing party.

15 Have you prepared a proposed order?

16 MR. SOSA PADILLA: I can have it and send it  
17 to you this morning.

18 CHAIRPERSON JENKINS: Okay.

19 MR. SOSA PADILLA: I'll start working on it  
20 right now.

21 CHAIRPERSON JENKINS: Please work with your  
22 partner --

23 MR. SOSA PADILLA: Yes.

24 CHAIRPERSON JENKINS: -- to come up on  
25 agreed up -- come up on an agreed order.



1           If you leave today and you have not come to  
2           an agreed order, please be advised, if you do not  
3           reach an agreement today, the matter will be  
4           automatically set to be present at the next regularly  
5           scheduled board meeting. If an agreed order has not  
6           been received by that date, the Departement -- I'm  
7           sorry. The parties will be expected to file the  
8           proposed orders and appear and advise why the proposed  
9           order -- why their proposed order best reflects the  
10          Board's decision. Hopefully this will not be  
11          necessary.

12           If you're unable to reach an agreement as to  
13          the form of the order before the next meeting, please  
14          forward to the secretary of the Board, and they will  
15          be sure to get you signed copies provided to the  
16          parties.

17           MR. SOSA PADILLA: Thank you. Have a good  
18          day.

19           MS. GRIMES: Thank you.

20                           GENERAL CONSTRUCTION  
21   &  
22   WILLIAM T. BROWN

23           CHAIRPERSON JENKINS: All right. So moving  
24          on to our next item on our list here is General  
25          Construction Company with William T. Brown.

                  Do we have -- is there a representative for

1 General Construction Company present?

2 MR. HARADA: Yes.

3 CHAIRPERSON JENKINS: Thank you.

4 And is there a representative for the  
5 Department?

6 MS. CLAVEL: Good morning, Anna Clavel for  
7 the Department.

8 CHAIRPERSON JENKINS: Thank you very much.

9 Matter before us today is an appeal of the  
10 matter of General Construction Company and William T.  
11 Brown, Document Number 12-2021-LI-01739. This hearing  
12 is being held pursuant to -- due to proper notice of  
13 interest of the parties in Vancouver, Washington --  
14 Vancouver, Washington, on July 22nd, 2023, at  
15 approximately 9:41 a.m.

16 It's my understanding the decision affirm  
17 citation notices, EJONV05509, EJONV05510, EJONV05511,  
18 EJONV05512, EJONV05513, and EJONV05514, issued by The  
19 Department of Labor and Industries on September 16th,  
20 2021. It's further my understanding, the appellant  
21 has timely appealed the decision to the board.

22 Did you hear my remarks before about the  
23 procedure?

24 MS. CLAVEL: Yes.

25 MR. HARADA: Yes. I did.



1                   CHAIRPERSON JENKINS: Do you have any  
2 questions about them?

3                   MS. CLAVEL: No.

4                   MR. HARADA: The only question I have -- I  
5 just want to make sure. So everything that's been  
6 submitted as part of this?

7                   CHAIRPERSON JENKINS: Of the Electrical  
8 Board packet? Yes.

9                   MR. HARADA: Yeah.  
10 That's all been reviewed?

11                  CHAIRPERSON JENKINS: Yes. It has.

12                  MR. HARADA: Okay. Thank you.

13                  CHAIRPERSON JENKINS: Thank you very much.

14                  And the appellant party has the burden of  
15 proof to establish the proposed orders -- decision is  
16 incorrect; therefore, we hear from you first.

17                  Will you please speak your name and spell it  
18 for the court reporter. I would appreciate it.

19                  MR. HARADA: My name is Mitchell Harada.  
20 I'm with Owada Law. Good morning.

21                  MS. SCHARTIGER: And I'm Hannah Schartiger.  
22 I'm in-house counsel for Kiewit.

23                  CHAIRPERSON JENKINS: Thank you. You may  
24 begin.

25                  MR. HARADA: Good morning, gentlemen and



1 lady. This boils down to basically definitions.  
2 What's a UBI? How is it used? What's an entity? Who  
3 has the right to decide whether a company doing  
4 business under one name, one address, one phone number  
5 is a single entity? Or whether it's different  
6 entities because it has different UBIs that were  
7 unknowingly used in this situation? Not to obtain an  
8 electrical contractor's license, but in the  
9 circumstance of reporting -- properly reporting to  
10 Employment Security employees under General  
11 Construction Company.

12 This matter came to light as a result of an  
13 investigation done by an L&I inspector who was part of  
14 E CORE, and I presume that all of you know what that  
15 means.

16 He found -- in doing a record search, he  
17 found that General Construction Company, in 2002,  
18 after Kiewit bought General Construction Company,  
19 obtained a new electrical contractor's license. It  
20 had the UBI of 683. General Construction Company that  
21 obtained an electrical contractors license under  
22 UBI -- and I'm just shortening them, rather than  
23 saying the whole number. 260, was allowed to lapse by  
24 General Construction Company. So General Construction  
25 Company and Kiewit, they had a third party report to





1 ESD, hours and information that ESD requires of a  
2 company, and that company -- this third-party company  
3 erroneously and unknowingly to Kiewit reported these  
4 hours using the UBI 260.

5 Okay. So we have electrical contractors  
6 license 683, ESD report 260. Another number jumps up,  
7 that is the firm number that L&I has for industrial  
8 insurance premium purposes. That's a 700 number. And  
9 Kiewit/General Construction Company, again, one name,  
10 one address, one phone number for all these years  
11 consistently, no gaps, paying everything on time,  
12 paying everything to the dollar, is there on record as  
13 being one entity, that they're doing this business as  
14 an entity.

15 How that comes into play is the inspector  
16 relied on UBI to find that they were separate  
17 entities. A UBI, according to the Department of --  
18 Department of Revenue website is a UBI number -- a  
19 nine digit UBI number that registers you with several  
20 State agencies and allows you to do business in  
21 Washington State. A UBI number is sometimes called a  
22 tax registration number, a business registration  
23 number, or a business license number. Use the  
24 business license application to apply for a UBI.

25 And then -- apparently I'm not connected to



1 the -- okay. And then under -- under the Department  
2 of Labor and Industries' website, it talks about  
3 license requirements for an electrical construction  
4 trade or person. So it requires a valid UBI number  
5 issued by the Department of revenue.

6 So we have a valid UBI number: 683. We have  
7 what -- what Kiewit and GCC, General Construction,  
8 thought was a lapsed UBI in Number 260, that was  
9 lapsed for approximately 20 years. And then we have a  
10 third party who's reporting hours under the 260 UBI,  
11 but for different purposes, for ESD purposes. Now, we  
12 also have GCC reporting hours for its employees under  
13 683 using the firm number of 700.

14 So Mr. -- so the inspector relies on his --  
15 I guess his opinion as to -- at -- the definition of  
16 an entity. And the Department says that it -- and --  
17 and I should go back and say, why entity? Why the  
18 definition of entity is important is under one of the  
19 WACs cited: Each person, firm, partnership,  
20 corporation, or other entity must furnish a valid  
21 electrical work permit for the installation  
22 alteration, et cetera.

23 So we have the -- we could say that GCC is  
24 affirmed. It's a corporation. It's also an entity.  
25 But the inspector -- because it has two -- it has two



1 UBI numbers, one of which should have lapsed, believes  
2 that they -- he could cite the GCC because they don't  
3 have an electrical contractors' license -- I'm sorry.  
4 Because they reported employees under 260, but not  
5 under 683, where the electrical contractors' license  
6 is.

7 So the thing about an entity -- and his --  
8 and the Department's reliance on when terms in a  
9 statute are undefined, defer to the agency's  
10 definition.

11 Okay. It makes sense. I understand.  
12 That's black letter law that we all learned. However,  
13 we're not relying on the Department's definition.  
14 We're re -- we're relying on an individual's  
15 definition. There's nowhere -- it's the inspector's  
16 definition that suits his purposes in working the  
17 numbers to find some malfeasance here. Some wo --  
18 some wrong actor here, and that's not the case,  
19 because GCC was very transparent about who they were.

20 They -- they were bought by Kiewit in 2002.  
21 They got a new contractors license. They worked under  
22 that contractors license. They just happened to have  
23 a company that was reporting for ESD purposes that  
24 hours are under the 260 UBI. That's really what that  
25 boils down to. It was an innocent mistake that GCC



1 had no knowledge of, until this came to light when the  
2 inspector brought it to representatives, workers for  
3 Kiewit and General Construction Company, and then it  
4 was taken care of immediately.

5 This could have been handled as -- ECOPE's  
6 outreach regulation education could have done was  
7 educate them. They could have just said -- the  
8 inspector could have just said, did you know this was  
9 going on?

10 Because nobody was -- nobody's safety was at  
11 stake here. Everything was done in compliance with  
12 the statutes, except for the fact that numbers were  
13 not corresponding the way the Department wanted.  
14 Otherwise, everything was done in compliance with the  
15 law as it has always been with general construction.

16 So -- so -- so in this case we have  
17 compliance of everything, as far as the work being  
18 performed by a contra -- by an electrical contractor  
19 who has a valid license. We have the same entity or  
20 corporation performing the work. We have them being  
21 reported as employees as required for industrial  
22 insurance purposes. There was just a mistake about --  
23 for ESD purposes.

24 We have that business being the same entity.  
25 There is no nefarious attempt like the inspector



1 talked about in the record. Oh, yeah. I've seen this  
2 when somebody tries to basically skirt the law by  
3 having two UBIs trying to make two separate  
4 identities. And the inspector actually testified to  
5 that. We have no situation like that here. In fact,  
6 we have the opposite. We have someone really trying  
7 to comply with the rules, who really care about the  
8 safety of their employees, who have a superclean  
9 record in how they conduct their business and try to  
10 be on the up and up with everything.

11 So this is a situation where one person's  
12 definition of entity made -- should not be followed.  
13 And furthermore, when the -- when the ALJ made his  
14 findings, and his analysis -- here's what he said  
15 about UBI number and separate entities. He said --  
16 under 5.16 on Electrical Board packet, page 16, he  
17 said: Appellant, General Construction Company, argues  
18 that should be categorized as a single entity  
19 regardless of the UBI number. This argument is  
20 unpersuasive as General Construction Company UBI  
21 number 260, and General Construction Company UBI  
22 number 683 are two separate entities. And as  
23 employees of UBI 260 performed work without having a  
24 valid electrical contractor license because its  
25 license lapsed.



1           So he says they're a separate entity because  
2 they have two separate UBI numbers. And bingo.  
3 That's it. That's the analysis that the ALJ uses. He  
4 doesn't go into facts such as how many employees, how  
5 do they get paid? How do -- where do they -- where's  
6 the office? How long has that office been in  
7 existence? Is that office address listed on  
8 everything? There's no analysis. It's just, like,  
9 two numbers equals two identities. So I guess I have  
10 two identities because I have two cell phone numbers.  
11 It's analogous to that.

12           And even though I may do it -- I may be  
13 doing work using one phone, it doesn't mean I'm a  
14 different person using that phone versus my personal  
15 phone, and this is the same thing that's going on  
16 here. Just because in one instance, unknowingly to  
17 General Construction, they chose -- a third party used  
18 UBI number 260 to report hours to ESD, it doesn't mean  
19 that General Construction Company was a separate  
20 entity from that which did its electrical work under  
21 683.

22           So I encourage you to read and consider my  
23 post-hearing brief, and the pre-Board submission.  
24 And, also, please take into account the testimony of  
25 James Vest. James Vest is a Department of Labor and



1 Industries employee. Mr. Vest testified that he spoke  
2 with the inspector in this case and informed the  
3 inspector, hey, General Construction Company 683, as  
4 you identified them, they report their hours to L&I  
5 for premiums under 683.

6 And the inspector chose to ignore that  
7 information and instead chose his opinion of what an  
8 entity is, not a department opinion, not a court  
9 precedent, not a statute that identifies or further  
10 defines entity, but he chose his own definition, and  
11 sought two different phone numbers and decided there  
12 are two different people using them.

13 And that's really what happened here. And I  
14 ask you to reverse the ALJ's finding, and find that  
15 this very compliant company did -- did not violate the  
16 citations as alleged.

17 Thank you.

18 CHAIRPERSON JENKINS: Thank you very much.  
19 Department?

20 MS. CLAVEL: Good morning members of the  
21 Board. My name is Anna Clavel. I'm an assistant  
22 attorney general representing the Department.

23 Can everyone hear me okay?

24 The crux of the Department's argument is  
25 that a business cannot utilize two UBI numbers and at



1 the same time be considered one entity.

2 In Washington, a business can only have one  
3 UBI number. So it follows that two UBI numbers refer  
4 to two separate legally liable entities. In addition  
5 to having separate UBI numbers, GCC260 and GCC263 have  
6 different states of formation, different addresses,  
7 and different governing members and principals, and  
8 that's shown on pages 339 and 343 in your packet.

9 When Kiewit purchased General Construction  
10 Company, it created a new legal entity by obtaining a  
11 new UBI number. It continued to report all of its  
12 employees under the original entity with UBI ending in  
13 260, but the newer entity with the UBI ending in 683  
14 is the entity that held the electrical license.  
15 Although the cited entities have the same name or  
16 similar names, they must be considered separate  
17 entities under Washington law.

18 GCC's own witness, Melissa Watalovich (ph)  
19 testified that each UBI number and the list of  
20 entities under the Kiewit umbrella, she says, they are  
21 truly separate independent entities. And that  
22 statement is on page 226 to 227 of your packet.

23 And so, because 260 and 683 are separate  
24 entities, when 260's workers performed electrical  
25 work, it did so without a valid electrical -- without





1 a valid electrical contractor's license, and without a  
2 valid electrical permit.

3 Similarly, I show in the Department's  
4 exhibits, Mr. Brown was improperly assigned as  
5 administrator and was not identified in the business's  
6 government filings. Transparency and business records  
7 is critical in keeping the public safe and holding  
8 businesses accountable. Members of the public must be  
9 able to look up a business and use their UBI number  
10 and find legally accurate information. They would not  
11 have been able to do so here.

12 I wanted to respond to a couple of Counsel's  
13 arguments. He mentioned that he is not -- he does  
14 not -- there is no double liability on his part when  
15 he has two cell phone numbers. It is not analogous.  
16 Mr. Harada is not separately legally liable for having  
17 two cellphone numbers. A person cannot sue him twice  
18 because he has two cell phone numbers. On the other  
19 hand, a business with two -- a business that utilizes  
20 two UBI numbers, those two UBI numbers are legally and  
21 separately liable from each other.

22 Counsel also mentioned testimony from  
23 Mr. Vest. Again, GCC might be under the same workers'  
24 compensation umbrella -- under the Kiewit workers'  
25 compensation umbrella, but that doesn't mean that they



1 are not separate entities. A workers' compensation  
2 account can contain multiple UBI numbers as it did  
3 here.

4 And so, the Department asks that the Board  
5 affirm the ALJ's decision to affirm the Department's  
6 citation against the appellant, and I'm happy to  
7 answer any questions.

8 CHAIRPERSON JENKINS: All right. Thank you  
9 very much.

10 MS. SCHARTIGER: May I have a few moments  
11 for rebuttal? I'll keep it very short.

12 CHAIRPERSON JENKINS: We will ask questions  
13 if we need to.

14 MS. SCHARTIGER: Okay.

15 CHAIRPERSON JENKINS: Any questions from the  
16 Board? Comments?

17 Go ahead.

18 BOARD MEMBER GRAY: Thank you, Mr. Chair.  
19 Board Member Gray.

20 You mentioned a couple of times that GCC is  
21 a corporation, registered with the Secretary of State.  
22 Did that change at all during this entire process? So  
23 from the time Kiewit purchased GCC and the UBI number  
24 conversions, did the relation -- did -- did you have  
25 to notify Secretary of State that that corporation



1 changed ownership?

2 MS. SCHARTIGER: I believe we did. Excuse  
3 me.

4 So prior to 2002, GCC was its own company,  
5 and then Kiewit purchased GCC in 2002. And at that  
6 point we notified the Secretary of State, and that's  
7 why the new UBI was created. It became under the  
8 Kiewit companies. Unfortunately, the 260 number was  
9 never expunged, and therein lies the crux of the  
10 problem was that it was still there. But for all  
11 intents and purposes, GCC owned by Kiewit with the UBI  
12 633, is the GCC that does business from 2002 to today,  
13 and that entity has always held the proper contractors  
14 license and electrical license, and that is the  
15 company through which GCC did business. It did not do  
16 business under 260. We did not believe that that  
17 company in that form still existed because that was  
18 the non-Kiewit-owned GCC. At that point, it was the  
19 Kiewit-owned GCC that did business. And that is the  
20 company that paid all the employees, did the work, got  
21 the permits, et cetera.

22 It was just this point of reporting hours  
23 through ESD that our third-party payroll consultant, I  
24 guess, whatever you call them, the ADDs of the world,  
25 was reporting it under 260, and that was being



1 accepted and eventually got flagged.

2 CHAIRPERSON JENKINS: Any questions?

3 BOARD MEMBER GRAY: Yes. Thank you

4 Mr. Chair.

5 Counsel get ready to stop me.

6 So if something happened with an electrical  
7 installation after this change, the UBI numbers, and  
8 relationship, as far as the corporation with the  
9 State, could have occurred, could someone have taken  
10 legal liability against the 260 corporation, which is  
11 where the administrator was registered; correct?

12 MS. SCHARTIGER: The administrator was  
13 registered under 683, the Kiewit company. So that  
14 would be the company that would be liable for it. Any  
15 issue, all contracts, all that liability would flow to  
16 the 683 number of which Kiewit is a parent company.

17 BOARD MEMBER GRAY: Where the administrator  
18 was registered?

19 MS. SCHARTIGER: Was registered. Yes.  
20 There was an administrator for 683. Everything was  
21 proper under 683.

22 BOARD MEMBER GRAY: Okay. Thank you.

23 CHAIRPERSON JENKINS: Any questions?

24 MS. CLAVEL: If I could respond as well.

25 There is an argument that because the



1 employees were being reported -- were continuously  
2 being reported under 260, there is an argument that if  
3 one of those employees were to do something that would  
4 make the company legally liable, there's a question of  
5 which entity, 260 or 638, the responsible entity. And  
6 so, arguably, 683 can say, well, that's not us.  
7 That's 260.

8 MS. SCHARTIGER: I disagree with that.

9 MR. HARADA: Yeah. I disagree too. It's  
10 the same entity.

11 CHAIRPERSON JENKINS: Thank you.

12 Any other questions? I'm relying on my  
13 contractors for these questions.

14 MR. HARADA: So if I could just add. So the  
15 Department wants to claim separate entity -- the  
16 concern of liability in one instance by having  
17 different numbers when GCC and Kiewit we're all --  
18 we're claiming one number. Come -- come -- we're  
19 under 683.

20 CHAIRPERSON JENKINS: Okay. Thank you.

21 BOARD MEMBER NORD: Can I ask a question?

22 CHAIRPERSON JENKINS: Sure.

23 BOARD MEMBER NORD: What I am wondering  
24 about is when this legal change happened, when one  
25 company bought out the other company, the higher



1 corporation ceased, does the prior licenses cease? Or  
2 does somebody have to take action to cease those  
3 licenses?

4 AAG BLOHOWIAK: I don't know.

5 MS. SCHARTIGER: My understanding -- if I  
6 may. My understanding is that they don't just stop  
7 existing, but when Mr. Harada used the term lapse,  
8 lapse I feel, like, has a bad connotation. We did  
9 intentionally let that license attached to 260 lapse  
10 because we got it under the 683.

11 And so, it's not a bad thing. We just -- it  
12 was part of the wind down of 260. We had moved  
13 everything to 683. 683 was the properly licensed  
14 entity, and that's the entity we were operating on.

15 BOARD MEMBER NORD: Does the Kiewit have, as  
16 the corporate entity, have the responsibility to  
17 ensure that any third-party contractors are reporting  
18 hours correctly to the correct licenses? Is that an  
19 error on your part that you should have responsibility  
20 for?

21 MS. SCHARTIGER: I think we -- yes. I think  
22 we would own up to that responsibility that we weren't  
23 checking it, you know. We assume people do their  
24 jobs. I'll be honest. We didn't know that the 260  
25 number was still out there available to be reported



1 on. So it was enlightening to everyone. We instantly  
2 fixed it, because that was never the intent, and I'll  
3 go to a point saying that someone being reported for  
4 ESD purposes under 260 is not determinative of  
5 employment status. They were employees of the  
6 Kiewit-owned general construction.

7 CHAIRPERSON JENKINS: Any other questions by  
8 the Board?

9 BOARD MEMBER ISSACSON: This is a question  
10 for Ben. Who -- in a worker like that or a buyout  
11 like that, who is responsible to make sure that those  
12 UBI numbers get taken care of like they're supposed  
13 to?

14 AAG BLOHOWIAK: So I think that's a question  
15 for Counsel. You know, I advise the Board on its  
16 rules and things like that, but that's an appropriate  
17 question, if you would like to ask them.

18 BOARD MEMBER ISSACSON: Absolutely.  
19 Did you hear the question?

20 MS. SCHARTIGER: Can you -- I don't want to  
21 make you to repeat it, but I'm going to ask. I  
22 apologize.

23 BOARD MEMBER ISSACSON: I'm happy to. I was  
24 facing the other direction.

25 When a merger like that happens, who's the



1 responsible party to make sure that those UBI numbers  
2 get taken care of in a timely and appropriate manner?

3 MS. SCHARTIGER: We have -- I think we have  
4 the responsibility to register with the State. We  
5 have the responsibility to get all of the proper  
6 licensing that's required to do the work we do. And  
7 in the sense that we knew that the new Kiewit-owned  
8 general construction needed to be registered with the  
9 State, needed to have all the licensing, we did that.

10 I -- I can't say why we may not have  
11 affirmatively gone out and asked the State to remove  
12 the 260. I think in finding all this, we found that  
13 generally unused UBIs do get expunged from the system  
14 after five years. It's now been expunged from the  
15 system, but -- yes. I guess no one from the Kiewit  
16 companies ever went in and realized, hey, there is  
17 this old UBI out there. We need to take some action  
18 to get it removed.

19 MR. HARADA: And if I may add, those  
20 licenses are valid for two -- or the UBI is valid for  
21 two years with the contractor's license was valid for  
22 two years, so when General Construction Company  
23 allowed 260 to lapse, I -- I presume that they just  
24 felt like it would lapse like a driver's license, a  
25 law license, that it would no longer be valid. They





1 didn't know that it was going to be used for a  
2 reporting of hours to ESD. But they didn't use it for  
3 purposes of electrical contracting and trying to in  
4 any way get around any of the requirements of 1928.

5 CHAIRPERSON JENKINS: Thank you.

6 BOARD MEMBER BAKER: Yes. Don Baker.

7 On those lines, so the UBI number, once it's  
8 established, it doesn't just run in after every two  
9 years. There's a response required by the entity to  
10 affirm that it's still active; is that right? Is that  
11 what you just said?

12 MS. SCHARTIGER: No. I don't --

13 BOARD MEMBER BAKER: Well, my understanding  
14 is -- it lapses after two years. So I -- and I use  
15 that term as that's what I recall reading -- it's not  
16 right in front of me, but that's what I recall reading  
17 or hearing somewhere. And so that's why I use that.

18 Yeah. I see your hand.

19 MS. SCHARTIGER: If I can respond really  
20 quick?

21 BOARD MEMBER BAKER: Sure.

22 MS. SCHARTIGER: Do you mean the electrical  
23 contractor license lapses after two years? Or because  
24 the question was the UBI number.

25 BOARD MEMBER BAKER: Yeah. And I may be



1 mistaken.

2 CHAIRPERSON JENKINS: Same question?

3 BOARD MEMBER BURKE: So I'm going to --

4 CHAIRPERSON JENKINS: Go ahead.

5 BOARD MEMBER BURKE: Dominic is listening  
6 carefully.

7 So I've dissolved a business before, and if  
8 I was -- it's been about twelve years, and I believe I  
9 had to send the notice into the State to close -- and  
10 I had to pay a fee, too, to close down that UBI  
11 number.

12 So I'm just curious, in 2002, Kiewit opened  
13 up a new UBI number. How did the other one -- how  
14 come a flag didn't go up at some point when hours  
15 started getting logged into a UBI number that was  
16 inactive but maybe not being dissolved? How come a  
17 flag didn't go up in some place?

18 BOARD MEMBER COX: Yeah. As ESD -- because  
19 it was only being used through ESD.

20 MS. SCHARTIGER: I don't want to be putting  
21 blame on someone else. That's a question we've asked  
22 ourselves. If we didn't properly dissolve it, you  
23 know, I -- maybe there could have been action we  
24 needed to take, but that was kind of our thing, is how  
25 was -- how are hours being reported under a UBI number



1 that is not associated with anything else? It's just  
2 kind of a random UBI number hanging out there, so...

3 BOARD MEMBER COX: That's 20 years old, as I  
4 understand from the record.

5 BOARD MEMBER NORD: Yeah.

6 BOARD MEMBER COX: So 20 years.

7 BOARD MEMBER NORD: Yeah. So those hours  
8 were reported to UBI number that is inactive?

9 MS. SCHARTIGER: Obsolete.

10 BOARD MEMBER NORD: Obsolete. How were  
11 those hours accounted for under that UBI number? What  
12 happened to it? What happened to the dollars  
13 associated?

14 MS. SCHARTIGER: It was -- all the dollars  
15 were -- Kiewit paid all the dollars. At the end of  
16 the day, our -- our other numbers were -- we have  
17 ensured that all of the monies for were -- why those  
18 hours are being reported have been paid by General  
19 Construction and Kiewit. It was just a reporting  
20 issue of those hours being reported under 260.

21 MS. CLAVEL: I apologize. I have to object.  
22 We're going a little bit outside of the record. I  
23 think we need some limits.

24 CHAIRPERSON JENKINS: That information has  
25 not been presented in the record. So that is not



1 part --

2 BOARD MEMBER ISSACSON: To some extent it  
3 has.

4 CHAIRPERSON JENKINS: The hours, I see, have  
5 been reported, but the monies are not reported. But  
6 anyway.

7 Okay. Any other questions?

8 Yes. Board Member Jack Knottingham.

9 BOARD MEMBER KNOTTINGHAM: I'm aware of  
10 multiple electrical contractors that have different  
11 UBIs and different companies, same address, same board  
12 of governors, you know, same structure. With each  
13 separate entity, they have a separate assigned  
14 administrator. And I believe Mr. Guise was assigned  
15 multiple companies. I was looking through the record.  
16 I did not find it, again, how that whole structure  
17 related.

18 It's my understanding, if you don't close a  
19 UBI, it's still going to be active and Employment  
20 Security, doesn't have -- they don't double-check  
21 licensing, you know. Those things are siloed, you  
22 know, which it would be good if they did interact  
23 better.

24 I've got a question for our counsel. My  
25 concern -- I believe that the citations are valid, but



1 my concern is the quantity of the citations. Is that  
2 anything that can be addressed by the Board?

3 AAG BLOHOWIAK: No. So the Board doesn't  
4 have any sort of equitable remedies. You can see --  
5 your job is to look at the initial order, determine if  
6 the findings are supported by the substantial evidence  
7 in the record, and if the findings and facts are  
8 supported by substantial evidence, and then if those  
9 findings support the conclusions of law.

10 The Board -- I think, if you wanted to, you  
11 could make a record that you feel that the violations  
12 are excessive. You can make that finding, but you  
13 don't have the authority to change.

14 BOARD MEMBER KNOTTINGHAM: I mean, that's my  
15 opinion that the citations are valid. I -- I don't  
16 know why there wasn't outreach. I don't know why  
17 there wasn't one citation issue to kind of bring the  
18 attention. I do have serious issues about, like I  
19 said, the quantity of citations. It looks like it  
20 racked up the total. I don't believe GCC was trying  
21 to cheat. I think it was a mistake, but it was a  
22 mistake. But that's my opinion.

23 CHAIRPERSON JENKINS: Any other questions?

24 BOARD MEMBER BURKE: Just a comment. I've  
25 gone through a couple businesses and changing it. So



1 I understand the process as well.

2 You know, the ESD side of things, for  
3 instance, we have Equifax third-party, I think all the  
4 union contractors do, and I don't believe that any of  
5 us get a report or any notification of what UBI number  
6 that they're reporting our ESD hours to. So I don't  
7 know that any of us contractors in here could even say  
8 we know where they are being reported, so...

9 MS. CLAVEL: If I could respond to that.  
10 It's -- it is the business' responsibility to know  
11 this information. Many large businesses utilize an  
12 accounting firm to take care of that filing for them,  
13 and it is their responsibility that the firm that they  
14 utilize is filing under the correct number.

15 BOARD MEMBER BURKE: Yeah.

16 CHAIRPERSON JENKINS: I believe the -- the  
17 violations reflect that, and say it's their  
18 responsibility to take care of those things. And I  
19 really agree with Jack Knottingham. It was an error.  
20 It's the responsibility of Kiewit to get those cleared  
21 up --

22 MS. SCHARTIGER: But does the fact that  
23 hours were reported under this other UBI, does that --  
24 how is that the conclusion, then, that there is an  
25 entity doing work? Because the entity that was doing



1 the work was the 683 entity.

2 CHAIRPERSON JENKINS: We're not doing  
3 arguments on this. It shows hours being reported to  
4 the 260 number. And I'm not -- I'm not trying to  
5 create an argument. I just saying I see the error,  
6 and I see the stance, and I sympathize, I'll use that  
7 word, with your situation and condition. And I  
8 would -- as Ben mentioned here, I would like to put on  
9 the record, I don't think that's an appropriate level,  
10 I'll use punishment, of the situation, and if there  
11 was another way of doing that, I'd like to see it.  
12 And unless anybody has argument that they didn't have  
13 two UBI numbers that you do feel they become one  
14 entity based upon the record that we have here. I'd  
15 like to hear the argument for that from any of our  
16 Board members.

17 BOARD MEMBER COX: So as I'm reading the  
18 record, these citations are for offering to perform,  
19 submit a bid, advertising, installing, maintaining  
20 cables, contractor equipment without having a valid  
21 electrical contractor's license. GCC had a valid  
22 electrical contractor's license. The other citations  
23 are for the fact that they're pulling permits without  
24 a license, that the administrator is not properly  
25 licensed with the company. Everything was being



1 done -- they were an electrical contractor.

2 As we've all beaten this horse this morning,  
3 this is a reporting clerical error. The citations  
4 that are in question, as I read the record, are  
5 whether or not they were a valid electrical contractor  
6 with a valid electrical administrator pulling valid  
7 electrical permits. And as I read this, they were a  
8 valid contractor. They were -- they did have a valid  
9 electrical administrator, and they were pulling  
10 permits and getting inspection.

11 This was simply a reporting issue that I  
12 agree with Board Member Baker, why was this not  
13 flagged? But I see the actual citations as, I'm  
14 citing you for not being an electrical contractor,  
15 valid license electrical contractor, and not having  
16 valid permits. And I don't see that. I see --  
17 everybody keeps running down this rabbit hole of  
18 reporting to ESD. They were a valid contractor. They  
19 had a valid administrator. They were pulling permits,  
20 as they were supposed to. They were doing everything  
21 they're supposed to do as an electrical contractor  
22 under the laws and regulations in the State of  
23 Washington. That's how I see the record.

24 CHAIRPERSON JENKINS: Okay. Thank you very  
25 much.





1                   BOARD MEMBER BAKER: And because of that,  
2 the Department saw hours posted and the other UBI  
3 number, and therefore concluded they must have been  
4 doing all those things outside of the law. And I  
5 think that that conclusion the Department made is  
6 incorrect. I believe that they were doing everything  
7 correct under the other UBI number. And, again, it's  
8 a clerical error.

9                   And Counsel makes a good point, why didn't  
10 they just reach out? I've seen the Department do it  
11 before, and say, Hey, you've got a problem here. You  
12 need to get it squared away.

13                   CHAIRPERSON JENKINS: Board Member Don  
14 Baker, would you like to reference your question to  
15 Counsel now?

16                   BOARD MEMBER BAKER: No. I think Jack wants  
17 to say something.

18                   BOARD MEMBER KNOTTINGHAM: My concern, as  
19 you know, are they one entity? Or are they multiple  
20 entities? As they stated earlier, I'm aware of single  
21 owners that own multiple companies, have different  
22 UBI, you have different licensing types, 06, 01, 02,  
23 but all separate companies, all different UBIs, all  
24 different administrators, they all have different  
25 payroll.



1           I don't doubt that GCC was trying -- Kiewit  
2 was trying to do things improperly. There were  
3 mistakes made, as they said. My concern lies that if  
4 we overturn this because, you know, different UBIs,  
5 same address, we're going to have people out there  
6 that are manipulating the law, that are doing this to  
7 try to hide hours, and cheat L&I and Employment  
8 Security. I don't believe that's the case here. But  
9 I don't know what grounds you would decide that they  
10 are one entity just because they have the same name or  
11 same address because I can give you multiple cases  
12 where that's not the case.

13           CHAIRPERSON JENKINS: Thank you very much.

14           STANDING SECRETARY LORIN LATHROP: I just  
15 want to point out that even with law, I can totally  
16 see the point that there are -- everything's being  
17 done in terms of the work side of this business  
18 through permitting, and inspections, and proper  
19 certification. To do all of it, you have to have the  
20 entire recipe, which includes having the correct UBI.  
21 So while I sympathize. I understand. It takes the  
22 whole thing for us to have someone operating  
23 completely legally in the state, and so that would be  
24 my concern.

25           CHAIRPERSON JENKINS: Thank you very much.



1                   And then Board Member Bobby Gray.

2                   BOARD MEMBER GRAY: Thank you, Mr. Chair.

3                   Yes. I just want to reiterate what Board Member  
4                   Knottingham said. I work for a corporation that did  
5                   exactly that. They purchased an existing corporation,  
6                   which had been established in 1956, and it was  
7                   purchased in 1993. They kept exactly the same name,  
8                   same address, same phone number, same everything,  
9                   because it was an established company with a good  
10                  reputation. That all changed because this company  
11                  changed the registration with the Secretary of State,  
12                  had someone -- I mean, I don't think that was the case  
13                  here, but had someone went out and done electrical  
14                  work under the same name that was a part of the  
15                  previous company, then that would have, I think,  
16                  expressed what the problem is here that you have two  
17                  separate companies with two separate numbers that  
18                  have, coincidentally, the same name, same address,  
19                  same everything.

20                  And so I think that it has to be corrected.  
21                  I echo your sentiment on the penalties. I think  
22                  they're excessive, and I think the Department should  
23                  look at that and consider that it wasn't an  
24                  intentional violation of the rules, but other than  
25                  that, I think we've got to hold the ruling of the ALJ.



1 Thank you.

2 CHAIRPERSON JENKINS: Motion?

3 BOARD MEMBER GRAY: So moved.

4 CHAIRPERSON JENKINS: Okay. Motion to  
5 uphold the decisions based by the ALJ?

6 BOARD MEMBER KNOTTINGHAM: Second.

7 CHAIRPERSON JENKINS: Second?

8 Any discussion?

9 BOARD MEMBER GRAY: If I can make a friendly  
10 amendment to the motion?

11 CHAIRPERSON JENKINS: Yes. Thank you.

12 BOARD MEMBER GRAY: I think somewhere in  
13 there, we should go on record stating the fact that we  
14 do think that the penalty is excessive for the  
15 violations.

16 CHAIRPERSON JENKINS: So your initial motion  
17 would then be to affirm the ALJ's decision with an  
18 amendment to note that we've -- the Electrical Board  
19 feels the penalties are excessive?

20 BOARD MEMBER GRAY: Correct.

21 BOARD MEMBER KNOTTINGHAM: Second.

22 CHAIRPERSON JENKINS: Any other discussion?

23 BOARD MEMBER COX: Can I ask a question of  
24 State's Counsel, at this point in the discussion?

25 As you heard, we're discussing -- making



1 known that we believe the penalties are excessive. Is  
2 that something that can be negotiated between the two  
3 parties in the final judgment?

4 MS. CLAVEL: I don't believe so.

5 BOARD MEMBER COX: Okay.

6 MS. CLAVEL: I mean, I don't know that the  
7 decision lies -- I don't think that there's further  
8 decisions or negotiations to be made after this  
9 decision. Although, you know, I'm not 100 percent  
10 sure. I won't say -- I think that's a good question.  
11 I won't say that it's not impossible, but I'll have to  
12 look into it.

13 AAG BLOHOWIAK: Yeah. If I could just  
14 briefly touch on that. The Department has discretion  
15 in some instances, with how much in the amount of  
16 penalties, but in other cases they're compelled by  
17 law, that they shall find for a certain amount, and so  
18 they may not have that. Although for, certainly,  
19 superior courts and courts that would -- this Board's  
20 decision have equitable powers that other Office of  
21 Administrative Hearings at the Electrical Board don't  
22 have, and they could potentially make modifications to  
23 that as well.

24 BOARD MEMBER GRAY: Thank you. Mr. Chair,  
25 to that point -- to the Chair, they could have reduced



1 the number of citations, however. They could have  
2 written citations so that there was one instead of 24  
3 for exactly the same violation.

4 CHAIRPERSON JENKINS: You're talking about  
5 prior to this --

6 BOARD MEMBER GRAY: I'm sorry?

7 CHAIRPERSON JENKINS: Is that what you're  
8 saying, prior to this?

9 BOARD MEMBER GRAY: They could -- yes. They  
10 could have done that. Yes. That's -- so they have  
11 the discretion on some things as you pointed out, but  
12 maybe not.

13 MS. CLAVEL: That's correct. And they could  
14 have also used the full 20 years. They could have  
15 gone back the full 20 years. They went back two years  
16 to some perspective.

17 CHAIRPERSON JENKINS: Part of the  
18 discussion?

19 BOARD MEMBER COX: Is there a way to put the  
20 Board's decision on hold to allow Counsel to discuss a  
21 potential resolution that the Board could agree on?

22 CHAIRPERSON JENKINS: I think what you're  
23 asking for is when we -- no.

24 Okay. So on the advice that we could deny  
25 this motion that we have on the table currently, and



1 we could entertain the motion to continue to the next  
2 meeting to allow the parties more time to discuss  
3 settlement.

4 So move -- we have a motion on the table  
5 still. Motion second. And the discussion. All in  
6 favor?

7 BOARD MEMBER NORD: Aye.

8 CHAIRPERSON JENKINS: We have one.  
9 Any opposed?

10 BOARD MEMBERS: Aye.

11 CHAIRPERSON JENKINS: Motion fails.

12 So we're back to --

13 BOARD MEMBER KNOTTINGHAM: I will make a  
14 motion that we continue this to the next meeting so  
15 that the parties can negotiate the settlement.

16 CHAIRPERSON JENKINS: Hearing a motion.  
17 Do we have a second?

18 BOARD MEMBER GRAY: Second.

19 CHAIRPERSON JENKINS: We have a second.  
20 Any discussion?

21 Hearing none, all in favor signal by saying  
22 aye.

23 BOARD MEMBERS: Aye.

24 CHAIRPERSON JENKINS: Any opposed?

25 Motion passes.



1 Thank you very much.

2 So as of this -- this is outside of our  
3 norm. I'd like to -- I move this to Counsel.

4 AAG BLOHOWIAK: So if the parties could just  
5 put a brief order continuing this to the next meeting  
6 together and present that to the Board, just, you  
7 know, something short to continue.

8 MR. HARADA: Today? Or can I do it at my  
9 office?

10 AAG BLOHOWIAK: Yeah. You could do it at  
11 your office, and if you just want to e-mail it to the  
12 Secretary of the Electrical Board, we'll make sure  
13 that that gets signed by the Chair, and it gets sent  
14 out. And just so the record is clear, the -- you will  
15 be on the calendar before our next hearing in October.

16 MS. CLAVEL: But if we're able to settle --

17 AAG BLOHOWIAK: But if you're able to  
18 resolve this before hand and present some sort of  
19 agreed order, we can do that off the record and  
20 outside of the meeting.

21 MR. HARADA: Thank you.

22 MS. CLAVEL: Could I clarify? It sounded  
23 like before we -- the Board continued this matter to  
24 the next meeting, the -- it sounded like the Board was  
25 inclined to affirm the citations but were concerned





1 about the amount of the penalties -- of the fines. Is  
2 this...

3 BOARD MEMBER BAKER: I wouldn't --

4 CHAIRPERSON JENKINS: So the Board members  
5 didn't make a final decision on this or any type of  
6 motion on this.

7 AAG BLOHOWIAK: I would advise the Board not  
8 to make any specific comments on how they would or  
9 would not have ruled since that motion was declined,  
10 and then the motion hearing was to continue this.

11 So my advice to my client would be don't  
12 make any specific comments on how you would have ruled  
13 on that today, and we will continue this at the next  
14 meeting or something to present outside of that. It  
15 will be circulated.

16 CHAIRPERSON JENKINS: Yeah.

17 MR. HARADA: May I ask one more question?  
18 Is there a transcript from today's proceeding that's  
19 available?

20 AAG BLOHOWIAK: If you reach out to the  
21 secretary, through the Secretary's Office, you should  
22 be able to get a copy of the transcript.

23 MR. HARADA: Okay. Thank you.

24 CHAIRPERSON JENKINS: Thank you very much.  
25 Any other questions?



1 MS. CLAVEL: No other questions. I'm here  
2 for the next one.

3 CHAIRPERSON JENKINS: Okay. Thank you very  
4 much. Actually, right now might be a good time to  
5 take a short break. I'd say we re-adjourn ten until.  
6 15-minute break. At this point we're at recess.

7 (Recess was taken from 10:35 a.m. to  
8 10:53 a.m.)

9 GABRIEL MCCOY AND EPRO

10 CHAIRPERSON JENKINS: All right. It is now  
11 10:54, and I'd like to bring back -- the Board back --  
12 I'd like to bring the Board meeting back to order.

13 All right. So our next item on the list  
14 here is the Gabriel McCoy and EPRO. Do we have  
15 somebody from Gabriel McCoy here?

16 GABRIEL MCCOY: Yeah.

17 CHAIRPERSON JENKINS: And do we have the  
18 Department?

19 All right. The matter today -- the matter  
20 before us today is -- the matter before us today is an  
21 appeal of the matter of Gabriel McCoy and EPRO, Docket  
22 Numbers 022022-LI01755. This hearing is being held  
23 pursuant and due to proper notice to all interested  
24 parties in Vancouver, Washington on July 27th, 2023,  
25 at approximately 10:55 a.m.



1           The appeal from the initial order issued by  
2           the Office of Administrative Hearings on October 27,  
3           2022. It's my understanding that the decision  
4           reversed. Citation Notice Numbers EIMER00485,  
5           EIMER00486, and EIMER00487 issued by the Department of  
6           Labor and Industries on October 8th of 2021. And it  
7           is my further understanding that the Department has  
8           timely appealed the decision to the Electrical Board.

9           And did you both hear the procedure we had  
10          from before?

11          MS. CLAVEL: Yes.

12          CHAIRPERSON JENKINS: Do you have any  
13          questions?

14          MS. CLAVEL: No.

15          CHAIRPERSON JENKINS: Any questions.

16          GABRIEL McCOY: I don't think so.

17          CHAIRPERSON JENKINS: Okay. On that, the  
18          Department being the appellant, you have the floor.

19          MS. CLAVEL: Thank you. I'll be brief.

20          Again, Anna Clavel for the Department. I'll  
21          be brief. This is very code heavy, and as you are the  
22          technical experts, and if you've reviewed my brief,  
23          the analysis is there.

24          The Department believes that the OH judge  
25          misapplied the law or misunderstood the facts in this



1 case. EPRO performed an improper grounding  
2 installation because they relied on an underground  
3 water pipe as a grounding electrode and supplemented  
4 it with only one metal pipe that is 8' into the  
5 ground. The NEC requires if you're not able to  
6 ascertain that the metal pipe is -- I'm sorry, the  
7 metal rod has a resistance to earth of 25 ohms or  
8 less, then you need a second metal rod, and there was  
9 not two metal rods to supplement the underground water  
10 pipe in this case.

11 CHAIRPERSON JENKINS: All right. Thank you  
12 very much.

13 And I forgot to ask your name. Can you  
14 spell and speak it for the reporter?

15 GABRIEL McCOY: Yeah. Gabriel McCoy,  
16 G-A-B-R-I-E-L, McCoy, M-C-C-O-Y.

17 CHAIRPERSON JENKINS: All right. The floor  
18 is yours.

19 GABRIEL McCOY: So I guess, first off, I  
20 feel like I'm at a bit of a disadvantage here. I'm  
21 not a lawyer, small business owner, worker, installer,  
22 basically everything.

23 So I think a little bit of background as to  
24 where we are at on the job has some bearing, at least,  
25 as far as I am concerned. The reason that we were at



1 the job in the first place was because the panel that  
2 existed in the home was a Federal Pacific, which is  
3 known to cause fire hazards. The owner was selling  
4 the house and felt like to do a favor to the buyers,  
5 that we go in and have the panel replaced to something  
6 that was new, and didn't have those issues, as well as  
7 fixing some GFI problems in the house while the panel  
8 is being installed. So that's why we were there --  
9 why I was there.

10 It was a difficult panel change. I was  
11 there until, like, 9:00 to 10 o'clock at night, doing  
12 the ground rods. One had no problem. The other one  
13 had no issue. The water pipe, I grounded that.  
14 Thought it meant code. And exhausted and done for the  
15 day on a significant time crunch because the job had  
16 to be done in order for the house to sell to this new  
17 buying party.

18 In addition to that, this was during COVID,  
19 my dad and my brother were both in the hospital at  
20 that point, and neither one of them made it. To say  
21 the least, there was a lot on my plate that day, and  
22 for the weeks following.

23 We had a metal water pipe. The water pipe  
24 was grounded. It was over 30 feet. It's metal when  
25 it goes into the ground. It's metal when it comes out



1 of the ground. The inspector and trans would only say  
2 that they don't accept metal water pipe. No one would  
3 tell me why, or where, or how. The only way that they  
4 would accept it is if I was to dig up the metal water  
5 pipe and show them that it's in the contact with the  
6 ground for 10', which seems odd in that when you have  
7 existing ground rods, we don't dig those up to show  
8 that they're 8' in length or pull them out of the  
9 ground or anything else. We just assume that they're  
10 there, and that they're appropriate length, and we add  
11 a second one, and we're good to go.

12 There's another inspector that we called as  
13 a witness or whatever, during the trial, Timothy Styph  
14 (ph), and I had a previous correction unrelated to any  
15 of this with him. I asked him, as an inspector, just  
16 a simple question, does one metal water pipe within 5'  
17 feet enters the building and the ground rod suffice  
18 for a panel change from the ground of electric  
19 conductors.

20 He responded, yes. He looked it up. He  
21 said it was uncommon, and that it does in fact work.  
22 He -- I forgot those conversations and changed his  
23 mind by the time we went to trial.

24 Well, Trent, also, is the one that advised  
25 me to even contest the original corrections in the



1 first place and that he supposedly was unaware that  
2 there was a metal water pipe within 5'. And that's  
3 why I should appeal. It's a good case, and letting  
4 things that it would work.

5 So here we are, I suppose. Trent also is on  
6 the record saying that he teaches grounding and  
7 bonding for code update or for continuing education,  
8 and that for over 20 years he believed that one metal  
9 water pipe and one ground rod was sufficient.

10 Mike Emmel and Trent are also on the record  
11 disagreeing over when ground rods are needed. There's  
12 another job where Mike Emmel was the inspector on it,  
13 which he didn't even look at the ground rods. It was  
14 a meter change replacing the meter, refeeding the  
15 overhead wires, and refeeding the wires over the  
16 panel. Mike didn't even inspect the ground rods  
17 because they're not necessary. He didn't go into the  
18 house to see where the ground wire was lying in the  
19 panel. He didn't do any of that. He said it's not  
20 required.

21 Trent Harris says it's absolutely required,  
22 and I talked to him before I did that job because it  
23 was in a similar area where the ground was going to be  
24 potentially difficult. He said it was absolutely  
25 required, and I had to get them in. So I did.



1           In addition to that, I did a commercial job  
2   and replacing two -- 200 panels, two separate 200 AMP  
3   panels, and on that job an L&I inspector -- I made it  
4   aware to him that the ground rods wouldn't go in. We  
5   had a very limited space to put the ground rods inside  
6   the whole building when it's asphalted. It was brand  
7   new and sealed with concrete. So there was only like  
8   a 2' strip to put those in. That inspector told me to  
9   cut off the ground rods --

10           MS. CLAVEL: I would object to this  
11   testimony not within the record.

12           CHAIRPERSON JENKINS: Is that information in  
13   the record?

14           MS. CLAVEL: It's not --

15           GABRIEL McCOY: It is. I believe it to be.

16           MS. CLAVEL: I'm sorry. Which one?

17           GABRIEL McCOY: All of it.

18           MS. CLAVEL: Which inspector is this?

19           GABRIEL McCOY: Which inspector is what?

20           MS. CLAVEL: Are you referring to.

21           GABRIEL McCOY: The inspector that told me  
22   to cut off the ground rods and told me I did an  
23   excellent job.

24           MS. CLAVEL: That -- that is a separate.

25           CHAIRPERSON JENKINS: I recall the job





1 comment, but I don't recall discussing about the small  
2 space putting rods in.

3 MS. CLAVEL: That is a separate inspection  
4 that is -- I'm sorry. Go ahead.

5 BOARD MEMBER GRAY: Thank you, Mr. Chair.

6 It was in the -- it's in the record for the  
7 gentleman was testifying.

8 CHAIRPERSON JENKINS: So is that information  
9 is in the record?

10 BOARD MEMBER BURKE: It's in the  
11 transcripts.

12 BOARD MEMBER GRAY: Basically what's  
13 saying --

14 CHAIRPERSON JENKINS: You may continue.

15 GABRIEL McCOY: So the point of all that is  
16 that it seems as though depending on which inspector  
17 you get, it depends on what the requirements are going  
18 to be or how it's going to be enforced. And it seems  
19 as though that it wasn't just a simple correction in  
20 this case. Somehow we had to go to court with a  
21 \$3,000 fine or more assessed to it, and an obscene  
22 amount of time to get through what we believe to be  
23 done correct in the first place.

24 At the end of the day, the judge ruled in  
25 the favor of me and my company. The charges were



1 dismissed. We were surprised the State wanted to  
2 continue on the course of taking action against us for  
3 something that has been -- that had been resolved.  
4 It -- if it wasn't done right in the first place, it  
5 was believed to be right as Supervisor Trent Harris at  
6 L&I for over 20 years of his career believed that was  
7 the right way for it to be installed, when it wasn't,  
8 or whatever the inspector came up with not being  
9 installed. It took us over three days, maybe four  
10 days, to get one ground rod in a yard that's, like,  
11 half the size of this area here.

12 I would have liked to have never done that  
13 job. The problem was that we were already -- the work  
14 was already complete. The panel was already done.  
15 The inspection was already pulled. The new people  
16 were already moving in. And now what; right? We were  
17 stuck between a rock and a hard place, to say the very  
18 least. I thought that we had -- apparently we did  
19 not, and here we are forever later fighting this --  
20 continue to go fight this battle. We'd like to see  
21 the Board uphold the judge's ruling and be done with  
22 this.

23 CHAIRPERSON JENKINS: All right. Thank you  
24 very much.

25 GABRIEL McCOY: That's all.



1                   CHAIRPERSON JENKINS: Any questions from the  
2 Board?

3                   Yes. Board Member Bobby Gray.

4                   BOARD MEMBER GRAY: Thank you, Mr. Chair.

5                   I think the citation is valid. If you look  
6 at 250.53(a)(2), it specifically says that when ground  
7 rods are installed they have to be supplemented by  
8 something other than a water pipe. And so I don't  
9 think that's in debate. What's concerning to me is  
10 some of the testimony by the inspector implying to the  
11 ALJ that someone could get electrocuted under this,  
12 and the fact that -- implying that a metal underground  
13 water pipe, there was no way to verify that it was  
14 continuous, which -- that's a ridiculous thing to say.

15                   When they go out and verify 20' of rebar in  
16 a concrete slab for a concrete case electrode they  
17 have a way -- even if they can't see the rebar, they  
18 have a way of confirming that it does go 20' in there.  
19 So that bothered me when I was going through this.

20                   So I think the fact that we couldn't use a  
21 water pipe as a ground electrode conductor is  
22 debatable. It's not debatable, however, that if the  
23 supplementary electrode for the underground water pipe  
24 is a ground rod, that that ground rod has to be  
25 supplemented by an additional grounding electrode



1 other than that water pipe, and the 56" ground rod  
2 would not meet that requirement.

3 So I'll wait to make a motion until I hear  
4 from others.

5 CHAIRPERSON JENKINS: Thank you very much.  
6 Other Board members?

7 I'm going to put my two cents in here. I  
8 agree with you completely. Once you put one ground  
9 rod in, it gives the second rod full length. And just  
10 like the package shows, if you can't get it into the  
11 ground, you have to put it at 45 degrees. If that  
12 can't happen, it doesn't work. You have a plate  
13 inside of the ground. And the comment that I read in  
14 there saying you could find plates through  
15 manufacturers, I disagree with that. That's not a  
16 question.

17 You can't find -- it would be extra work.  
18 And, yes, it's required to be put in place. And I'm  
19 kind of concerned a little bit that -- that being a  
20 contractor, that you're not aware or that you're  
21 confused of being required to ground rods. Being an  
22 electrician in the trade for some years, it's a known  
23 thing in Washington state. You have to have two  
24 ground rods supplying water pipe. Period. And if you  
25 cut a ground rod off, just as a heads up, that's



1 actually -- you could lose -- we could suspend your  
2 license for that. Cutting ground rods is a -- it's  
3 bluntly a big no.

4 Cut one off, and especially if the inspector  
5 goes out there and pulls it out of the ground, it  
6 tells me that you knew it wasn't all the way in. You  
7 knew it wasn't that well installed. Attached -- and  
8 I'm making a little assumption, he knew the second rod  
9 had to be there. And not knowing it had to be there  
10 is a concern that maybe you should go to a grounding,  
11 bonding course or something because it sounds like to  
12 me that is some lack of knowledge in there, and so  
13 that's my bigger concern.

14 And honestly, if -- I'll be blunt. If I had  
15 any thought that you were being -- that you knew the  
16 two ground rods are required, and you cut one off, I  
17 would be asking for a suspension. To cut off a ground  
18 rod is -- and it's in the code. We can go through it  
19 and apply it and look it up. You can suspend or lose  
20 your certification for that.

21 Something else I was concerned, too, that I  
22 don't know if anybody else can answer this question,  
23 about the 1" cutoff at the top of the rod. I don't  
24 know of that anywhere in the code. I've never seen  
25 it. I've never heard of it. And so I don't know



1 where it came from. Honestly, cutting ground rod,  
2 don't do it because I think it's -- that's a fancy --  
3 I would support suspension of license. So that's my  
4 opinion.

5 Any other comments or questions from the  
6 Board?

7 BOARD MEMBER COX: Yeah. Question,  
8 actually, for you Mr. Chair. I'm not an 01. I'm an  
9 06. I don't deal with panel changes or grounding  
10 them. So as I understood you to say, I'm trying to  
11 read the code and understand it, if there is an  
12 existing water pipe there and they ground to that,  
13 code says not just one supplemental ground rod, but it  
14 says two?

15 CHAIRPERSON JENKINS: Two.

16 BOARD MEMBER COX: Oh, wait. Okay. I'll --

17 CHAIRPERSON JENKINS: Go ahead.

18 BOARD MEMBER COX: -- pose that same  
19 question to Bobby Gray.

20 CHAIRPERSON JENKINS: I think Bobby Gray --

21 BOARD MEMBER GRAY: That isn't -- what  
22 you're saying is functionally correct --

23 BOARD MEMBER COX: Okay.

24 BOARD MEMBER GRAY: -- but not technically  
25 correct.



1           What it says is that if you have -- first of  
2 all, if you've got a ground rod as your electrode,  
3 that has to be supplemented by another electrode  
4 unless you can show there's 25 ohms or less to ground  
5 on a single ground rod, and that's an exception.

6           BOARD MEMBER COX: So if the water pipe was  
7 the existing one --

8           BOARD MEMBER GRAY: Hold on. Another part  
9 of the code says that if you're using a metal  
10 underground water pipe it has to be supplemented by  
11 another electrode. In this case they used a ground  
12 rod as the supplemental electrode. And then the  
13 installation rules for the a ground rod say, again,  
14 either that has to have 25 ohms or less to ground, or  
15 it has to be supplemented by another approved  
16 ground -- grounding electrode. So that's kind --

17           BOARD MEMBER COX: Okay. So that's how we  
18 come up with one plus one is two. They used the water  
19 pipe that was there to ground to. You have to have a  
20 supplemental. That supplemental can be the 8' ground  
21 rod, and then the rule says if you have the ground  
22 rod, it needs to be supplemented by a second rod --

23           BOARD MEMBER GRAY: By something other than  
24 a water wipe.

25           BOARD MEMBER COX: -- by something other



1 than the water pipe.

2 So you have -- the water pipe is the  
3 primary. One is the supplemental, but if the ground  
4 rod is used, that ground rod has to be supplemented.  
5 That's what we get --

6 CHAIRPERSON JENKINS: And to clarify my  
7 comment from earlier is it, 25 ohms comes into play.

8 BOARD MEMBER COX: Okay.

9 CHAIRPERSON JENKINS: So if you can prove 25  
10 ohms or less, then it's not required. So that's more  
11 technically correct is what Board Member Bobby Gray  
12 said.

13 BOARD MEMBER BURKE: Or if the rod, it's 8',  
14 and it's a 10' --

15 CHAIRPERSON JENKINS: Right.

16 BOARD MEMBER BURKE: -- you can still --  
17 okay.

18 CHAIRPERSON JENKINS: And so, it's required  
19 to be there, and not -- yeah. I'll stop there.

20 BOARD MEMBER COX: And so, from reading the  
21 transcript, I don't see anywhere in there where either  
22 the installer or the inspector did any kind of  
23 measurement for 25 ohms; okay?

24 BOARD MEMBER GRAY: Correct.

25 BOARD MEMBER COX: So we have no way --





1 that's not even an issue at point. I can't make an  
2 assumption and say, well, why didn't the inspector  
3 test and see if it was 25 ohms?

4 BOARD MEMBER BURKE: It's not on him to do.

5 BOARD MEMBER COX: It's not on him to do?

6 Okay.

7 CHAIRPERSON JENKINS: And I'm going to add  
8 this also. I don't think any installations that I've  
9 ever done to panel changes, once you change the panel,  
10 you have to establish the grounding system. And so  
11 panel change, you change the grounding system. I have  
12 yet to find any, I'll be blunt, any installer, any  
13 company I've worked for has ever don't 25 ohms test.  
14 You just drop in the rod --

15 BOARD MEMBER COX: Okay.

16 CHAIRPERSON JENKINS: -- and have a good  
17 day.

18 And so that's why I default to that every  
19 time someone comes up to put ground rods in. You know  
20 where the second one is at, because no one tests for  
21 that.

22 BOARD MEMBER COX: And that's why I asked  
23 the question. Like I said, I'm not an 01. Thank you,  
24 gentlemen, for clarifying.

25 CHAIRPERSON JENKINS: And thanks for asking



1 the question.

2 Any comments?

3 BOARD MEMBER KNOTTINGHAM: I have testimony.  
4 And I have seen one that was 25 ohms or less, you  
5 know. We did cell tours, and we would do ground  
6 resistance testing, and it's amazing how much you have  
7 to put in to be able to meet the 25 ohms, and honestly  
8 it's cheaper and faster typically. Now, understanding  
9 the problems, but typically it's cheaper and faster to  
10 put a second one than it is to try to get the ground  
11 test and do the testing.

12 CHAIRPERSON JENKINS: And one more time.  
13 Let me clarify. What I mean by that is doing  
14 residential services. I did residential change-outs.  
15 I've never heard it happening -- other than commercial  
16 side and industrial side. Yes.

17 Any other questions and comments from the  
18 Board?

19 BOARD MEMBER TUMELSON: Board Member  
20 Tumelson. One additional comment, you know. The way  
21 that the code reads 250.50, just to kind of double  
22 down is all grounding electrodes present. And so if  
23 there is a water pipe, or a concrete case electrode,  
24 or multiple ground rods, they all must be tied  
25 together to form that grounding electrode system. And



1 so in the comment that Gray made about the concrete  
2 case electrode, typically that is done in foundation  
3 inspection and/or there is two separate concrete  
4 encased electrode stubbed up greater than 20' to  
5 demonstrate continuity.

6 CHAIRPERSON JENKINS: Thank you very much.  
7 And any other questions, comments from  
8 Electrical Board?

9 All right. So chair would entertain the  
10 motion.

11 BOARD MEMBER GRAY: I move to overturn the  
12 ALG's ruling.

13 AAG BLOHOWIAK: So Board Member Gray, can I  
14 just point an order to clarify the motion? Is the  
15 motion to overturn the ALJ judge and affirm the  
16 Department's citations?

17 BOARD MEMBER GRAY: Correct.

18 CHAIRPERSON JENKINS: So the motion on the  
19 floor right now is to affirm the ALJ's decision and to  
20 reapply the Department's decisions?

21 BOARD MEMBER GRAY: Correct.

22 Do we have second?

23 BOARD MEMBER BAKER: Second.

24 CHAIRPERSON JENKINS: We have a motion to  
25 second.



1 Any comments and discussion?

2 Hearing none, all in favor?

3 BOARD MEMBERS: Aye.

4 CHAIRPERSON JENKINS: Any opposed?

5 Hearing none, motion passes.

6 All right. Thank you very much. The  
7 Board's made the decision. I'm going to mess up your  
8 name up again.

9 MS. CLAVEL: Anna Clavel.

10 CHAIRPERSON JENKINS: Anna Clavel, have you  
11 prepared a proposed order?

12 MS. CLAVEL: I have.

13 CHAIRPERSON JENKINS: Okay. So if the  
14 parties could exit the area here, have a discussion  
15 here today, that would be great. If you cannot  
16 provide us -- if you cannot come up on an agreement  
17 this will be automatically set to be presented at the  
18 next regularly scheduled board meeting.

19 If agreement order cannot be received by the  
20 date, the parties will be expected to file their  
21 proposed orders and appear and advise why their  
22 proposed order best reflects the Board's decision.  
23 Hopefully this will not be necessary.

24 If you're able to reach an agreement today,  
25 reach agreement before the next meeting, please



1 forward to the secretary of the Board's Office, and I  
2 can ensure it gets signed and copies provided to the  
3 parties.

4 Questions?

5 All right. Thank you very much.

6 All right. So moving on to our next item  
7 here, which is the Department's legislative update  
8 with Technical Specialist Larry Vance.

9 Are you available? Is he even here?

10 STANDING SECRETARY LORIN LATHROP: Chair  
11 Jenkins, I can do that for Larry.

12 DEPARTMENTAL/LEGISLATIVE UPDATE

13 CHAIRPERSON JENKINS: Okay. So at this  
14 point here we have Lorin Lathrop. He is going to take  
15 over the Number 5, Certification/CEU quarterly report.

16 Thank you.

17 STANDING SECRETARY LORIN LATHROP: So  
18 Members of the Board, we are just -- we just had our  
19 TAC meeting for the 2023 NEC code adoption on  
20 July 11th. We had 28 Board members there, and we  
21 received a lot of good advice. We are currently going  
22 through those proposals and that advice and coming up  
23 with the document to kind of summarize where we're  
24 going. So that's the update there.

25 We are still looking at an adoption date of



1 April 1st of 2024 for the 2023 Electrical Code, and we  
2 are currently on schedule to make that. So still a  
3 lot of work to be done, but we're making it.

4 The other -- well I'll stop there. Any  
5 questions for me about that?

6 BOARD MEMBER CUNNINGHAM: What was the date  
7 again?

8 STANDING SECRETARY LORIN LATHROP:  
9 April 1st, 2024.

10 The other thing -- one that is going into  
11 this adoption, is -- there is a lot of housekeeping.  
12 We had some good proposals to align a lot of our  
13 headings and our topics within the -- within the WAC  
14 to meet what, also, is in the NEC. So trying to make  
15 it more user friendly. That's one of the things that  
16 we've been working really hard at.

17 The other thing that has been going to jump  
18 in here is that we also had the expedited rule that  
19 was just adopted on the first of July to -- starting  
20 the 3rd of July to bring our rules in line with the  
21 new apprenticeship requirements that were passed in  
22 April with -- Senate Bill 5320. So we're -- that all  
23 went through very well. We didn't receive any kind of  
24 problems. So that is in place as well.

25 And then I will hand it off to Larry to do



1 his CEU and quarterly certification report.

2 CERTIFICATION/CEU QUARTERLY REPORT

3 TECHNICAL SPECIALIST VANCE: Thank you,  
4 Secretary of Labor.

5 Mr. Chairman, Members of the Board, my name  
6 is Larry Vance. I'm the technical specialist with the  
7 Department of Labor and Industries.

8 I'm sorry that I don't have the reports for  
9 you this month. PSI has been having some technical  
10 difficulties on their end. They -- we've been working  
11 with them. They came back with a report that was  
12 different than the report that we're generally used  
13 to. And the fact that it didn't show -- didn't show  
14 the same data. So they went back to the drawing board  
15 with their developers. They're expediting the work  
16 order, and hopefully by next -- the next board meeting  
17 we'll have reports functional again.

18 One thing that we have done with  
19 examinations is that there was a bill. I don't the  
20 bill number off the top of my head, but it was a bill  
21 that required State agencies to end the practice of  
22 sharing Social Security numbers with outside entities.  
23 And we used Social Security numbers through secure  
24 file transfer between ourselves and PSI, and from PSI  
25 and back to us. And what we had to do was -- is



1 modify our systems -- our licensing systems, not just  
2 for -- not just for electrical, but this is for  
3 plumbing, asbestos, I'm trying to think -- there is --  
4 elevator was the other one, essentially ending that  
5 practice.

6 So what -- what now happens is that there is  
7 a unique identifier that's generated for each exam  
8 applicant, and that's how we communicate back and  
9 forth, using that unique identifier rather than Social  
10 Security number. But it was quite a programming --  
11 there was quite a lift on both ends, both on PSIs and  
12 ours, because there is a year's worth -- there's a  
13 year's worth of candidates out there, and we're  
14 communicating about those candidates using their  
15 Social Security number. So how do we -- how do we  
16 mesh all that? That was the lift -- the big lift.  
17 How do, you know -- how to make sure nobody gets lost  
18 in the woods on that?

19 CHAIRPERSON JENKINS: Can you help me there  
20 for a second?

21 TECHNICAL SPECIALIST VANCE: Yes.

22 CHAIRPERSON JENKINS: You said you did get  
23 the report back from PSI that has the current -- the  
24 reports. Did you get a chance to look through those?

25 TECHNICAL SPECIALIST VANCE: Yes. I did.





1 And there was several glaring errors in the report  
2 that showed that the report was probably not  
3 accurate --

4 CHAIRPERSON JENKINS: Thank you.

5 TECHNICAL SPECIALIST VANCE: -- and that's  
6 why I didn't bring that report forward.

7 CHAIRPERSON JENKINS: All right. Thank you.

8 TECHNICAL SPECIALIST VANCE: Yes. Thank  
9 you.

10 That's all I have.

11 CHAIRPERSON JENKINS: All right. Any  
12 questions for Technical Specialist Vance?

13 BOARD MEMBER GRAY: Thank you, Mr. Chair. I  
14 have a question on the legislative update. Can I go  
15 back to the agenda item?

16 One of the things that has bothered me for  
17 sometime on the Board is -- we hear appeals from  
18 people where they received a citation because of an  
19 installation, and what was never clear to me is what  
20 constitutes an installation according to the  
21 Department? In other words, if I come out and just  
22 lay raceway next to a trench, have I installed that  
23 raceway? I mean, it's not in place, but I've handled  
24 it, laid it out in a ditch, and I'm not a certified  
25 journeyman wire. So could I receive a citation for



1 that?

2 Or in the case of a mini-split, for example,  
3 if I come out and just lay, maybe, wiring in flexible  
4 conduit between the two units, don't connect it either  
5 way, and wait for an 01 to come out and make that  
6 connection out there, am I in violation of something  
7 because I have, quote, installed that system?

8 And so one of the things that the Department  
9 did in the TAC meeting, they came up with some  
10 language that explained the -- and I think explained  
11 the difference between someone installing an  
12 electrical component and material handling. In other  
13 words, by bringing the shop handout, they bring out --  
14 they can drop the luminaires down, or they can drop  
15 the wire, whatever it is. That's material handling.  
16 And they went through and clarified that and submitted  
17 that at the TAC meeting. But because it was late,  
18 there was concern that there wasn't enough review done  
19 on it, and so it was not accepted. And it was my  
20 understanding that it was sort of tabled until future.

21 And so my question would be to Larry or  
22 Lorin, where does that stand now? Is that just --  
23 have we lost that? Or will it come up in some other  
24 format some place? Or is that completely gone?

25 I can't speak for Wayne on this. I think at



1 this point, you know, we weren't able to gage  
2 consensus during the meeting there. People wanted  
3 more time, and I don't know of any efforts to  
4 resurrect the proposal, so to speak. In other words,  
5 is there -- is there traction within the industry to  
6 take this on at this point?

7 CHAIRPERSON JENKINS: Okay.

8 BOARD MEMBER GRAY: Thank you.

9 CHAIRPERSON JENKINS: To add a little bit of  
10 a question, more broad. Typically, we get a report --  
11 or a request from the Department. We kind of talked  
12 about the TAC meeting and what the proposed changes  
13 are. Is that coming up in the next meeting?

14 BOARD MEMBER GRAY: That's coming up at the  
15 next meeting. We weren't able -- just -- just the  
16 timeline and everything, what -- what we've got to  
17 bring to the Board is -- is the -- is a package -- is  
18 a real package that's ready to move to the CR 102  
19 level.

20 So it's just prior to the CR 102 level when  
21 we've had a -- it's a final product from the Code  
22 Reviser -- it's not a final product. It's a proposed  
23 final product, but it is, you know -- at that point  
24 there -- unless there is public comment that changes  
25 things, there is generally no changes moving forward.



1 So we want to have that. We want to have that version  
2 available for the Board in advance of next board  
3 meeting, so that there is time for Board members to  
4 review and just follow the normal process.

5 CHAIRPERSON JENKINS: Okay. So we're going  
6 to inspect them, and in some short time we'll see if  
7 some e-mail went through that has the proposed  
8 changes? So we can review them prior to next meeting  
9 then.

10 BOARD MEMBER GRAY: I'm coming off -- let me  
11 just work off the top of my head here. I believe that  
12 I have -- I committed to have the rules ready for the  
13 Code Reviser, I believe, on the 28th of August. So  
14 we're getting into September. Probably about that  
15 time, we're going to be posting that version online,  
16 you know, and making -- we do it ahead of public  
17 comment period. We do it ahead of 102. We just like  
18 to get it out there; right?

19 So we will get that out in the public realm,  
20 advertise it, electronic newsletter, news articles,  
21 and let everybody know that is there. And Board  
22 members can read it then, or you can get -- you will  
23 get the official version at least 20 days prior to the  
24 next meeting.

25 CHAIRPERSON JENKINS: Thank you very much.



1 BOARD MEMBER GRAY: Yeah.

2 CHAIRPERSON JENKINS: All right.

3 BOARD MEMBER GRAY: Any questions?

4 CHAIRPERSON JENKINS: You can continue on --  
5 sorry.

6 BOARD MEMBER GRAY: No. I'm good. Yeah. I  
7 don't know. Was I in the middle of a statement?

8 CHAIRPERSON JENKINS: It sounded like you  
9 wanted to continue on. That's all right.

10 BOARD MEMBER GRAY: No. I was good. I was  
11 just trying to give -- I was trying to think and speak  
12 at the same time. So I think I gave an accurate  
13 rendition of what the future holds.

14 CHAIRPERSON JENKINS: All right. Thank you  
15 very much.

16 BOARD MEMBER GRAY: Yes. Thank you.

17 STANDING SECRETARY LORIN LATHROP: Chair  
18 Jenkins, just to answer Mr. Gray's question a little  
19 further is that, Wayne ensures me that it's his  
20 intention to put together some kind of a stakeholder  
21 of that material handler definition issue, and to  
22 continue to kind of fill it out so that there is -- we  
23 have some kind of consensus going forward.

24 So I think that he would say that it's not  
25 dead. We're -- it's still in the process.



1 BOARD MEMBER GRAY: Thank you for that.

2 STANDING SECRETARY LORIN LATHROP: You're  
3 welcome.

4 BOARD MEMBER TUMELSON: Board Member  
5 Tumelson. I had a question for the Department.

6 I don't know where I read it, maybe I just  
7 heard it, but I heard that a plan review might be on  
8 the docket for a photovoltaic for you guys. Is that  
9 you guys?

10 Okay. Maybe it was just a rumor. Someone  
11 was like, oh, the Department is going to be requiring,  
12 you know, photovoltaic plan review. So I was like,  
13 okay. I'd like to know that. I didn't see it in the  
14 Current or anything.

15 BOARD MEMBER GRAY: No. Still -- they still  
16 plan board take plan for any time they're within any  
17 of the required occupancies, planned occupance source,  
18 so schools, public buildings, et cetera.

19 BOARD MEMBER KNOTTINGHAM: Board Member  
20 Knottingham. There is a -- there is a reference to  
21 photovoltaic. I think it's over 9.6kw in the WAC  
22 296486(b) 900 electrical planar view portion of that  
23 article. And it's specifically enumerates PV systems  
24 over 9.6kw.

25 Can you clarify that that only applies to



1 the occupancy groups, institutional health care,  
2 education?

3 BOARD MEMBER GRAY: Yes. Because it's  
4 within, I believe, WAC 900, which is the plan review.

5 BOARD MEMBER KNOTTINGHAM: Yeah. Correct.  
6 Okay. And we just encountered this and had a debate  
7 about whether it was broadly applied. Or it was all  
8 specific to those occupancies.

9 BOARD MEMBER GRAY: All.

10 Okay. Yeah.

11 STANDING SECRETARY LORIN LATHROP: So one  
12 thing I would add is that we do have a requirement for  
13 a design review so that when you -- when the inspector  
14 shows up, that we have some kind of a one-line, we  
15 know what was designed, and that we can check all of  
16 those elements. So that is an on-site. It is not a  
17 planner, where your submitting plans or you're then  
18 going through a process for us to approve or to  
19 disapprove before a, like, school or something like  
20 that. So there is that design review that we have  
21 those documents on-site.

22 BOARD MEMBER TUMELSON: Thank you.

23 TECHNICAL SPECIALIST VANCE: We have that  
24 for PUD, WIN, and for this current rulemaking. We're  
25 looking into the future. Yeah.



1                   CHAIRPERSON JENKINS: Any other questions  
2 for Technical Specialist Larry Vance?

3                   TECHNICAL SPECIALIST VANCE: Thank you all.

4                   CHAIRPERSON JENKINS: Thank you very much.  
5 So it looks like we're back to you, again,  
6 Mr. Lorin Lathrop.

7                   Secretary's report.

8   SECRETARY'S REPORT

9                   STANDING SECRETARY LORIN LATHROP: Thank  
10 you, Chair Jenkins.

11                   So this is our end-of-the-fiscal-year  
12 report, so not -- when it comes to our balances,  
13 things are a little bit different because we are still  
14 awaiting for a number of bills to come in and to  
15 clear. So we will have a better and a complete answer  
16 for you at the October meeting, but at this point this  
17 is the preliminary data for the budget.

18                   As of right now, we're expecting between two  
19 and \$300,000 of expenditures to continue to roll in  
20 over the next month or so and get all caught up.

21                   So as of right now. The electrical fund  
22 balance of June 30th of 2023 was 17,319,235, which is  
23 about seven-and-a-half times the average monthly  
24 operating expenditures.

25                   The average monthly operating expenditures





1 for the fourth quarter of fiscal year '23 were  
2 2,568,628, compared to 2,252,966,000 for the same  
3 period last year, which is an increase of about  
4 14 percent.

5 The average monthly revenue for the fourth  
6 quarter of fiscal year '23 was 2,834,328 compared to  
7 2,900,908 for the same period last year, which is a  
8 decrease of about three percent.

9 For customer service for the month of June,  
10 we sold 48,778 permits, 98.3 percent of them, or  
11 47,959 were processed online, which is a decrease of  
12 about .3 percent from last quarter. 99.7 of  
13 contractor permits were sold online, which is a  
14 decrease of about .1 percent from the previous  
15 quarter.

16 Homeowner online sales from this quarter was  
17 82.8 percent, which is a 1 percent decrease from the  
18 previous quarter, and the online inspection requests  
19 was 75.2 percent, which is a 1.6 percent decrease from  
20 last quarter.

21 During this quarter, customers made  
22 91.3 percent of all electrical license renewals  
23 online, which is a .7 percent increase from last  
24 quarter.

25 Our key performance measures, this comes



1 from the scorecard. The first one, percentage of  
2 inspections performed within 48 hours of a request,  
3 the goal is 86 percent. Both last fiscal year and  
4 this fiscal year, we're looking at the whole year in  
5 this report, were the same. 77 percent were answered  
6 within 24 hours. And the percentage of inspections  
7 performed within 48 hours, again, was the same this  
8 year at 89 percent. It doesn't say here, but the goal  
9 for performance in -- within 48 hours is 94 percent of  
10 inspections done within 48 hours of request.

11 Total number of inspections last year, we  
12 did 261,919. This year we increased it a little bit  
13 to 264,723. VEI is continuing to grow. Last year we  
14 did 27,342 virtual inspections, and this year we did  
15 43,350.

16 Number of focused citations and warnings,  
17 focused citations are for contractor licensing, worker  
18 certification, permit, and failing to supervise  
19 trainees. This is our underground economy that we're  
20 targeting, trying to curve that. Last year the field  
21 did 1430 focus citations, Ecore and Audit did 3,764  
22 with a total of 5,194. This year the field did 1,128.  
23 Focus citations, Ecore and Audit did 5,609, for a  
24 total of 6816.

25 The average inspector stops per day went



1 down a little bit. Last year it was 11.7. This year  
2 it was 11.4, and the number of serious corrections  
3 that would result in a disconnection of power was  
4 37,023 in '22 and 37,532 this year.

5 The turnaround time for plan review, the  
6 goal is less than 1.6 weeks. Right now -- last year  
7 they operated in -- turnaround time was three days.  
8 This year they brought that down to two days.

9 And then total number of pages reviewed,  
10 last year 4,390, and this year 3,958.

11 When we talk about focus citations, that  
12 numbers includes those which carry the monetary  
13 penalty, and those which do no not. And when they  
14 did -- when we didn't give a monetary penalty we  
15 referred to those as warnings.

16 So in the last year, two percent of all the  
17 licensing citations that we file -- that we cited  
18 where only two percent were warnings; for  
19 certifications, 16 percent were for warnings; for  
20 permits, 40 percent were warnings; and for a trainee  
21 not having proper supervision was 35 percent. And of  
22 all the focus citations we did, only 25 percent  
23 overall were warnings.

24 I feel like this is a big hose. Do we want  
25 to stop there? Anyone have a question before we go



1 too far?

2 BOARD MEMBER BURKE: Just a couple comments.  
3 I'll start, and then you can add your comments.

4 We've talked about it for years that we get  
5 to a fund balance where we're at. There's a big fear  
6 of getting swept. So I think further discussion on  
7 the topic of the three years now, of getting more  
8 inspectors and encouraging more inspectors whereas the  
9 Department had on changing, you know, pay structure  
10 and all those things we've discussed over the years.  
11 You might want to add something.

12 CHAIRPERSON JENKINS: Well, can I just  
13 interrupt for a second?

14 BOARD MEMBER BURKE: Yep.

15 CHAIRPERSON JENKINS: I think reading the  
16 minutes from last meeting, in looking at doing a  
17 (indiscernible) out of that, and they are having some  
18 comp and stuff -- discussions going on.

19 Can you odd to that, Lorin?

20 STANDING SECRETARY LORIN LATHROP: I can.

21 BOARD MEMBER BURKE: I knew where it  
22 started. So where are we going --

23 CHAIRPERSON JENKINS: Thank you.

24 BOARD MEMBER BURKE: -- in the last months?

25 CHAIRPERSON JENKINS: All right.



1           STANDING SECRETARY LORIN LATHROP: So to --  
2           so with -- this last year there was a standard -- a  
3           negotiated raise that happened for inspectors, which  
4           over two years got somewhere in the 15 to 17 percent,  
5           so depending on if you're an inspector, what level.  
6           So that brought our -- that brought our wages up to --  
7           I'd say the upper third of what inspectors are being  
8           paid statewide.

9           BOARD MEMBER BURKE: Do you know how that  
10          compares to construction electricians?

11          STANDING SECRETARY LORIN LATHROP: I  
12          would -- I would say that we would be competitive with  
13          everyone but King County.

14          BOARD MEMBER BURKE: Got it.

15          STANDING SECRETARY LORIN LATHROP: That's  
16          the fairest way I can say it.

17          BOARD MEMBER BURKE: That's a fair  
18          statement.

19          STANDING SECRETARY LORIN LATHROP: So on top  
20          of that, in this last legislative session, they -- the  
21          Legislature also passed a budget in which we were  
22          granted a larger allotment to be able to use only for  
23          retention and promotion. That two-year allotment  
24          bumped us to, I'm going to say, at the top of the pay  
25          scale. We're -- right now, for these next two years,



1 we are highly competitive with what we're paying  
2 compared to basically everyone. But, again, King  
3 County is right there with us, and that's just the way  
4 that goes.

5 So we have -- we have some very positive  
6 things happening out of that. We are hoping to  
7 continue to be able to recruit and to attract  
8 excellent candidates because now we're not hovering  
9 for the previous year, so you know, out of all the  
10 municipalities, we were second to last in terms of pay  
11 statewide.

12 So we are now -- we've gone from that --  
13 that bottom, so now we are at the top of the pay  
14 scale, at least for the next two years, and right now  
15 we're -- it's looking quite promising.

16 Where that goes in the future, we don't know  
17 yet. There's a lot of work going on to -- to in class  
18 and comp and stuff like that, that Wayne is doing good  
19 work on, so that's where we're at.

20 BOARD MEMBER BURKE: Which is great to hear  
21 that it's happening. As the Board, I'm sure it will  
22 stay in our agenda. So thank you.

23 STANDING SECRETARY LORIN LATHROP: You're  
24 welcome.

25 BOARD MEMBER BAKER: How many open



1 positions -- how many recruiting positions do you have  
2 open right now for inspectors?

3 STANDING SECRETARY LORIN LATHROP: I  
4 believe -- I just did a number yesterday. I believe  
5 it is 21, 22 is what we currently have for vacancy  
6 statewide, which -- no. That can't be right. The  
7 percentage is 21 percent -- excuse me. The percentage  
8 is 21 percent. I believe -- I'd have -- I can look it  
9 up for you. I have it here. I believe it's in the 25  
10 range. I'd have to look, but it's got 21 percent.

11 BOARD MEMBER BAKER: Okay. And are you  
12 tracking some anticipated electrician retirement?

13 STANDING SECRETARY LORIN LATHROP: Yes.

14 BOARD MEMBER BAKER: What do those numbers  
15 look like over the next two years?

16 STANDING SECRETARY LORIN LATHROP: I don't  
17 think I have a hard number. I can tell you that I've  
18 looked at some of the key positions that we have just  
19 in the supervisor ranks and those. And we're looking  
20 at over ten retirements in the next two years just in  
21 key positions.

22 So that is -- that is -- it's quite -- there  
23 is a lot. There's going to be a lot moving. And  
24 that's part of the reason why that we've been trying  
25 to bring in -- we've gone from two technical



1 specialists to three, so we can start doing some of  
2 the change management and start to plan for what the  
3 Department can do moving forward and getting people  
4 like me who are a little bit on the younger side of  
5 this that can try to learn the ropes somewhere in the  
6 history of the Department and keep it going.

7 BOARD MEMBER BAKER: Do they -- does the  
8 Department have or encourage written succession plans  
9 in those different regions, in those departments where  
10 you have supervisors there --

11 STANDING SECRETARY LORIN LATHROP: I don't  
12 know the answer to that. I -- I would have to get --  
13 I don't want to shoot from the hip on that. I  
14 would -- I -- I will find the answer for you and get  
15 it back to you.

16 BOARD MEMBER BAKER: Okay. Maybe in the  
17 next board meeting.

18 STANDING SECRETARY LORIN LATHROP: Yeah.  
19 Absolutely.

20 BOARD MEMBER BAKER: Thank you.

21 STANDING SECRETARY LORIN LATHROP: Uh-huh.

22 CHAIRPERSON JENKINS: Okay. You may  
23 continue.

24 STANDING SECRETARY LORIN LATHROP: Okay.  
25 All right. Page two.





1           The electrical license/citations/amusement  
2 rights/appeals. As of July 25th, there are a total of  
3 1391 items to be processed. The oldest item is dated  
4 June 2nd of 2023. The majority of our workload is  
5 closer to June 13th of 2023. 1,019 of these items are  
6 affidavits. We continue to see an increase in the  
7 number of affidavits being submitted most likely due  
8 to the July 1st, 2023 apprenticeship law change.  
9 Electrical trainees are submitting hours worked in the  
10 01 cat -- general category to ensure they're recorded  
11 prior to this date.

12           In addition to processing documents,  
13 licensing staff are responsible for answering all  
14 incoming electrical program phone calls. For this  
15 time frame between April 1st of 2023 and July 1st of  
16 2023, they answered a total of 6,662 calls. This is  
17 an average of 2,220 calls per month or 555 a week, 105  
18 a day or 13 an hour. This does not include inbound  
19 calls coming into their direct lines or inbound calls  
20 being made -- outbound calls, excuse me, made to  
21 customers. Current staffing allows for two  
22 representatives to be available at a time to answer  
23 calls.

24           The standard workflow has been updated, and  
25 the licensing team has been trained on law changes



1 that took place on July 1st of 2023. Much of the  
2 backlog reported is due to the increase in number of  
3 affidavits we are receiving as well as the staff  
4 familiarization -- familiarizing themselves with the  
5 updated review process.

6 They have completed the hiring process to  
7 fill two positions within the Citations and Amusement  
8 Rights section. This movement created a vacancy  
9 within the Licensing team. We have also completed the  
10 hiring process to fill the position that was vacated  
11 by its promotional opportunity. Jennifer Billie,  
12 Program Support Supervisor, has accepted the position  
13 with another program area within the agency. Jen  
14 Dietrich, who has been overseeing the citation  
15 Amusement rides and Appeals position, will take on the  
16 supervisory responsibilities of the Licensing team  
17 until the program develops a succession plan.

18 There's nothing new to report for new  
19 testing labs. And with the pass of Engrossed  
20 Substitute Senate Bill 5320, which was the  
21 apprenticeship law that was just -- that was amended  
22 the original 6126 was passed in April by the  
23 Legislature and signed by Governor Inslee. And that  
24 the report.

25 CHAIRPERSON JENKINS: Any questions from the



1 Board?

2 I just want to say, I just hope that  
3 they'll -- all this disbursing throughout the whole  
4 program gets fairly and eventually distributed based  
5 upon whatever you guys decide, all the way from the  
6 chief to the next person higher. I think the Board  
7 has a same input there.

8 Okay. All right. Hearing no other  
9 questions for Secretary's reports, I think you had  
10 some other questions or comments about the  
11 preconstruction meetings.

12 PRE-CONSTRUCTION MEETINGS  
13 AND ELECTRICAL INSPECTOR INVOLVEMENT

14 STANDING SECRETARY LORIN LATHROP: Oh, yes.  
15 Thank you.

16 Last month -- or last meeting, there was a  
17 question that was brought to Wayne about who or what  
18 or how is the Department handling preconstruction  
19 meetings with customers. And with discussion in the  
20 last supervisors' meeting, they were -- the  
21 supervisors -- the field supervisors were instructed  
22 to be very careful with those types of meetings.  
23 Mainly, come out with -- if you're going to have those  
24 types of meetings, they should be only supervisors and  
25 leads who go out to them, and that they are to answer  
specific code questions, not to layout or approve work



1 ahead of time, that they should be -- we can't give  
2 suggestions. We cannot consult, but we can answer  
3 code questions.

4 So that is the direction.

5 CHAIRPERSON JENKINS: All right.

6 Yes?

7 BOARD MEMBER BAKER: Just to comment on  
8 that, this all stems from a case we had that lingered  
9 here for several years. My recommendation is that if  
10 a supervisor is going to go out and have a  
11 conversation or a meeting with a contractor or owner,  
12 that they document that somehow and keep it on file in  
13 some form or fashion.

14 CHAIRPERSON JENKINS: Did you get that?

15 STANDING SECRETARY LORIN LATHROP: Yep. I  
16 got it. Sorry. I'm getting --

17 CHAIRPERSON JENKINS: That's all right.

18 Any other questions? Comments?

19 All right. Given that, we're getting close  
20 to the end, and I think we can push through, unless  
21 anyone has any questions, comments, or concerns?

22 Hearing none, do we have any public comment  
23 regarding items not in the agenda?

24 PUBLIC COMMENT REGARDING ITEMS NOT ON THE AGENDA

25 CHAIRPERSON JENKINS: It looks like we do



1 have some people signed in to do this. Aaron Larsen,  
2 are you still with us?

3 As a reminder to public comments, these are  
4 comments made to the Board and to the Department. We  
5 don't take questions. We will not respond to any  
6 comments or suggestions sent to us directly. Okay.

7 CAROLYN LOGUE: He actually signed up.  
8 We're here on the same subject. I'm Carolyn Logue. I  
9 can just go first, if that's okay.

10 So my name is Carolyn Logue. I'm the  
11 lobbyist for the Washington Air Conditioning  
12 Contractors Association. It is an association of  
13 HVACR, contractors, installers, distributors, and  
14 manufacturers working here in Washington state. This  
15 is technically kind of on the agenda because the  
16 Department did the update. But in your rule packet,  
17 as you see it going forward, will be the proposal,  
18 again, to see how we can help or have the 06As be able  
19 to do the connections between the indoor and outdoor  
20 units in ductless mini-splits. And I just wanted to  
21 come and talk to you today just to emphasize a little  
22 bit about why that is so important.

23 First of all, I think there has been some  
24 discussions about just how much work this is. Right  
25 now what we're seeing is this -- I'd say five years



1 ago, our contractors were telling us, this is  
2 25 percent of their installs, maybe less. It is now  
3 getting to be 50 to 70 percent of the install requests  
4 coming through for these ductless mini-splits. It is  
5 being used, as you know, retrofit for older houses  
6 that have had traditional baseboard or non-ductless  
7 systems and want to introduce -- particularly now that  
8 we're trying to introduce more air conditioning.  
9 Condos and apartments and especially when you're  
10 seeing more and more condos and apartments going up,  
11 but, also -- and then, of course, the need and more  
12 demand for zone control within homes and in buildings.

13 In addition, in the 2021 energy code, the  
14 State Building Code Council has mandated that there be  
15 heat pumps in new construction. That's real for  
16 residential and commercial. The other -- the other  
17 thing is that even in the 2018 code, for the builders  
18 out there, what they found in order to meet the  
19 requirements is that they do -- they charge to figure  
20 out the carbon emission and energy efficiency required  
21 in the code that the ductless mini-split systems are  
22 often the most efficient means of doing that. It  
23 allows them and gives them more flexibility in terms  
24 of other appliance use if they do a ductless  
25 mini-split type of system.



1           We want to make sure that you understand  
2           that we want to make sure that this is done safely.  
3           We're not talking about having the 06As, the 01 still  
4           need to be involved in constructing and installing the  
5           outdoor unit. There would still be inspections. We  
6           want to make sure it's done correctly. So we want to  
7           see how they can help the 06As.

8           From what we can tell, we haven't seen -- in  
9           another state, that doesn't allow the HVAC techs to do  
10          this work. We have Genseco. I just want to kind of  
11          emphasize how much we want to sit down. If there is  
12          language discussions, et cetera, we are ready to do  
13          that. We have Wayne Craig from Bob's Heating and Air  
14          Conditioning and others who are ready to sit down and  
15          have really good discussions about how we can do this,  
16          so that it's safe, so that it's done correctly, and it  
17          is done within the scope of what is training for our  
18          06A electricians.

19          So with that, I just wanted to make sure you  
20          know we want to work on this. We want to help. We  
21          want to figure out how to do it, because it's becoming  
22          such a big huge, giant part of the industry.

23          AARON LARSEN: So my name is Aaron Larsen,  
24          as she said. I work for Genseco. We're a heating and  
25          air conditioning wholesaler. My background is both a



1 journeyman electrician from Idaho, as well as a  
2 journeyman HVAC installer from Idaho. I moved up here  
3 a couple years ago with the request from Gensco to  
4 support the team on a technical standpoint. So my  
5 official title is technical services manager. So I  
6 cover a lot of installation issues that our dealers  
7 run into throughout the field.

8 So what I would like to tell you is the  
9 running front of this cable from outdoor unit to  
10 indoor unit is really a normal part of the HVAC  
11 installation. It still needs to be done per code.  
12 Code addresses the strapping. We should still have  
13 our 06A licensing as well as an inspection process  
14 thereof. But I do believe it's a normal part of the  
15 HVAC installation.

16 On the gross side of it, we at Gensco last  
17 year saw 70 percent growth, year over year, of  
18 ductless products. The previous year we saw about  
19 40 percent growth. I think it was right around  
20 43 percent growth. This year we're expecting  
21 somewhere in the neighborhood of 35 to 40 percent  
22 growth again.

23 So if you account for that, we've doubled  
24 our business every two years for the last few years.  
25 This is an amazing growth. It's going to continue to





1 grow. And we would really like to find out how we can  
2 help make this more seamless installation for both the  
3 01A that does the line voltage work to the outdoor  
4 unit as well as the HVAC contractor.

5 We're willing to discuss, if we need to make  
6 training modifications. We require a lot of training.  
7 We do a lot of training in our facility, and I know  
8 our competitors do as well. We're willing to discuss  
9 any modifications with training that you-all see fit  
10 to make this happen.

11 And again, we still want the permitting  
12 process. We still want the inspection. We just want  
13 to make sure everything runs smoothly, and we can meet  
14 the demands that Washington has put forward for the  
15 electrification of Washington.

16 CHAIRPERSON JENKINS: Okay. Thank you very  
17 much.

18 AARON LARSEN: Thank you. I appreciate your  
19 time.

20 CHAIRPERSON JENKINS: And next on our list  
21 is Steven Anderson.

22 Spell and speak your name for the court  
23 reporter, please.

24 STEPHEN ANDERSON: Yeah. My name is Stephen  
25 Anderson. IT'S S-T-E-P-H-E-N, A-N-D-E-R-S-O-N.



1                   CHAIRPERSON JENKINS: All right. You may  
2 continue.

3                   STEPHEN ANDERSON: Okay. I'm an electrical  
4 administrator, an 01. I own Solex Corporation, which  
5 is an electrical contractor and general contractor,  
6 and we specialize in solar. I didn't intend to make  
7 any public comments today, but I spoke with John  
8 Barns, and he suggested that I mention this to  
9 everybody. So that's what I'm doing.

10                   There's been quite a big of caginess with  
11 the electrical inspectors, not that L&I inspectors,  
12 but the City inspectors. I wouldn't bring this to  
13 you, but I understand you have some sort of oversight  
14 and advisory role even with the cities.

15                   So there was law -- I'll make this quick.  
16 But there was a law passed, RCW 19.27.195 sometime  
17 ago: Renewable energy systems-Study code and adopt  
18 changes. State building code council, in consultation  
19 with the Department of Commerce and the local  
20 government shall conduct a study of the State building  
21 code and adopt changes necessary to ensure greater use  
22 of renewable energy systems.

23                   That study did occur, in the City of  
24 Seattle, Edmonds, Bellevue, Kirkland, Ellensburg.  
25 They were all involved. What came out of that were



1 quite a few different code changes, and the idea is  
2 that it incentivized solar and made it, you know, less  
3 costly.

4 So in particular, WAC 296-46B-690 004,  
5 Installation: Support structure or foundation. It  
6 says specifically those portions of the structure  
7 support or foundation are exclusively mechanical and  
8 not part of the bonding or grounding path would not be  
9 considered part of the photovoltaic system. Such  
10 structural support or foundation may be done by the  
11 owner, registered general contractor, or licensed  
12 electrical contractor without electrical permit or  
13 inspection.

14 There is no permit and no inspection. Well,  
15 why would that be? Well, it's not electrical work.  
16 The people that would do that would be roofers,  
17 typically. And that support structure we're talking  
18 about the flashes that have a standoff attached to  
19 them, and this whole solar sits on top of it. So  
20 they're -- they're metal, and they can conduct  
21 electricity, but they're not part of the bonding path  
22 in any way. And no different than -- say, a metal  
23 roof would be part of the bonding path just because  
24 it's metal or a metal duct work.

25 So -- but what happens is City inspectors



1 will come out, and they will want to -- before we  
2 install any of this, they're going to want to see  
3 those materials, oftentimes, at the site. They want  
4 to have a cover inspection. Theoretically, it should  
5 already be up on the roof, because it could be done  
6 without a permit on an inspection. Why are they  
7 inspecting this though? If they're inspecting it,  
8 number one, why is an electrical inspector inspecting  
9 stuff that's not electrical at all? It's part of a  
10 solar installation, but not all solar is electrical.  
11 Essentially, they would be trespassing. I mean, are  
12 we going to have electrical inspectors inspecting the  
13 plumbing also? I mean, do they come by and say,  
14 here's a water pipe. I'm going to inspect that too.  
15 Well, that would be ridiculous. That would be  
16 absolutely unreasonable. But we have that happen all  
17 the time with many of the different cities, and it  
18 creates sort of a -- I want to have a good  
19 relationship with the inspectors. I don't want to  
20 have sort of a contentious sort of relationship. I  
21 want to have a good time, actually.

22 But it gets worse because in four, it says,  
23 The entity placing the cell, module, panel, or array  
24 is not subject to requirements for electrical  
25 inspection, licensing, or certification so long as



1 work is limited to placement and securement of the  
2 device, and an electrical work permit has been  
3 previously obtained.

4 So the other thing that they want to do is  
5 they want to have a special inspection, a cover  
6 inspector, come and look at the certification listing  
7 mark on the panels. And, really, this cover  
8 inspection is all about inspecting these materials  
9 that are exempt from an inspection because of the WAC  
10 here completely.

11 And so, essentially, these cities are  
12 coercing me or my employees into showing up for  
13 inspections that's essentially a phoney inspection of  
14 either passive electrical work, that is not subject to  
15 an inspection, or work that isn't even electrical at  
16 all that should be done by roofers or framers without  
17 an inspection or a permit.

18 So, you know, it's some pretty aggravating  
19 stuff. But I think, you know -- I just wanted to  
20 bring it to your attention to let you know that's what  
21 is going on. And that's it.

22 CHAIRPERSON JENKINS: Okay. Thank you very  
23 much for your time. I appreciate it.

24 STEPHEN ANDERSON: Thank you.

25 CHAIRPERSON JENKINS: Okay. Any other



1 questions, comments, or concerns for the Electrical  
2 Board before we adjourn?

3 JOHN BARNS: Yes. I do have an order on the  
4 case that you just heard for signature. And I also  
5 have an order from -- if you-all recall, there was a  
6 special E Board meeting on June 1st in Olympia, and it  
7 had to deal with open wiring on insulators in a marina  
8 setting. We do have an order. It's not an agreed  
9 order. We have sent it to PMW, and either they have  
10 not gotten back with this, or they have, and they  
11 don't have any issue with the order. They still have  
12 issue with the underlying decision. But anyway, I do  
13 have these two orders for signature.

14 CHAIRPERSON JENKINS: Okay. We'll review  
15 those and we can sign as appropriate.

16 JOHN BARNS: Thank you.

17 CHAIRPERSON JENKINS: Any other questions?  
18 Any comments, concerns for the Electrical Board  
19 itself?

20 BOARD MEMBER GRAY: Thank you, Mr. Chair I  
21 wonder if it would be appropriate to ask that the  
22 Board get a copy of the proposal that the Department  
23 developed for describing material handling on job  
24 sites. Could we ask that that be sent around?

25 CHAIRPERSON JENKINS: I would -- you're



1 talking about for the next meeting?

2 BOARD MEMBER GRAY: Yes. And for the review  
3 in case we want to support this.

4 CHAIRPERSON JENKINS: Request that the  
5 Department does that. Thank you.

6 Anything else we want to ask the Department  
7 for?

8 Yes?

9 BOARD MEMBER BAKER: Based on the last  
10 gentleman's comments, I am curious to know how the  
11 Department handles the inconsistencies across  
12 jurisdictions. I see that often. I'm sure other  
13 people see that as well. I don't know what the  
14 Department typically does to remedy that or if they've  
15 got to campaign for training and education. But I  
16 would like to hear something maybe at the next Board  
17 meeting on how the Department manages and how they can  
18 go forward to correct some of those, because these are  
19 real issues.

20 Dominic, have you experienced that?

21 BOARD MEMBER BURKE: Yeah. Absolutely.  
22 Every jurisdiction. Yeah.

23 CHAIRPERSON JENKINS: All right. Last thing  
24 I want to mention is, first of all, I appreciate the  
25 Department for updating us. I very much appreciate



1 that.

2 So any other questions or comments?

3 Okay. Given that, the chairman will motion  
4 to close the meeting.

5 UNIDENTIFIED SPEAKER: So do.

6 CHAIRPERSON JENKINS: We have a motion.

7 Do we have a second?

8 UNIDENTIFIED SPEAKER: Second.

9 CHAIRPERSON JENKINS: We have a second.

10 Any discussion?

11 Hearing all in favor?

12 BOARD MEMBERS: Aye.

13 CHAIRPERSON JENKINS: Any opposed?

14 Motion passes.

15 (Meeting concluded at 12:04 p.m.)

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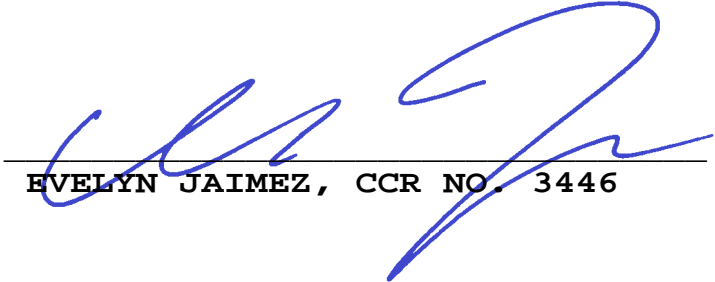
C E R T I F I C A T E

I, EVELYN JAIMEZ, A CERTIFIED COURT REPORTER IN AND FOR THE STATE OF WASHINGTON, RESIDING AT VANCOUVER, DO HEREBY CERTIFY;

THAT THE FOREGOING PROCEEDINGS WERE TAKEN BEFORE ME AND THEREAFTER REDUCED TO A TYPED FORMAT UNDER MY DIRECTION; THAT THE TRANSCRIPT IS A FULL, TRUE AND COMPLETE TRANSCRIPT OF SAID PROCEEDINGS CONSISTING OF PAGES 1 THROUGH 120.

THAT AS A CCR IN THIS STATE, I AM BOUND BY THE RULES OF CONDUCT AS CODIFIED IN WAC 308-14-130; THAT COURT REPORTING ARRANGEMENTS AND FEES IN THIS CASE ARE OFFERED TO ALL PARTIES ON EQUAL TERMS.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND THIS 10TH DAY OF AUGUST 2023.

  
EVELYN JAIMEZ, CCR NO. 3446

	<b>10:55</b> 65:25	
<hr/> <b>\$</b> <hr/>	<b>11.4</b> 98:2	<hr/> <b>2</b> <hr/>
<b>\$3,000</b> 72:21	<b>11.7</b> 98:1	<b>2'</b> 71:8
<b>\$300,000</b> 95:19	<b>11th</b> 84:20	<b>2,220</b> 104:17
<hr/>	<b>12-2021-LI-01739</b> 29:11	<b>2,252,966,000</b> 96:2
<hr/> <b>-</b> <hr/>	<b>1205</b> 22:8	<b>2,568,628</b> 96:2
<b>--ooooo--</b> 3:16	<b>1242</b> 21:16	<b>2,834,328</b> 96:6
<hr/>	<b>1245</b> 21:16	<b>2,900,908</b> 96:7
<hr/> <b>0</b> <hr/>	<b>1287</b> 22:23	<b>2.3</b> 22:25
<b>004</b> 114:4	<b>1288</b> 22:24,25	<b>20</b> 33:9 50:3,6 61:14,15 70:8 73:6 91:23
<b>01</b> 56:22 77:8 80:23 89:5 104:10 110:3 113:4	<b>1291</b> 23:4	<b>20'</b> 74:15,18 82:4
<b>01A</b> 112:3	<b>12:04</b> 119:15	<b>200</b> 71:2
<b>02</b> 56:22	<b>12th</b> 7:14,18	<b>2002</b> 31:17 34:20 42:4,5,12 49:12
<b>022022-LI01755</b> 65:22	<b>13</b> 104:18	<b>2003</b> 18:18
<b>052021-LI01646</b> 7:8	<b>1391</b> 104:3	<b>2016</b> 21:15 22:25
<b>06</b> 56:22 77:9	<b>13th</b> 18:15 104:5	<b>2017</b> 21:17
<b>06A</b> 110:18 111:13	<b>14</b> 96:4	<b>2018</b> 10:6 11:9 17:16 18:15,17 21:17 109:17
<b>06as</b> 108:18 110:3,7	<b>1430</b> 97:21	<b>2019</b> 10:6,13 11:11,16 18:11,14 19:13,15,20 21:16 23:4
<hr/>	<b>1471</b> 17:18	<b>2020</b> 7:18 11:20
<hr/> <b>1</b> <hr/>	<b>1475</b> 18:9	<b>2021</b> 10:8,10 11:22 29:20 66:6 109:13
<b>1</b> 76:23 96:14,17	<b>15</b> 8:20 100:4	<b>2022</b> 7:14 66:3
<b>1,019</b> 104:5	<b>15-minute</b> 65:6	<b>2023</b> 3:3,21 5:23 6:2,11 7:10 29:14 65:24 84:19 85:1 95:22 104:4,5,8, 15,16 105:1
<b>1,128</b> 97:22	<b>16</b> 36:16 98:19	<b>2024</b> 85:1,9
<b>1.6</b> 96:19 98:6	<b>16th</b> 29:19	<b>21</b> 102:5,7,8,10
<b>10</b> 68:11	<b>17</b> 100:4	<b>22</b> 98:4 102:5
<b>10'</b> 69:6 79:14	<b>17,319,235</b> 95:22	<b>226</b> 39:22
<b>100</b> 60:9	<b>19.27.195</b> 113:16	<b>227</b> 39:22
<b>102</b> 90:18,20 91:17	<b>19.28</b> 13:12,19	<b>22nd</b> 29:14
<b>105</b> 104:17	<b>1928</b> 48:4	<b>23</b> 96:1,6
<b>1099</b> 15:1,6 21:11,14 22:9 23:3,6 25:6	<b>1933</b> 3:3	<b>24</b> 61:2 97:6
<b>1099s</b> 25:16	<b>1956</b> 58:6	<b>25</b> 67:7 78:4,14 79:7,9,23 80:3,13 81:4,7 98:22 102:9 109:2
<b>10:35</b> 65:7	<b>1993</b> 58:7	
<b>10:53</b> 65:8	<b>19th</b> 18:11	
<b>10:54</b> 65:11	<b>1st</b> 18:14 85:1,9 104:8,15 105:1 117:6	



<b>250.50</b> 81:21	<b>419</b> 26:5	
<b>250.53(a)(2)</b> 74:6	<b>43</b> 111:20	<hr/> <b>7</b> <hr/>
<b>258A-C</b> 3:4	<b>43,350</b> 97:15	<b>7</b> 96:23
<b>25th</b> 104:2	<b>45</b> 75:11	<b>70</b> 109:3 111:17
<b>260</b> 31:23 32:4,6 33:8,10 34:4,24 36:21,23 37:18 39:13,23 42:8,16,25 43:10 44:2,5,7 45:9,12,24 46:4 47:12,23 50:20 54:4	<b>458</b> 26:4	<b>700</b> 32:8 33:13
<b>260's</b> 39:24	<b>47,959</b> 96:11	<b>75.2</b> 96:19
<b>261,919</b> 97:12	<b>471</b> 17:23	<b>77</b> 97:5
<b>264,723</b> 97:13	<b>472</b> 17:23	<hr/> <b>8</b> <hr/>
<b>27</b> 3:2 5:23 66:2	<b>473</b> 17:23	<b>8'</b> 67:4 69:8 78:20 79:13
<b>27,342</b> 97:14	<b>474</b> 17:23	<b>80</b> 26:6
<b>27th</b> 3:21 6:2,11 7:10 65:24	<b>48</b> 97:2,7,9,10	<b>82.8</b> 96:17
<b>28</b> 84:20	<b>48,778</b> 96:10	<b>86</b> 97:3
<b>28th</b> 91:13	<hr/> <b>5</b> <hr/>	<b>89</b> 97:8
<b>293</b> 26:3	<b>5</b> 84:15	<b>8th</b> 66:6
<b>296-46B-690</b> 114:4	<b>5'</b> 69:16 70:2	<hr/> <b>9</b> <hr/>
<b>296486(b)</b> 93:22	<b>5,194</b> 97:22	<b>9.6kw</b> 93:21,24
<b>2nd</b> 104:4	<b>5,609</b> 97:23	<b>900</b> 93:22 94:4
<hr/> <b>3</b> <hr/>	<b>5.16</b> 36:16	<b>91.3</b> 96:22
<b>3</b> 96:12	<b>50</b> 109:3	<b>911</b> 5:20
<b>3,764</b> 97:21	<b>520</b> 26:6	<b>94</b> 97:9
<b>3,958</b> 98:10	<b>5320</b> 85:22 105:20	<b>98.3</b> 96:10
<b>30</b> 68:24	<b>555</b> 104:17	<b>99.7</b> 96:12
<b>30th</b> 95:22	<b>56</b> 75:1	<b>9:00</b> 68:11
<b>339</b> 39:8	<hr/> <b>6</b> <hr/>	<b>9:06</b> 3:2,22
<b>343</b> 39:8	<b>6,662</b> 104:16	<b>9:10</b> 7:11
<b>35</b> 98:21 111:21	<b>6126</b> 105:22	<b>9:41</b> 29:15
<b>37,023</b> 98:4	<b>633</b> 42:12	<hr/> <b>A</b> <hr/>
<b>37,532</b> 98:4	<b>638</b> 44:5	<b>A-N-D-E-R-S-O-N</b> 112:25
<b>3rd</b> 85:20	<b>6816</b> 97:24	<b>a.m.</b> 3:2,22 7:11 29:15 65:7,8,25
<hr/> <b>4</b> <hr/>	<b>683</b> 31:20 32:6 33:6,13 34:5 36:22 37:21 38:3,5 39:13,23 43:13,16,20, 21 44:6,19 45:10,13 54:1	<b>AAG</b> 45:4 46:14 52:3 60:13 63:4,10, 17 64:7,20 82:13
<b>4,390</b> 98:10		<b>Aaron</b> 108:1 110:23 112:18
<b>40</b> 98:20 111:19,21		<b>absolutely</b> 17:24 46:18 70:21,24



103:19 115:16 118:21  
**accept** 69:2,4  
**accepted** 43:1 89:19 105:12  
**access** 11:13 19:4,5  
**account** 37:24 41:2 111:23  
**accountable** 40:8  
**accounted** 50:11  
**accounting** 53:12  
**accurate** 40:10 88:3 92:12  
**Act** 8:8  
**action** 7:25 45:2 47:17 49:23 73:2  
**actions** 8:4  
**active** 48:10 51:19  
**actor** 34:18  
**actual** 55:13  
**add** 44:14 47:19 69:10 80:7 90:9  
94:12 99:3,11  
**addition** 39:4 68:18 71:1 104:12  
109:13  
**additional** 74:25 81:20  
**address** 14:8 18:24 31:4 32:10 37:7  
51:11 57:5,11 58:8,18  
**addressed** 52:2  
**addresses** 39:6 111:12  
**ADDS** 42:24  
**adjourn** 117:2  
**administrative** 7:13 8:6,8,15 20:3  
60:21 66:2  
**administrator** 24:8 40:5 43:11,12,  
17,20 51:14 54:24 55:6,9,19 113:4  
**administrators** 56:24  
**adopt** 113:17,21  
**adopted** 85:19  
**adoption** 84:19,25 85:11  
**advance** 91:2  
**adverse** 7:25  
**advertise** 91:20  
**advertising** 54:19  
**advice** 61:24 64:11 84:21,22  
**advise** 7:22 28:8 46:15 64:7 83:21  
**advised** 28:2 69:24  
**advisory** 113:14  
**affidavit** 11:3 14:1 17:18 18:13,16  
19:12,16  
**affidavits** 10:15,18,21,24 11:5,14,  
17 14:2 15:18 17:16,19,20 18:8,17  
104:6,7 105:3  
**affirm** 25:4 26:21 29:16 41:5 48:10  
59:17 63:25 82:15,19  
**affirmatively** 47:11  
**affirmed** 7:15 33:24  
**affirms** 24:23  
**agencies** 32:20 86:21  
**agency** 105:13  
**agency's** 34:9  
**agenda** 88:15 101:22 107:23,24  
108:15  
**aggravating** 116:18  
**agree** 18:22 53:19 55:12 61:21 75:8  
**agreed** 27:25 28:2,5 63:19 117:8  
**agreement** 22:22,24 23:4,10,12  
28:3,12 83:16,19,24,25  
**agreements** 22:22 25:19  
**agrees** 23:1,5  
**ahead** 4:8 41:17 49:4 72:4 77:17  
91:16,17 107:1  
**air** 108:11 109:8 110:13,25  
**ALG's** 82:12  
**align** 85:12  
**ALJ** 8:9,17 9:1 10:11,25 14:5,23,24,  
25 15:13,23 16:5 36:13 37:3 58:25  
59:5 74:11 82:15  
**ALJ's** 9:10,14 12:18,22 16:7,12 27:4  
38:14 41:5 59:17 82:19  
**ALJS** 9:11  
**alleged** 38:16  
**allergic** 5:3,9  
**allotment** 100:22,23  
**allowed** 31:23 47:23  
**alteration** 33:22  
**altered** 19:16,19  
**Alysa** 6:22  
**amazing** 81:6 111:25  
**amend** 24:11  
**amended** 14:1,17 15:18,24 22:10  
105:21  
**amendment** 59:10,18  
**America** 26:10,14  
**amount** 11:4 15:22 60:15,17 64:1  
72:22  
**AMP** 71:2  
**Amusement** 105:7,15  
**analogous** 37:11 40:15  
**analysis** 36:14 37:3,8 66:23  
**and/or** 82:3  
**Anderson** 112:21,24,25 113:3  
116:24  
**Anna** 29:6 38:21 66:20 83:9,10  
**answering** 104:13  
**anticipated** 102:12  
**apartments** 109:9,10  
**apologize** 46:22 50:21  
**apparently** 32:25 73:18  
**appeal** 7:6,12 12:24 29:9 65:21 66:1  
70:3  
**appealed** 7:19 29:21 66:8  
**appealing** 9:6  
**appeals** 6:16 7:24 8:11 9:10 88:17  
105:15  
**appellant** 7:19 29:20 30:14 36:17  
41:6 66:18  
**appliance** 109:24  
**applicant** 19:19 87:8  
**applicant's** 19:15  
**application** 32:24



**applied** 12:1 20:6 94:7  
**applies** 93:25  
**apply** 10:3,4 12:12 20:4,8 32:24  
76:19  
**apprenticeship** 85:21 104:8  
105:21  
**approve** 5:23 94:18 106:25  
**approved** 78:15  
**approving** 6:10  
**approximately** 3:22 7:11 8:20  
29:15 33:9 65:25  
**April** 5:23 6:2,11 7:14 85:1,9,22  
104:15 105:22  
**area** 4:21,23,24 70:23 73:11 83:14  
105:13  
**arguably** 44:6  
**argue** 8:21  
**argues** 11:25 36:17  
**arguing** 17:13 20:20,21,22  
**argument** 36:19 38:24 43:25 44:2  
54:5,12,15  
**arguments** 40:13 54:3  
**array** 115:23  
**article** 93:23  
**articles** 91:20  
**asbestos** 87:3  
**ascertain** 67:6  
**asks** 9:13 12:17 16:11 41:4  
**asphalted** 71:6  
**assembly** 4:21,23  
**assessed** 72:21  
**assigned** 8:6 40:4 51:13,14  
**assist** 4:25  
**assistant** 3:11 16:20 38:21  
**association** 108:12  
**assume** 45:23 69:9  
**assumption** 76:8 80:2  
**attached** 45:9 76:7 114:18

**attempt** 35:25  
**attending** 3:24  
**attention** 52:18 116:20  
**attorney** 3:11 16:20 38:22  
**attract** 101:7  
**audit** 18:19 97:21,23  
**auditors** 10:21  
**August** 18:14 91:13  
**authority** 11:1 52:13  
**authorized** 7:22  
**automatically** 28:4 83:17  
**average** 95:23,25 96:5 97:25 104:17  
**avoid** 24:15  
**awaiting** 95:14  
**aware** 5:13,18 51:9 56:20 71:4  
75:20  
**aye** 6:11,13 27:4,5,7 62:7,10,22,23  
83:3 119:12

---

**B**

---

**back** 23:7 24:11,19 26:10 33:17  
61:15 62:12 65:11,12 86:11,14,25  
87:8,23 88:15 95:5 103:15 117:10  
**background** 67:23 110:25  
**backlog** 105:2  
**bad** 45:8,11  
**Baker** 3:8 6:4 48:6,13,21,25 55:12  
56:1,14,16 64:3 82:23 101:25  
102:11,14 103:7,16,20 107:7 118:9  
**balance** 95:22 99:5  
**balances** 95:12  
**Barns** 113:8 117:3,16  
**barred** 9:16  
**baseboard** 109:6  
**based** 14:6 16:7 21:2 54:14 59:5  
106:4 118:9  
**basically** 17:20 20:21,25 31:1 36:2  
67:22 72:12 101:2

**battle** 73:20  
**bearing** 67:24  
**beaten** 55:2  
**begin** 9:12,21 30:24  
**behalf** 6:22  
**believed** 70:8 73:5,6  
**believes** 34:1 66:24  
**Bellevue** 113:24  
**Ben** 3:12 10:14 46:10 54:8  
**bid** 54:19  
**big** 5:12 17:17 76:3 87:16 98:24 99:5  
110:22 113:10  
**bigger** 76:13  
**bill** 85:22 86:19,20 105:20  
**Billie** 105:11  
**bills** 95:14  
**bingo** 37:2  
**bit** 50:22 67:20,23 75:19 90:9 95:13  
97:12 98:1 103:4 108:22  
**black** 34:12  
**blades** 5:17  
**blame** 49:21  
**bless** 26:14  
**Blohowiak** 3:12 45:4 46:14 52:3  
60:13 63:4,10,17 64:7,20 82:13  
**blunt** 76:14 80:12  
**bluntly** 76:3  
**board** 3:1,6,23 5:23 6:4,13 7:20,21  
8:2,12,22,23,24 9:14 12:18,21  
16:12,19 20:2 24:22,23 25:2,12,18  
26:13,20,24 27:5,10 28:5,14 29:21  
30:8 36:16 38:21 41:4,16,18,19  
43:3,17,22 44:21,23 45:15 46:8,9,  
15,18,23 48:6,13,21,25 49:3,5,18  
50:3,5,6,7,10 51:2,8,9,11 52:2,3,10,  
14,24 53:15 54:16,17 55:12 56:1,13,  
16,18 58:1,2,3 59:3,6,9,12,18,20,21,  
23 60:5,21,24 61:6,9,19,21 62:7,10,  
13,18,23 63:6,12,23,24 64:3,4,7  
65:11,12 66:8 72:5,10,12 73:21  
74:2,3,4 75:6 77:6,7,16,18,21,23,24  
78:6,8,17,23,25 79:8,11,13,16,20,



24,25 80:4,5,15,22 81:3,18,19 82:8,  
11,13,17,21,23 83:3,18 84:18,20  
85:6 86:5,14,16 88:13,17 90:8,14,17  
91:2,3,10,21 92:1,3,6,10,16 93:1,4,  
15,16,19 94:3,5,9,22 99:2,14,21,24  
100:9,14,17 101:20,21,25 102:11,14  
103:7,16,17,20 106:1,6 107:7 108:4  
117:2,6,18,20,22 118:2,9,16,21  
119:12

**Board's** 28:10 60:19 61:20 83:7,22  
84:1

**Bob's** 110:13

**Bobby** 3:8 58:1 74:3 77:19,20 79:11

**body** 5:8 7:21

**boils** 31:1 34:25

**bonding** 70:7 76:11 114:8,21,23

**bothered** 74:19 88:16

**bottom** 101:13

**bought** 31:18 34:20 44:25

**bound** 8:17

**brand** 71:6

**break** 12:2 65:5,6

**breathe** 5:11

**breathing** 5:15

**briefly** 60:14

**bring** 3:22 25:3 52:17 65:11,12  
85:20 88:6 89:13 90:17 102:25  
113:12 116:20

**bringing** 89:13

**broad** 90:10

**broadly** 94:7

**brother** 68:19

**brought** 35:2 98:8 100:6 106:16

**Brown** 28:21,24 29:11 40:4

**budget** 95:17 100:21

**builders** 109:17

**building** 3:4 4:20 69:17 71:6 109:14  
113:18,20

**buildings** 93:18 109:12

**bumped** 100:24

**burden** 12:4 14:15 30:14

**Burke** 3:9 49:3,5 52:24 53:15 72:10  
79:13,16 80:4 99:2,14,21,24 100:9,  
14,17 101:20 118:21

**business** 31:4 32:13,20,22,23,24  
35:24 36:9 38:25 39:2 40:6,9,19  
42:12,15,16,19 49:7 57:17 67:21  
111:24

**business'** 53:10

**business's** 40:5

**businesses** 40:8 52:25 53:11

**buyers** 68:4

**buying** 68:17

**buyout** 46:10

---

**C**

---

**cable** 111:9

**cables** 54:20

**caginess** 113:10

**calendar** 63:15

**call** 42:24

**called** 9:22 18:9 32:21 69:12

**calls** 104:14,16,17,19,20,23

**campaign** 118:15

**candidates** 87:13,14 101:8

**carbon** 109:20

**care** 35:4 36:7 46:12 47:2 53:12,18  
94:1

**career** 73:6

**careful** 106:21

**carefully** 49:6

**Carolyn** 108:7,8,10

**carried** 13:12

**carry** 98:12

**case** 4:13,16 8:21 9:19 10:11 20:6,7,  
9,24 25:9 34:18 35:16 38:2 57:8,12  
58:12 67:1,10 70:3 72:20 74:16  
78:11 81:23 82:2 89:2 107:8 117:4  
118:3

**cases** 57:11 60:16

**cat** 104:10

**categorized** 36:18

**category** 104:10

**caught** 95:20

**cease** 45:1,2

**ceased** 45:1

**cell** 37:10 40:15,18 81:5 115:23

**cellphone** 40:17

**cents** 75:7

**certification** 8:1 57:19 76:20 86:1  
97:18 115:25 116:6

**Certification/ceu** 84:15 86:2

**certifications** 98:19

**certified** 88:24

**certifying** 17:21

**cetera** 33:22 42:21 93:18 110:12

**CEU** 86:1

**chair** 4:11 5:21 6:2 41:18 43:4 58:2  
60:24,25 63:13 72:5 74:4 77:8 82:9  
84:10 88:13 92:17 95:10 117:20

**chairman** 86:5 119:3

**CHAIRPERSON** 3:20 5:25 6:5,8,  
14,24 7:4 9:5 16:16 25:1,17,24  
26:12,16,22,25 27:6,8,13,18,21,24  
28:22 29:3,8 30:1,7,11,13,23 38:18  
41:8,12,15 43:2,23 44:11,20,22 46:7  
48:5 49:2,4 50:24 51:4 52:23 53:16  
54:2 55:24 56:13 57:13,25 59:2,4,7,  
11,16,22 61:4,7,17,22 62:8,11,16,  
19,24 64:4,16,24 65:3,10,17 66:12,  
15,17 67:11,17 71:12,25 72:8,14  
73:23 74:1 75:5 77:15,17,20 79:6,9,  
15,18 80:7,16,25 81:12 82:6,18,24  
83:4,10,13 84:13 87:19,22 88:4,7,11  
90:7,9 91:5,25 92:2,4,8,14 95:1,4  
99:12,15,23,25 103:22 105:25  
107:5,14,17,25 112:16,20 113:1  
116:22,25 117:14,17,25 118:4,23  
119:6,9,13

**chance** 87:24

**change** 41:22 43:7 44:24 52:13  
68:10 69:18 70:14 80:9,11 103:2  
104:8



**change-outs** 81:14  
**changed** 21:23 22:6 42:1 58:10,11 69:22  
**changing** 21:21 52:25 99:9  
**charge** 109:19  
**charges** 72:25  
**Chavez** 10:14,18,22 11:5,10,13 18:2,8 19:22,23 21:25 22:3  
**Chavez's** 11:2 14:7,9  
**cheaper** 81:8,9  
**cheat** 52:21 57:7  
**check** 18:21 19:1 94:15  
**checked** 18:24  
**checking** 45:23  
**chief** 106:6  
**chose** 37:17 38:6,7,10  
**circulated** 64:15  
**circumstance** 31:9  
**citable** 9:21 10:1  
**citation** 7:15 12:4 16:14 24:11 29:17 41:6 52:17 66:4 74:5 88:18,25 105:14  
**citations** 7:24 9:15,18 10:7,10 11:19,20 12:15,20 17:9 26:21 38:16 51:25 52:1,15,19 54:18,22 55:3,13 61:1,2 63:25 82:16 97:16,17,21,23 98:11,17,22 105:7  
**cite** 12:3 34:2  
**citeable** 12:14  
**cited** 10:5 11:9,19,22,24 14:21 33:19 39:15 98:17  
**cities** 113:14 115:17 116:11  
**citing** 23:18,20 55:14  
**City** 113:12,23 114:25  
**claim** 44:15  
**claiming** 44:18  
**clarified** 89:16  
**clarify** 63:22 79:6 81:13 82:14 93:25  
**clarifying** 80:24  
**Clark** 3:3  
**class** 18:5 101:17  
**classification** 17:15 18:1,25  
**classified** 18:5  
**Clavel** 29:6,24 30:3 38:20,21 43:24 50:21 53:9 60:4,6 61:13 63:16,22 65:1 66:11,14,19,20 71:10,14,16,18, 20,24 72:3 83:9,10,12  
**clear** 63:14 88:19 95:15  
**cleared** 53:20  
**clerical** 55:3 56:8  
**client** 64:11  
**close** 49:9,10 51:18 107:19 119:4  
**closer** 104:5  
**code** 66:21 68:14 70:7 76:18,24 77:11,13 78:9 81:21 84:19 85:1 90:21 91:13 106:25 107:3 109:13, 14,17,21 111:11,12 113:17,18,21 114:1  
**coercing** 116:12  
**coincidentally** 58:18  
**College** 3:3  
**comment** 52:24 72:1 75:13 79:7 81:20 82:1 90:24 91:17 107:7,22,24  
**comments** 25:5 41:16 64:8,12 77:5 81:2,17 82:7 83:1 99:2,3 106:10 107:18,21 108:3,4,6 113:7 117:1,18 118:10 119:2  
**Commerce** 113:19  
**commercial** 71:1 81:15 109:16  
**committed** 91:12  
**communicate** 87:8  
**communicating** 87:14  
**Community** 3:3  
**comp** 99:18 101:18  
**companies** 20:11 24:3,14,19,21 42:8 47:16 51:11,15 56:21,23 58:17  
**company** 18:21 20:7 24:5 28:24 29:1,10 31:3,11,17,18,20,24,25 32:2,9 34:23 35:3 36:17,20,21 37:19 38:3,15 39:10 42:4,15,17,20 43:13, 14,16 44:4,25 47:22 54:25 58:9,10, 15 72:25 80:13  
**compared** 96:2,6 101:2  
**compares** 100:10  
**compelled** 60:16  
**compensation** 21:15,21,22 40:24, 25 41:1  
**compense** 21:22  
**competitive** 100:12 101:1  
**competitors** 112:8  
**complete** 73:14 95:15  
**completed** 105:6,9  
**completely** 8:2 57:23 75:8 89:24 116:10  
**compliance** 8:1 18:6,22 35:11,14, 17  
**compliant** 38:15  
**complicated** 22:16  
**complied** 13:20,24  
**comply** 22:14,17 23:8,9 24:21 36:7  
**component** 89:12  
**concern** 44:16 51:25 52:1 56:18 57:3,24 76:10,13 89:18  
**concerned** 63:25 67:25 75:19 76:21  
**concerns** 107:21 117:1,18  
**conclude** 16:12  
**concluded** 14:5 56:3 119:15  
**conclusion** 8:24 15:2 53:24 56:5  
**conclusions** 8:25 12:22 16:8 52:9  
**concrete** 71:7 74:16 81:23 82:1,3  
**condition** 54:7  
**conditioning** 108:11 109:8 110:14, 25  
**condos** 109:9,10  
**conduct** 8:7 9:21 10:1,5,9 11:9,10, 22,24 12:14 14:21 36:9 113:20 114:20  
**conductor** 74:21  
**conductors** 69:19



**conducts** 8:9  
**conduit** 89:4  
**confirming** 74:18  
**confused** 75:21  
**connect** 89:4  
**connected** 32:25  
**connection** 89:6  
**connections** 108:19  
**connotation** 45:8  
**consensus** 90:2 92:23  
**considered** 39:1,16 114:9  
**considers** 14:10  
**consistently** 32:11  
**constitutes** 88:20  
**constructing** 110:4  
**construction** 28:20,24 29:1,10  
31:11,17,18,20,24 32:9 33:3,7 35:3,  
15 36:17,20,21 37:17,19 38:3 39:9  
46:6 47:8,22 50:19 100:10 109:15  
**consult** 107:2  
**consultant** 42:23  
**consultation** 113:18  
**contact** 69:5  
**contentious** 115:20  
**contest** 69:25  
**continue** 62:1,14 63:7 64:10,13  
72:14 73:2,20 92:4,9,22 95:19 101:7  
103:23 104:6 111:25 113:2  
**continued** 14:13 39:11 63:23  
**continuing** 63:5 70:7 97:13  
**continuity** 82:5  
**continuous** 74:14  
**continuously** 44:1  
**contra** 35:18  
**contract** 25:6  
**contracting** 48:3  
**contractor** 13:11 35:18 36:24 48:23  
54:20 55:1,5,8,14,15,18,21 75:20  
96:13 97:17 107:11 112:4 113:5

114:11,12  
**contractor's** 31:8,19 40:1 47:21  
54:21,22  
**contractors** 12:1 31:21 32:5 34:21,  
22 42:13 44:13 45:17 51:10 53:4,7  
108:12,13 109:1  
**contractors'** 34:3,5  
**contracts** 17:4 43:15  
**control** 109:12  
**conversation** 107:11  
**conversations** 69:22  
**conversions** 41:24  
**coordinator** 4:20  
**copies** 28:15 84:2  
**copy** 64:22 117:22  
**corporate** 45:16  
**corporation** 33:20,24 35:20 41:21,  
25 43:8,10 45:1 58:4,5 113:4  
**correct** 15:9 16:3 17:11 20:3 43:11  
45:18 53:14 56:7 57:20 59:20 61:13  
72:23 77:22,25 79:11,24 82:17,21  
94:5 118:18  
**corrected** 58:20  
**correcting** 21:19  
**correction** 69:14 72:19  
**corrections** 69:25 98:2  
**corrective** 13:23  
**correctly** 45:18 110:6,16  
**cost** 15:9  
**costly** 114:3  
**coughing** 5:16  
**council** 109:14 113:18  
**counsel** 30:22 40:22 43:5 46:15  
51:24 56:9,15 59:24 61:20 63:3  
**Counsel's** 40:12  
**count** 16:1  
**counted** 15:2  
**County** 100:13 101:3  
**couple** 40:12 41:20 52:25 99:2

111:3  
**court** 20:6 30:18 38:8 72:20 112:22  
**courts** 60:19  
**cover** 111:6 115:4 116:5,7  
**COVID** 68:18  
**Cox** 3:9 49:18 50:3,6 54:17 59:23  
60:5 61:19 77:7,16,18,23 78:6,17,25  
79:8,20,25 80:5,15,22  
**CR** 90:18,20  
**Craig** 110:13  
**create** 54:5  
**created** 39:10 42:7 105:8  
**creates** 115:18  
**critical** 40:7  
**crunch** 68:15  
**crux** 38:24 42:9  
**Cunningham** 3:8 85:6  
**curious** 49:12 118:10  
**current** 87:23 93:14 94:24 104:21  
**curve** 97:20  
**customer** 96:9  
**customers** 96:21 104:21 106:18  
**cut** 71:9,22 75:25 76:4,16,17  
**cutoff** 76:23  
**cutting** 76:2 77:1

---

**D**

---

**dad** 68:19  
**dangers** 105:17  
**data** 86:14 95:17  
**database** 14:13,14  
**date** 19:15,19 28:6 83:20 84:25 85:6  
104:11  
**dated** 18:13 104:3  
**day** 28:18 50:16 68:15,21 72:24  
80:17 97:25 104:18  
**days** 73:9,10 91:23 98:7,8





**de** 8:13  
**dead** 92:25  
**deal** 5:12 77:9 117:7  
**dealers** 111:6  
**deals** 18:4  
**debatable** 74:22  
**debate** 74:9 94:6  
**December** 7:18 10:13 11:11,16  
**decide** 31:3 57:9 106:5  
**decided** 38:11  
**decision** 7:14,19 8:10,11 9:7 16:23  
27:4,10 28:10 29:16,21 30:15 41:5  
59:17 60:7,9,20 61:20 64:5 66:3,8  
82:19 83:7,22 117:12  
**decisions** 59:5 60:8 82:20  
**declaration** 14:1  
**declined** 64:9  
**decrease** 96:8,11,14,17,19  
**deeper** 19:23  
**default** 80:18  
**defer** 34:9  
**defines** 38:10  
**definition** 33:15,18 34:10,13,15,16  
36:12 38:10 92:21  
**definitions** 31:1  
**degrees** 75:11  
**demand** 109:12  
**demands** 112:14  
**demonstrate** 82:5  
**denial** 9:10,14 12:18  
**denied** 18:15,18,19 20:16  
**deny** 19:13,14 61:24  
**denying** 17:10  
**Departement** 28:6  
**department** 7:1,17,23,24 8:3,5  
9:18,25 10:1 11:17,21,25 12:3,4,6,8  
15:7 16:17,21 17:8,14,15,25 18:3,7,  
20,24 19:1,8,9,11,18,20 20:8,9,12  
21:23 22:12,15 23:18,20 24:10,12,  
23 29:5,7,19 32:17,18 33:1,5,16  
35:13 37:25 38:8,19,22 41:4 44:15  
56:2,5,10 58:22 60:14 65:18 66:5,7,  
18,20,24 86:7 88:21 89:8 90:11  
93:5,11 99:9 103:3,6,8 106:17  
108:4,16 113:19 117:22 118:5,6,11,  
14,17,25  
**Department's** 9:15 14:13 25:4  
34:8,13 38:24 40:3 41:5 82:16,20  
84:7  
**DEPARTMENTAL/LEGISLATIVE**  
84:12  
**departments** 103:9  
**depending** 72:16 100:5  
**depends** 72:17  
**describing** 117:23  
**design** 94:13,20  
**designed** 94:15  
**determinative** 46:4  
**determine** 8:25 19:7 52:5  
**determined** 13:16  
**determining** 11:1 14:11  
**developed** 117:23  
**developers** 86:15  
**device** 116:2  
**Dietrich** 105:14  
**difference** 89:11  
**difficult** 68:10 70:24  
**difficulties** 86:10  
**dig** 69:4,7  
**digging** 19:23  
**digit** 32:19  
**diligence** 10:2,17 11:8,15  
**dinged** 24:10  
**direct** 104:19  
**direction** 46:24 107:4  
**directions** 4:21  
**directly** 108:6  
**disabled** 4:25  
**disadvantage** 67:20  
**disagree** 44:8,9 75:15  
**disagreed** 14:23  
**disagreeing** 70:11  
**disapprove** 94:19  
**disbursing** 106:3  
**disconnection** 98:3  
**discovered** 9:25  
**discovers** 9:25  
**discovery** 9:22,23 10:2,3,12,17,25  
11:2,6,25 12:6,11,12 20:5,7,9  
**discretion** 8:23 60:14 61:11  
**discuss** 61:20 62:2 112:5,8  
**discussed** 99:10  
**discussing** 59:25 72:1  
**discussion** 6:9 26:13 27:2 59:8,22,  
24 61:18 62:5,20 83:1,14 99:6  
106:18 119:10  
**discussions** 25:10 26:18 99:18  
108:24 110:12,15  
**dismiss** 12:19 16:14  
**dismissed** 9:16 73:1  
**dissolve** 49:22  
**dissolved** 49:7,16  
**distinction** 15:5  
**distress** 5:14  
**distributed** 106:4  
**distributors** 108:13  
**ditch** 88:24  
**docket** 7:7 65:21 93:8  
**document** 29:11 84:23 107:12  
**documentation** 14:15  
**documents** 15:9 94:21 104:12  
**dollar** 32:12  
**dollars** 50:12,14,15  
**Dominic** 3:9 49:5 118:20  
**Don** 3:8 48:6 56:13



**door** 4:15  
**double** 40:14 81:21  
**double-check** 51:20  
**doubled** 111:23  
**doubt** 57:1  
**drawing** 86:14  
**driver's** 47:24  
**drop** 80:14 89:14  
**duct** 114:24  
**ductless** 108:20 109:4,21,24 111:18  
**due** 7:9 10:2,17 11:8,14,21 14:19  
29:12 65:23 104:7 105:2  
**duties** 13:12 21:4  
**Dylan** 3:8

---

**E**

---

**e-mail** 22:2,3 63:11 91:7  
**earlier** 11:7 56:20 79:7  
**earliest** 11:9  
**earth** 67:7  
**Eastern** 5:7  
**ECHBO01063** 7:15  
**ECHBO01064** 7:16  
**ECHBO01065** 7:16  
**ECHBO01066** 7:16  
**ECHBO01067** 7:16  
**echo** 58:21  
**ecology** 20:8,10  
**economy** 97:19  
**ECORE** 31:14 97:21,23  
**ECORE's** 35:5  
**Edlen** 26:3  
**Edmonds** 113:24  
**educate** 35:7  
**education** 35:6 70:7 94:2 118:15  
**efficiency** 109:20

**efficient** 109:22  
**efforts** 90:3  
**EIMER00485** 66:4  
**EIMER00486** 66:5  
**EIMER00487** 66:5  
**EJONV05509** 29:17  
**EJONV05510** 29:17  
**EJONV05511** 29:17  
**EJONV05512** 29:18  
**EJONV05513** 29:18  
**EJONV05514** 29:18  
**electric** 26:3 69:18  
**electrical** 3:1,23 5:23 7:20,21,23  
8:1,2,12 9:2,14 12:18,21 13:19,20  
16:11 24:7 30:7 31:8,19,21 32:5  
33:3,21 34:3,5 35:18 36:16,24 37:20  
39:14,24,25 40:1,2 42:14 43:6 48:3,  
22 51:10 54:21,22 55:1,5,6,7,9,14,  
15,21 58:13 59:18 60:21 63:12 66:8  
82:8 85:1 87:2 89:12 93:22 95:21  
96:22 104:1,9,14 106:12 113:3,5,11  
114:12,15 115:8,9,10,12,24 116:2,  
14,15 117:1,18  
**electrician** 16:24 17:20 75:22  
102:12 111:1  
**electricians** 100:10 110:18  
**electricity** 114:21  
**electrification** 112:15  
**electrocuted** 74:11  
**electrode** 67:3 74:16,21,23,25 78:2,  
3,11,12,16 81:23,25 82:2,4  
**electrodes** 81:22  
**electronic** 91:20  
**elements** 94:16  
**elevator** 4:19 87:4  
**Ellensburg** 113:24  
**emergency** 4:14,16 5:20  
**emission** 109:20  
**Emmel** 70:10,12  
**emphasize** 108:21 110:11

**employee** 12:24 13:1,6,7,15 14:4,6,  
12,16,22 15:2,3,6,10,12,21 16:10,  
13,25 17:8 19:3 20:1,19,23 21:2,9,  
13 22:6,11,20 23:3,6,15,20 24:1,7,8,  
16 25:7,14,15,20,23 26:2,17 38:1  
**employees** 13:10 31:10 33:12 34:4  
35:21 36:8,23 37:4 39:12 42:20  
44:1,3 46:5 116:12  
**employer** 14:15  
**employment** 14:12 22:25 31:10  
46:5 51:19 57:7  
**encased** 82:4  
**encountered** 94:6  
**encourage** 37:22 103:8  
**encouraging** 99:8  
**end** 50:15 72:24 86:10,21 107:20  
**end-of-the-fiscal-year** 95:11  
**ending** 39:12,13 87:4  
**ends** 87:11  
**energy** 109:13,20 113:17,22  
**enforced** 72:18  
**Engrossed** 105:19  
**enlightening** 46:1  
**ensure** 45:17 84:2 104:10 113:21  
**ensured** 13:19,22 50:17  
**ensures** 92:19  
**entered** 22:21  
**enters** 69:17  
**entertain** 62:1 82:9  
**entire** 8:15 41:22 57:20  
**entities** 31:6 32:17 36:15,22 39:4,  
15,17,20,21,24 41:1 56:20 86:22  
**entity** 8:3 22:14 31:2,5 32:13,14  
33:16,17,18,20,24 34:7 35:19,24  
36:12,18 37:1,20 38:8,10 39:1,10,  
12,13,14 42:13 44:5,10,15 45:14,16  
48:9 51:13 53:25 54:1,14 56:19  
57:10 115:23  
**entry** 18:11,12  
**enumerates** 93:23



**EPRO** 65:9,14,21 67:1

**equals** 37:9

**Equifax** 53:3

**equipment** 54:20

**equitable** 52:4 60:20

**Erick** 3:7 6:7

**erroneous** 16:9

**erroneously** 32:3

**error** 11:21 45:19 53:19 54:5 55:3  
56:8

**errors** 88:1

**ESD** 17:6 19:5 21:5 22:10 32:1,6  
33:11 34:23 35:23 37:18 42:23 46:4  
48:2 49:18,19 53:2,6 55:18

**essentially** 87:4 115:11 116:11,13

**establish** 9:6 30:15 80:10

**established** 48:8 58:6,9

**evacuation** 4:14

**eventually** 11:20 43:1 106:4

**everything's** 57:16

**evidence** 8:17,18 11:12 13:2 14:3,5  
16:9,11,22 17:2 20:25 21:5,12 52:6,  
8

**exam** 87:7

**examinations** 86:19

**excellent** 71:23 101:8

**exception** 78:5

**excessive** 52:12 58:22 59:14,19  
60:1

**exclusively** 114:7

**excuse** 42:2 102:7 104:20

**exempt** 116:9

**exercise** 10:2

**exhausted** 68:14

**Exhibit** 18:10

**exhibits** 40:4

**exist** 12:5

**existed** 42:17 68:2

**existence** 37:7

**existing** 45:7 58:5 69:7 77:12 78:7

**exit** 4:17 83:14

**expect** 19:8

**expected** 19:9 28:7 83:20

**expecting** 95:18 111:20

**expedited** 85:18

**expediting** 86:15

**expenditures** 95:19,24,25

**experience** 10:15,19 14:2 15:19

**experienced** 118:20

**experts** 66:22

**explained** 15:4 20:8 89:10

**explanation** 25:9

**exposed** 5:8

**expressed** 58:16

**expunged** 42:9 47:13,14

**extend** 12:6

**extended** 8:23

**extent** 51:2

**extra** 75:17

---

**F**

---

**facility** 112:7

**facing** 46:24

**fact** 12:23 14:8,24 16:8 23:17,24  
35:12 36:5 53:22 54:23 59:13 69:21  
74:12,20 86:13

**factor** 14:10

**facts** 13:14,25 14:20 15:11 37:4  
52:7 66:25

**failing** 97:18

**fails** 62:11

**fair** 100:17

**fairest** 100:16

**fairly** 106:4

**familiar** 4:13

**familiarization** 105:4

**familiarizing** 105:4

**fancy** 77:2

**fashion** 107:13

**faster** 81:8,9

**favor** 6:10 27:3,4 62:6,21 68:4 72:25  
83:2 119:11

**fear** 99:5

**February** 18:15

**Federal** 68:2

**fee** 49:10

**feel** 45:8 52:11 54:13 67:20 98:24

**feels** 59:19

**feet** 68:24 69:17

**felt** 47:24 68:4

**field** 97:20,22 106:20 111:7

**fight** 73:20

**fighting** 73:19

**figure** 109:19 110:21

**file** 17:3 28:7 83:20 86:24 98:17  
107:12

**filed** 15:24 18:18 20:14

**files** 19:6

**filing** 53:12,14

**filings** 40:6

**fill** 92:22 105:7,10

**final** 60:3 64:5 90:21,22,23

**financial** 15:8

**find** 4:19 17:18 19:24 20:12 32:16  
34:17 38:14 40:10 51:16 60:17  
75:14,17 80:12 103:14 112:1

**finding** 9:1 16:4,23 38:14 47:12  
52:12

**findings** 8:25 12:22 14:7,24 16:8  
36:14 52:6,7,9

**fine** 21:7 23:16 72:21

**fines** 64:1

**fire** 68:3



**firm** 16:25 17:3 19:4,25 20:18,20  
23:3,6,10,11 25:7 32:7 33:13,19  
53:12,13

**fiscal** 96:1,6 97:3,4

**fit** 112:9

**fix** 24:19

**fixed** 46:2

**fixing** 68:7

**flag** 10:20 49:14,17

**flagged** 10:24 11:5,13 43:1 55:13

**flashes** 114:18

**flexibility** 109:23

**flexible** 89:3

**floor** 66:18 67:17 82:19

**flow** 43:15

**focus** 97:21,23 98:11,22

**focused** 97:16,17

**follow** 91:4

**foregoing** 16:7

**forever** 73:19

**forgot** 67:13 69:22

**form** 21:19 28:13 42:17 81:25  
107:13

**format** 89:24

**formation** 39:6

**forms** 21:11,14,16,17,19,23 22:7

**Fort** 3:3

**forward** 10:21 28:14 84:1 88:6  
90:25 92:23 103:3 108:17 112:14  
118:18

**found** 14:25 15:13,23 31:16,17  
47:12 109:18

**foundation** 82:2 114:5,7,10

**fourth** 96:1,5

**frame** 12:7 104:15

**framers** 116:16

**friendly** 59:9 85:15

**front** 48:16 111:9

**fulfilling** 21:4

**full** 22:20 61:14,15 75:9

**full-time** 12:23 13:1,6,7,8,15 14:3,6,  
11 15:3,11 16:10,13,24 17:7 19:2,25  
20:19,22 21:8,13 23:15,19,25 24:6,  
8,16 25:15 26:2,16

**functional** 86:17

**functionally** 77:22

**fund** 95:21 99:5

**furnish** 33:20

**future** 89:20 92:13 94:25 101:16

---

**G**

---

**G-A-B-R-I-E-L** 67:16

**Gabriel** 65:9,14,15,16,21 66:16  
67:15,19 71:15,17,19,21 72:15  
73:25

**gage** 90:1

**gaps** 32:11

**gave** 92:12

**GCC** 33:7,12,23 34:2,19,25 40:23  
41:20,23 42:4,5,11,12,15,18,19  
44:17 52:20 54:21 57:1

**GCC's** 39:18

**GCC260** 39:5

**GCC263** 39:5

**general** 3:11 16:20 28:20,23 29:1,10  
31:10,17,18,20,24 33:7 35:3,15  
36:17,20,21 37:17,19 38:3,22 39:9  
46:6 47:8,22 50:18 104:10 113:5  
114:11

**generally** 9:20 47:13 86:12 90:25

**generated** 87:7

**Gensco** 111:3

**Genseco** 110:10,24 111:16

**gentleman** 72:7

**gentleman's** 118:10

**gentlemen** 30:25 80:24

**get all** 47:5 95:20

**GFI** 68:7

**giant** 110:22

**give** 5:19 57:11 92:11 98:14 107:1

**glaring** 88:1

**goal** 97:3,8 98:6

**God** 26:14

**good** 3:20 7:2 16:18 28:17 29:6  
30:20,25 38:20 51:22 56:9 58:9  
60:10 65:4 69:11 70:3 80:16 84:21  
85:12 92:6,10 101:18 110:15  
115:18,21

**Google** 6:1

**governing** 39:7

**government** 22:14 40:6 113:20

**Governor** 105:23

**governors** 51:12

**granted** 100:22

**Gray** 3:9 41:18,19 43:3,17,22 58:1,2  
59:3,9,12,20 60:24 61:6,9 62:18  
72:5,12 74:3,4 77:19,20,21,24 78:8,  
23 79:11,24 82:1,11,13,17,21 88:13  
90:8,14 91:10 92:1,3,6,10,16 93:1,  
15 94:3,9 117:20 118:2

**Gray's** 92:18

**great** 15:8 83:15 101:20

**greater** 82:4 113:21

**Grimes** 6:22 9:9 28:19

**gross** 111:16

**ground** 67:5 68:12,25 69:1,6,7,9,17,  
18 70:9,11,13,16,18,23 71:4,5,9,22  
73:10 74:6,21,24 75:1,8,11,13,21,  
24,25 76:2,5,16,17 77:1,12,13 78:2,  
4,5,11,13,14,16,19,20,21 79:3,4  
80:19 81:5,10,24

**grounded** 68:13,24

**grounding** 67:1,3 70:6 74:25 76:10  
77:9 78:16 80:10,11 81:22,25 114:8

**grounds** 57:9

**groups** 94:1

**grow** 97:13 112:1

**grown** 111:19



**growth** 111:17,20,22,25

**guess** 6:1 33:15 37:9 42:24 47:15  
67:19

**Guise** 51:14

**guys** 93:8,9 106:5

---

**H**

---

**half** 73:11

**hand** 40:19 48:18 63:18 85:25

**handled** 35:5 88:23

**handler** 92:21

**handles** 118:11

**handling** 89:12,15 106:17 117:23

**handout** 89:13

**hanging** 50:2

**Hannah** 30:21

**happen** 75:12 112:10 115:16

**happened** 22:12 23:17,21 34:22  
38:13 43:6 44:24 50:12 100:3

**happening** 81:15 101:6,21

**happy** 41:6 46:23

**Harada** 29:2,25 30:4,9,12,19,25  
40:16 44:9,14 45:7 47:19 63:8,21  
64:17,23

**hard** 23:8 73:17 85:16 102:17

**Harris** 70:21 73:5

**hazards** 68:3

**head** 86:20 91:11

**headings** 85:13

**heads** 75:25

**health** 94:1

**hear** 7:24 9:8 26:19 29:22 30:16  
38:23 46:19 54:15 66:9 75:3 88:17  
101:20 118:16

**heard** 59:25 76:25 81:15 93:7 117:4

**hearing** 6:10 7:8 8:6,7,9,19,24  
13:13 27:3 29:11 48:17 62:16,21  
63:15 64:10 65:22 83:2,5 106:8  
107:22 119:11

**Hearings** 7:13 8:7 60:21 66:2

**heart** 5:3

**heat** 109:15

**heating** 6:17,19,21,23 7:7 9:10,13  
10:5,7 11:19,21 12:17,21,25 13:4,16  
14:17 15:13,14,17 16:1,3,11 17:5,13  
18:13,16,23 20:19 22:2,16,21 23:1,  
9,19,20 24:5 26:2,6 110:13,24

**Heating's** 10:14 13:14 14:25

**heavy** 66:21

**held** 3:2,14 7:8 10:12 29:12 39:14  
42:13 65:22

**hey** 24:13 38:3 47:16 56:11

**hide** 57:7

**higher** 44:25 106:6

**highlight** 24:3

**highly** 101:1

**hip** 103:13

**hiring** 105:6,10

**history** 103:6

**hold** 26:12,13 58:25 61:20 78:8

**holding** 40:7

**holds** 92:13

**hole** 55:17

**home** 5:10 68:2

**Homeowner** 96:16

**homes** 109:12

**honest** 45:24

**honestly** 76:14 77:1 81:7

**hope** 16:1 106:2

**hoping** 101:6

**horse** 55:2

**hose** 98:24

**hospital** 68:19

**hour** 104:18

**hours** 15:21 17:22 26:3,4,5,6,7 32:1,  
4 33:10,12 34:24 37:18 38:4 42:22  
45:18 48:2 49:14,25 50:7,11,18,20  
51:4 53:6,23 54:3 56:2 57:7 97:2,6,

7,9,10 104:9

**house** 68:4,7,16 70:18

**housekeeping** 85:11

**houses** 109:5

**hovering** 101:8

**huge** 110:22

**HVAC** 110:9 111:2,10,15 112:4

**HVACR** 108:13

---

**I**

---

**Idaho** 111:1,2

**idea** 114:1

**identified** 15:1 38:4 40:5

**identifier** 87:7,9

**identifies** 38:9

**identities** 36:4 37:9,10

**ignore** 38:6

**immediately** 35:4

**implying** 74:10,12

**important** 33:18 108:22

**Importantly** 10:1

**impossible** 60:11

**improper** 67:1

**improperly** 40:4 57:2

**impunity** 12:2

**in-house** 30:22

**inactive** 49:16 50:8

**inbound** 104:18,19

**incentive** 24:21

**incentivized** 114:2

**inclined** 63:25

**include** 104:18

**includes** 57:20 98:12

**incoming** 104:14

**inconsistencies** 118:11

**incorrect** 9:7 18:1 30:16 56:6



**increase** 96:3,23 104:6 105:2

**increased** 97:12

**independent** 39:21

**independently** 8:4

**indiscernible** 99:17

**individual's** 34:14

**indoor** 108:19 111:10

**industrial** 32:7 35:21 81:16

**Industries** 7:17 22:15 29:19 38:1  
66:6 86:7

**Industries'** 33:2

**industry** 90:5 110:22

**infer** 16:4

**inference** 16:6

**information** 22:1 32:1 38:7 40:10  
50:24 53:11 71:12 72:8

**informed** 38:2

**initial** 7:12 9:12 12:20,24 16:12,23  
17:10 20:2 24:24 52:5 59:16 66:1

**initially** 14:19 15:1

**innocent** 34:25

**input** 106:7

**inside** 71:5 75:13

**Inslee** 105:23

**inspect** 70:16 91:6 115:14

**inspecting** 115:7,8,12 116:8

**inspection** 21:8,12 23:25 55:10  
72:3 73:15 82:3 96:18 111:13  
112:12 114:13,14 115:4,6,25 116:5,  
8,9,13,15,17

**inspections** 57:18 97:2,6,10,11,14  
110:5 116:13

**inspector** 10:14,17,22 11:1,5,10,13  
14:7,9 18:2 19:23 21:25 31:13 32:15  
33:14,25 35:2,8,25 36:4 38:2,3,6  
69:1,12,15 70:12 71:3,8,18,19,21  
72:16 73:8 74:10 76:4 79:22 80:2  
94:13 97:25 100:5 106:12 115:8  
116:6

**inspector's** 34:15

**inspectors** 99:8 100:3,7 102:2  
113:11,12 114:25 115:12,19

**install** 109:3 115:2

**installation** 13:20 33:21 43:7 67:2  
78:13 88:19,20 111:6,11,15 112:2  
114:5 115:10

**installations** 9:2 80:8

**installed** 68:8 73:7,9 74:7 76:7  
88:22 89:7

**installer** 67:21 79:22 80:12 111:2

**installers** 108:13

**installing** 54:19 89:11 110:4

**installs** 109:2

**instance** 37:16 44:16 53:3

**instances** 60:15

**instantly** 46:1

**institutional** 94:1

**instructed** 106:20

**insulators** 117:7

**insurance** 32:8 35:22

**intend** 113:6

**intent** 16:5 46:2

**intention** 92:20

**intentional** 58:24

**intentionally** 45:9

**intents** 42:11

**interact** 51:22

**interest** 29:13

**interested** 65:23

**interesting** 4:22

**interrupt** 99:13

**introduce** 109:7,8

**introduced** 5:5

**investigation** 21:24 22:1,5,13  
31:13

**involved** 110:4 113:25

**INVOLVEMENT** 106:12

**IRS** 17:5 21:6 22:7

**Isaacson** 3:7

**ISSACSON** 46:9,18,23 51:2

**issue** 9:18 17:8 20:18 43:15 50:20  
52:17 55:11 68:13 80:1 92:21  
117:11,12

**issued** 7:13,17 13:24 17:9 20:2  
22:9,13 26:21 29:18 33:5 66:1,5

**issues** 7:24 8:5,9 10:16 52:18 68:6  
111:6 118:19

**itch** 5:16

**item** 6:18 28:23 65:13 84:6 88:15  
104:3

**items** 104:3,5 107:23,24

**Ivan** 3:7

---

**J**

---

**Jack** 3:7 51:8 53:19 56:16

**James** 3:8 37:25

**January** 10:8,10 11:22

**Jason** 3:6

**Jen** 105:13

**Jenkins** 3:6,20 4:11 5:22,25 6:5,8,  
14,24 7:4 9:5 16:16 25:1,17,24  
26:12,16,22,25 27:6,8,13,18,21,24  
28:22 29:3,8 30:1,7,11,13,23 38:18  
41:8,12,15 43:2,23 44:11,20,22 46:7  
48:5 49:2,4 50:24 51:4 52:23 53:16  
54:2 55:24 56:13 57:13,25 59:2,4,7,  
11,16,22 61:4,7,17,22 62:8,11,16,  
19,24 64:4,16,24 65:3,10,17 66:12,  
15,17 67:11,17 71:12,25 72:8,14  
73:23 74:1 75:5 77:15,17,20 79:6,9,  
15,18 80:7,16,25 81:12 82:6,18,24  
83:4,10,13 84:11,13 87:19,22 88:4,  
7,11 90:7,9 91:5,25 92:2,4,8,14,18  
95:1,4,10 99:12,15,23,25 103:22  
105:25 107:5,14,17,25 112:16,20  
113:1 116:22,25 117:14,17,25  
118:4,23 119:6,9,13

**Jennifer** 105:11

**job** 25:22 52:5 67:24 68:1,15 70:12,  
22 71:1,3,23,25 73:13 117:23

**jobs** 45:24

**John** 113:7 117:3,16



**Johnson** 13:13,25 15:4,24 26:8,14

**journeyman** 88:25 111:1,2

**judge** 8:15 20:3,4 66:24 72:24 82:15

**judge's** 73:21

**judgment** 9:11,13 12:19 17:11,12  
20:15 60:3

**July** 3:2,21 7:10 29:14 65:24 84:20  
85:19,20 104:2,8,15 105:1

**jump** 6:1 85:17

**jumps** 32:6

**June** 11:20 95:22 96:9 104:4,5  
117:6

**jurisdiction** 118:22

**jurisdictions** 118:12

---

**K**

---

**keeping** 40:7

**Kerry** 3:9

**key** 96:25 102:18,21

**keys** 4:18

**Kiewit** 30:22 31:18,25 32:3 33:7  
34:20 35:3 39:9,20 40:24 41:23  
42:5,8,11 43:13,16 44:17 45:15  
47:15 49:12 50:15,19 53:20 57:1

**Kiewit-owned** 42:19 46:6 47:7

**Kiewit/general** 32:9

**kind** 16:4 49:24 50:2 52:17 75:19  
78:16 79:22 81:21 84:23 85:23  
90:11 92:20,22,23 94:14 108:15  
110:10

**King** 100:13 101:2

**Kirkland** 113:24

**knew** 15:7 47:7 76:6,7,8,15 99:21

**Knottingham** 3:7 25:12,18 26:20  
51:8,9 52:14 53:19 56:18 58:4 59:6,  
21 62:13 81:3 93:19,20 94:5

**knowing** 76:9

**knowledge** 35:1 76:12

---

**L**

---

**L&i** 31:13 32:7 38:4 57:7 71:3 73:6  
113:11

**labels** 13:22

**Labor** 7:17 22:15 29:19 33:2 37:25  
66:6 86:4,7

**labs** 105:19

**lack** 17:6 76:12

**lady** 31:1

**laid** 88:24

**language** 89:10 110:12

**lapse** 31:23 45:7,8,9 47:23,24

**lapsed** 33:8,9 34:1 36:25

**lapses** 48:14,23

**large** 53:11

**larger** 100:22

**Larry** 84:8,11 85:25 86:6 89:21 95:2

**Larsen** 108:1 110:23 112:18

**late** 89:17

**Lathrop** 3:10 4:3,6,10 57:14 84:10,  
14,17 85:8 92:17 93:2 94:11 95:6,9  
99:20 100:1,11,15,19 101:23 102:3,  
13,16 103:11,18,21,24 106:13  
107:15

**law** 8:15 12:22 14:20 16:8 20:3  
30:20 34:12 35:15 36:2 39:17 47:25  
52:9 56:4 57:6,15 60:17 66:25  
104:8,25 105:21 113:15,16

**laws** 13:21 55:22

**lawyer** 67:21

**lay** 88:22 89:3

**layout** 106:25

**leads** 106:24

**learn** 103:5

**learned** 34:12

**leave** 28:1

**Lee** 3:7 6:7

**legal** 7:21 15:5 39:10 43:10 44:24

**legally** 39:4 40:10,16,20 44:4 57:23

**legislative** 84:7 88:14 100:20

**Legislature** 7:22 100:21 105:23

**length** 69:8,10 75:9

**Leonard** 12:23 22:11

**letter** 34:12

**letting** 70:3

**level** 54:9 90:19,20 100:5

**liability** 40:14 43:10,15 44:16

**liable** 39:4 40:16,21 43:14 44:4

**license** 8:1 31:8,19,21 32:6,23,24  
33:3 34:3,5,21,22 35:19 36:24,25  
39:14 40:1 42:14 45:9 47:21,24,25  
48:23 54:21,22,24 55:15 76:2 77:3  
96:22

**license/citations/amusement**  
104:1

**licensed** 45:13 54:25 114:11

**licenses** 13:23 45:1,3,18 47:20

**licensing** 10:20 11:3 18:4 47:6,9  
51:21 56:22 87:1 97:17 98:17  
104:13,25 105:9,16 111:13 115:25

**lies** 42:9 57:3 60:7

**lift** 87:11,16

**light** 31:12 35:1

**limit** 9:17

**limitations** 9:17,19,20,24 10:8,11  
11:18 12:5,7,9,13,16 17:10

**limited** 71:5 116:1

**limits** 50:23

**lines** 48:7 104:19

**lingered** 107:8

**list** 4:22 6:18 28:23 39:19 65:13  
112:20

**listed** 14:12,14 37:7

**Listen** 4:20

**listening** 49:5

**listing** 116:6

**LLC** 6:19 7:7



**lobbyist** 108:11

**local** 113:19

**logged** 49:15

**Logue** 108:7,8,10

**long** 11:13 17:17 37:6 115:25

**longer** 47:25

**looked** 69:20 102:18

**Lorin** 3:10 4:2,6,10 57:14 84:10,14,  
17 85:8 89:22 92:17 93:2 94:11  
95:6,9 99:19,20 100:1,11,15,19  
101:23 102:3,13,16 103:11,18,21,24  
106:13 107:15

**lose** 76:1,19

**lost** 87:17 89:23

**lot** 3:25 68:21 84:21 85:3,11,12  
101:17 102:23 111:6 112:6,7

**luminaires** 89:14

**lying** 70:18

---

**M**

---

**M-C-C-O-Y** 67:16

**made** 14:24 23:19,22 24:13 25:5  
27:10 36:12,13 56:5 57:3 60:8 68:20  
71:3 82:1 83:7 96:21 104:20 108:4  
114:2

**main** 14:10

**maintaining** 54:19

**majority** 104:4

**make** 5:18 23:15 26:20 30:5 36:3  
44:4 46:11,21 47:1 52:11,12 59:9  
60:22 62:13 63:12 64:5,8,12 75:3  
80:1 85:2,14 87:17 89:5 110:1,2,6,  
19 112:2,5,10,13 113:6,15

**makes** 34:11 56:9

**making** 23:9 59:25 76:8 85:3 91:16

**malfeasance** 34:17

**man** 26:10

**management** 103:2

**manager** 111:5

**manages** 118:17

**mandated** 109:14

**manipulating** 57:6

**manner** 47:2

**manufacturers** 75:15 108:14

**marina** 117:7

**mark** 116:7

**master** 16:24

**material** 89:12,15 92:21 117:23

**materials** 115:3 116:8

**matter** 7:6,7 28:3 29:9,10 31:12  
63:23 65:19,20,21

**Mccoy** 65:9,14,15,16,21 66:16  
67:15,16,19 71:15,17,19,21 72:15  
73:25

**means** 13:2 31:15 109:22

**meant** 16:4 68:14

**measurement** 79:23

**measures** 96:25

**mechanical** 114:7

**meet** 75:2 81:7 85:14 109:18 112:13

**meeting** 3:2,23 5:23 6:2 28:5,13  
62:2,14 63:5,20,24 64:14 65:12  
83:18,25 84:19 86:16 89:9,17 90:2,  
12,13,15 91:3,8,24 95:16 99:16  
103:17 106:15,19 107:11 117:6  
118:1,17 119:4,15

**meetings** 106:11,12,18,21,23

**Melissa** 39:18

**member** 6:4 8:22 16:25 17:2 19:3,  
24 20:18,20 23:2,5,9,11,12,13  
25:12,18 26:20,24 41:18,19 43:3,17,  
22 44:21,23 45:15 46:9,18,23 48:6,  
13,21,25 49:3,5,18 50:3,5,6,7,10  
51:2,8,9 52:14,24 53:15 54:17 55:12  
56:1,13,16,18 58:1,2,3 59:3,6,9,12,  
20,21,23 60:5,24 61:6,9,19 62:7,13,  
18 64:3 72:5,10,12 74:3,4 77:7,16,  
18,21,23,24 78:6,8,17,23,25 79:8,  
11,13,16,20,24,25 80:4,5,15,22  
81:3,19 82:11,13,17,21,23 85:6  
88:13 90:8,14 91:10 92:1,3,6,10,16  
93:1,4,15,19 94:3,5,9,22 99:2,14,21,  
24 100:9,14,17 101:20,25 102:11,14  
103:7,16,20 107:7 117:20 118:2,9,

21

**members** 3:6 6:13 16:18 27:5 38:20  
39:7 40:8 54:16 62:10,23 64:4 75:6  
83:3 84:18,20 86:5 91:3,22 119:12

**mention** 113:8 118:24

**mentioned** 40:13,22 41:20 54:8

**merger** 46:25

**merits** 8:21

**mesh** 87:16

**mess** 83:7

**message** 4:7,9

**metal** 67:4,6,7,8,9 68:23,24,25 69:2,  
4,16 70:2,8 74:12 78:9 114:20,22,24

**meter** 70:14

**middle** 92:7

**Mike** 3:7 70:10,12,16

**mind** 8:13 69:23

**mini-split** 89:2 109:21,25

**mini-splits** 108:20 109:4

**minutes** 6:11 8:21 99:16

**misapplied** 66:25

**misclassified** 14:19

**mislabeled** 15:10

**mistake** 15:8 16:2 24:13 34:25  
35:22 52:21,22

**mistaken** 49:1

**mistakes** 57:3

**misunderstanding** 14:20

**misunderstood** 66:25

**Mitchell** 30:19

**modifications** 60:22 112:6,9

**modified** 21:6

**modify** 87:1

**module** 115:23

**moments** 41:10

**monetary** 98:12,14

**monies** 50:17 51:5





**month** 86:9 95:20 96:9 104:17  
106:15

**monthly** 95:23,25 96:5

**months** 19:22 99:24

**morning** 3:20 4:7 5:7 6:21 7:2 16:18  
27:17 29:6 30:20,25 38:20 55:2

**motion** 6:3,4,5,8,15 9:11,12 17:11,  
12 20:15 26:19,21,22,25 27:8 59:2,  
4,10,16 61:25 62:1,4,5,11,14,16,25  
64:6,9,10 75:3 82:10,14,15,18,24  
83:5 119:3,6,14

**move** 62:4 63:3 82:11 90:18

**moved** 45:12 59:3 111:2

**movement** 105:8

**moving** 28:22 73:16 84:6 90:25  
102:23 103:3

**multiple** 25:8 41:2 51:10,15 56:19,  
21 57:11 81:24

**municipalities** 101:10

---

**N**

---

**names** 39:16

**nearest** 4:17

**NEC** 67:5 84:19 85:14

**necessarily** 18:20

**needed** 18:20 21:9 47:8,9 49:24  
70:11

**nefarious** 16:5 35:25

**negotiate** 62:15

**negotiated** 60:2 100:3

**negotiations** 60:8

**neighborhood** 111:21

**newer** 39:13

**news** 91:20

**newsletter** 91:20

**night** 68:11

**nobody's** 35:10

**non-ductless** 109:6

**non-employee** 21:15

**non-kiewit-owned** 42:18

**Nord** 3:7 26:24 44:21,23 45:15 50:5,  
7,10 62:7

**norm** 63:3

**normal** 5:17 91:4 111:10,14

**notary** 19:15,19

**note** 59:18

**notice** 7:9 10:7 17:25 29:12 49:9  
65:23 66:4

**noticed** 12:15 17:14 19:18

**notices** 7:15 13:23 29:17

**notification** 53:5

**notified** 15:25 16:2 42:6

**notify** 41:25

**November** 18:11 19:14,20

**novo** 8:14

**number** 7:8 29:11 31:4,23 32:6,7,8,  
10,18,19,21,22,23 33:4,6,8,13  
36:15,19,21,22 37:18 39:3,11,19  
40:9 41:23 42:8 43:16 44:18 45:25  
48:7,24 49:11,13,15,25 50:2,8,11  
53:5,14 54:4 56:3,7 58:8 61:1 84:15  
86:20 87:10,15 95:14 97:11,16 98:2,  
9 102:4,17 104:7 105:2 115:8

**numbers** 34:1,17 35:12 37:2,9,10  
38:11,25 39:3,5 40:15,17,18,20 41:2  
43:7 44:17 46:12 47:1 50:16 54:13  
58:17 65:22 66:4 86:22,23 98:12  
102:14

---

**O**

---

**object** 50:21 71:10

**obscene** 72:21

**Obsolete** 50:9,10

**obtain** 31:7

**obtained** 31:19,21 116:3

**obtaining** 39:10

**occupance** 93:17

**occupancies** 93:17 94:8

**occupancy** 94:1

**occur** 113:23

**occurred** 10:6,9 11:9 12:14 43:9

**occurs** 9:21

**October** 63:15 66:2,6 95:16

**odd** 69:6 99:19

**offering** 54:18

**office** 7:13 8:6 37:6,7 60:20 63:9,11  
64:21 66:2 84:1

**official** 91:23 111:5

**oftentimes** 115:3

**ohms** 67:7 78:4,14 79:7,10,23 80:3,  
13 81:4,7

**older** 109:5

**oldest** 104:3

**Olympia** 117:6

**on-site** 94:16,21

**one-and-a-half** 11:11

**one-line** 94:14

**online** 91:15 96:11,13,16,18,23

**open** 101:25 102:2 117:7

**opened** 49:12

**operated** 98:7

**operating** 45:14 57:22 95:24,25

**opinion** 33:15 38:7,8 52:15,22 77:4

**opportunity** 105:11

**opposed** 6:14 27:6 62:9,24 83:4  
119:13

**opposite** 36:6

**order** 3:23 7:12 8:10 9:12 10:2  
12:20,25 16:12 17:10 20:2 24:24  
27:15,25 28:2,5,9,13 52:5 63:5,19  
65:12 66:1 68:16 82:14 83:11,19,22  
86:16 109:18 117:3,5,8,9,11

**orders** 28:8 30:15 83:21 117:13

**original** 11:19 21:19 39:12 69:25  
105:22

**originally** 21:20

**outbound** 104:20

**outdoor** 108:19 110:5 111:9 112:3



**outreach** 35:6 52:16

**overhead** 70:15

**overseeing** 105:14

**oversight** 113:13

**overturn** 57:4 82:11,15

**Owada** 30:20

**owned** 42:11

**owner** 13:14 67:21 68:3 107:11  
114:11

**owners** 56:21

**ownership** 42:1

---

**P**

---

**p.m.** 119:15

**Pacific** 68:2

**package** 75:10 90:17,18

**packet** 17:17 30:8 36:16 39:8,22  
108:16

**Padilla** 7:2,3 9:4 16:18,19 27:12,13,  
16,19,23 28:17

**pages** 39:8 98:9

**paid** 15:21,22 21:3,20 22:9 23:3,6  
37:5 42:20 50:15,18 100:8

**pains** 15:8

**panel** 68:1,5,7,10 69:18 70:16,19  
73:14 77:9 80:9,11 115:23

**panels** 71:2,3 116:7

**paperwork** 23:22 24:20

**parent** 43:16

**part** 14:6 18:4 25:7 30:6 31:13 40:14  
45:12,19 51:1 58:14 61:17 78:8  
102:24 110:22 111:10,14 114:8,9,  
21,23 115:9

**partial** 9:11,13 12:19

**parties** 7:10 8:10 28:7,16 29:13 60:3  
62:2,15 63:4 65:24 83:14,20 84:3

**partner** 27:22

**partnership** 33:19

**party** 8:20 9:6 27:14 30:14 31:25

33:10 37:17 47:1 68:17

**pass** 105:19

**passed** 10:23 85:21 100:21 105:22  
113:16

**passes** 6:15 27:8 62:25 83:5 119:14

**passive** 116:14

**path** 114:8,21,23

**pay** 15:16,19 24:9 25:21 49:10 99:9  
100:24 101:10,13

**paying** 24:15 25:22 32:11,12 101:1

**payroll** 13:8 17:6 22:1,4 42:23 56:25

**penalties** 8:5 58:21 59:19 60:1,16  
64:1

**penalty** 59:14 98:13,14

**Penguin** 3:4

**people** 5:19 38:12 45:23 57:5 73:15  
88:18 90:2 103:3 108:1 114:16  
118:13

**percent** 60:9 96:4,8,10,12,14,17,19,  
22,23 97:3,5,8,9 98:16,18,19,20,21,  
22 100:4 102:7,8,10 109:2,3 111:17,  
19,20,21

**percentage** 97:1,6 102:7

**perform** 54:18

**performance** 96:25 97:9

**performed** 13:11 35:18 36:23 39:24  
67:1 97:2,7

**performing** 35:20

**period** 75:24 91:17 96:3,7

**permit** 25:20 33:21 40:2 97:18  
114:12,14 115:6 116:2,17

**permits** 13:22 42:21 54:23 55:7,10,  
16,19 96:10,13 98:20

**permitting** 57:18 112:11

**person** 14:14,16 33:4,19 37:14  
40:17 106:6

**person's** 36:11

**personal** 37:14

**perspective** 61:16

**pertaining** 9:2

**ph** 39:18 69:14

**phone** 31:4 32:10 37:10,13,14,15  
38:11 40:15,18 58:8 104:14

**phoney** 116:13

**photovoltaic** 93:8,12,21 114:9

**piece** 8:16

**piecework** 25:23

**pipe** 67:3,4,6,10 68:13,23 69:2,5,16  
70:2,9 74:8,13,21,23 75:1,24 77:12  
78:6,10,19 79:1,2 81:23 115:14

**place** 49:17 68:1 70:1 72:23 73:4,17  
75:18 85:24 88:23 89:24 105:1

**placement** 116:1

**places** 5:16

**placing** 115:23

**plan** 93:7,12,16 94:4 98:5 103:2  
105:17

**planar** 93:22

**planned** 93:17

**planner** 94:17

**plans** 94:17 103:8

**plate** 68:21 75:12

**plates** 75:14

**play** 32:15 79:7

**plumbing** 87:3 115:13

**PMW** 117:9

**point** 10:17,25 11:2,6,23 19:17,18  
25:8,25 42:6,18,22 46:3 49:14 56:9  
57:15,16 59:24 60:25 65:6 68:20  
72:15 80:1 82:14 84:14 90:1,6,23  
95:16

**pointed** 61:11

**policy** 24:3

**portion** 93:22

**portions** 114:6

**pose** 77:18

**position** 8:14 105:10,12,15

**positions** 102:1,18,21 105:7

**positive** 101:5



**post-hearing** 37:23  
**posted** 4:15 56:2  
**posting** 91:15  
**potential** 61:21  
**potentially** 60:22 70:24  
**power** 98:3  
**powers** 60:20  
**practice** 86:21 87:5  
**pre-board** 37:23  
**PRE-CONSTRUCTION** 106:12  
**precedent** 38:9  
**preconstruction** 106:11,17  
**preliminary** 95:17  
**premium** 32:8  
**premiums** 38:5  
**prepared** 27:15 83:11  
**preponderance** 13:1 16:10,22  
**present** 3:6,10,11 28:4 29:1 63:6,18  
64:14 81:22  
**presented** 20:25 21:5 23:22 50:25  
83:17  
**presume** 31:14 47:23  
**pretty** 116:18  
**prevailing** 27:14  
**previous** 58:15 69:14 96:14,18  
101:9 111:18  
**previously** 116:3  
**primary** 79:3  
**principals** 39:7  
**prior** 42:4 45:1 61:5,8 90:20 91:8,23  
104:11  
**problem** 17:14 18:4 19:7 20:12,13  
21:7,22 22:12,17 23:10,16 24:20  
42:10 56:11 58:16 68:12 73:13  
**problematic** 25:16  
**problems** 20:24 68:7 81:9 85:24  
**procedure** 29:23 66:9  
**procedures** 8:8 13:21

**proceeding** 64:18  
**proceedings** 3:13  
**process** 41:22 53:1 91:4 92:25  
94:18 105:5,6,10 111:13 112:12  
**processed** 96:11 104:3  
**processing** 104:12  
**product** 90:21,22,23  
**products** 111:18  
**program** 7:23 104:14 105:12,13,17  
106:4  
**programming** 87:10  
**projects** 13:17  
**promising** 101:15  
**promotion** 100:23  
**promotional** 105:11  
**proof** 26:17 30:15  
**proper** 7:9 20:4 29:12 42:13 43:21  
47:5 57:18 65:23 98:21  
**properly** 18:5 20:16 31:9 45:13  
49:22 54:24  
**proposal** 90:4 108:17 117:22  
**proposals** 84:22 85:12  
**proposed** 8:10 9:7 27:15 28:8,9  
30:15 83:11,21,22 90:12,22 91:7  
**prove** 9:6 79:9  
**provide** 14:15 15:14,15 83:16  
**provided** 11:1 14:1,17 15:18 28:15  
84:2  
**proving** 14:16  
**PSI** 86:9,24 87:23  
**PSIS** 87:11  
**public** 40:7,8 90:24 91:16,19 93:18  
107:22,24 108:3 113:7  
**PUD** 94:24  
**pull** 69:8  
**pulled** 73:15  
**pulling** 54:23 55:6,9,19  
**pulls** 76:5

**pumps** 109:15  
**punishment** 54:10  
**purchased** 39:9 41:23 42:5 58:5,7  
**purpose** 24:4  
**purposes** 32:8 33:11 34:16,23  
35:22,23 42:11 46:4 48:3  
**pursuant** 7:9 8:7 29:12 65:23  
**push** 107:20  
**put** 17:24 22:7 54:8 61:19 63:5 71:5,  
8 75:7,8,11,18 80:19 81:7,10 92:20  
112:14

**putting** 49:20 72:2  
**PV** 93:23

---

**Q**

---

**quantity** 52:1,19  
**quarter** 26:4,6 96:1,6,12,15,16,18,  
20,21,24  
**quarterly** 84:15 86:1,2  
**question** 30:4 44:4,21 46:9,14,17,  
19 48:24 49:2,21 51:24 55:4 56:14  
59:23 60:10 64:17 69:16 75:16  
76:22 77:7,19 80:23 81:1 88:14  
89:21 90:10 92:18 93:5 98:25  
106:16  
**questions** 8:22 9:3,4 24:22 25:2  
26:18 30:2 41:7,12,15 43:2,23  
44:12,13 46:7 51:7 52:23 64:25 65:1  
66:13,15 74:1 77:5 81:17 82:7 84:4  
85:5 88:12 92:3 95:1 105:25 106:9,  
10,25 107:3,18,21 108:5 117:1,17  
119:2  
**quick** 48:20 113:15  
**quickly** 4:12 5:2  
**quorum** 4:5  
**quote** 89:7

---

**R**

---

**rabbit** 55:17  
**raceway** 88:22,23  
**racked** 52:20



**radar** 5:21  
**raise** 100:3  
**random** 50:2  
**Randy** 13:13 26:8,14  
**Randy's** 6:17,18,20,23 7:7 9:10,13  
10:5,6,14 11:18,21 12:17,21,25  
13:4,13,16 14:17,25 15:13,14,17  
16:1,3,11 17:5,13 18:13,16,23  
20:19,24,25 21:18 22:2,6,8,16,21  
23:1,8,14,18,20 24:5 26:2,5  
**range** 102:10  
**ranks** 102:19  
**RCW** 13:12,19 24:18 113:16  
**re-adjourn** 65:5  
**reach** 28:3,12 56:10 64:20 83:24,25  
**reached** 9:1  
**reactions** 5:4,9  
**read** 25:9 37:22 55:4,7 75:13 77:11  
91:22 93:6  
**reading** 48:15,16 54:17 79:20 99:15  
**reads** 81:21  
**ready** 43:5 90:18 91:12 110:12,14  
**real** 90:18 109:15 118:19  
**realized** 47:16  
**realm** 91:19  
**reapply** 82:20  
**reason** 12:5 22:7,10,19 24:3 67:25  
102:24  
**reasonable** 19:8  
**reasons** 12:11 17:1 20:15 24:17  
**rebar** 74:15,17  
**rebuttal** 41:11  
**recall** 48:15,16 71:25 72:1 117:5  
**receive** 21:18 85:23 88:25  
**received** 10:7 13:9 17:16 18:8 21:15  
28:6 83:19 84:21 88:18  
**receiving** 105:3  
**recess** 65:6,7  
**recipe** 57:20  
**recommendation** 107:9  
**record** 4:4 8:16,18 11:12 22:4 25:13  
31:16 32:12 36:1,9 50:4,22,25 51:15  
52:7,11 54:9,14,18 55:4,23 59:13  
63:14,19 70:6,10 71:11,13 72:6,9  
**recorded** 104:10  
**records** 15:16,19 17:5,6 19:5 21:5,6  
22:10 23:13 26:3 40:6  
**recruit** 101:7  
**recruiting** 102:1  
**red** 4:17  
**reduced** 60:25  
**refeeding** 70:14,15  
**refer** 39:3  
**reference** 56:14 93:20  
**referenced** 8:17  
**referred** 18:19 98:15  
**referring** 71:20  
**reflect** 21:6 53:17  
**reflected** 23:23  
**reflects** 28:9 83:22  
**regions** 103:9  
**register** 47:4  
**registered** 41:21 43:11,13,18,19  
47:8 114:11  
**registers** 32:19  
**registration** 32:22 58:11  
**regular** 13:9  
**regularly** 28:4 83:18  
**regulation** 35:6  
**regulations** 55:22  
**reiterate** 58:3  
**related** 51:17  
**relation** 41:24  
**relationship** 15:17,20 23:1 43:8  
115:19,20  
**reliance** 34:8  
**relied** 10:12 32:16 67:2  
**relies** 33:14  
**rely** 12:6  
**relying** 20:10 34:13,14 44:12  
**remaining** 16:14  
**remarks** 29:22  
**remedies** 52:4  
**remedy** 118:14  
**REMEMBERED** 3:1  
**reminder** 108:3  
**remove** 47:11  
**removed** 47:18  
**rendition** 92:13  
**renewable** 113:17,22  
**renewals** 96:22  
**repeat** 46:21  
**replaced** 68:5  
**replacing** 70:14 71:2  
**report** 31:25 32:6 37:18 38:4 39:11  
53:5 84:15 86:1,2,11,12 87:23 88:1,  
2,6 90:10 95:7,8,12 97:5 105:18,24  
**reported** 32:3 34:4 35:21 44:1,2  
45:25 46:3 49:25 50:8,18,20 51:5  
53:8,23 54:3 105:2  
**reporter** 30:18 67:14 112:23  
**reporting** 31:9 33:10,12 34:23  
42:22,25 45:17 48:2 50:19 53:6  
55:3,11,18  
**reports** 14:18 86:8,17 87:24 106:9  
**represent** 16:20  
**representative** 6:20 28:25 29:4  
**representatives** 35:2 104:22  
**representing** 38:22  
**reputation** 58:10  
**request** 90:11 97:2,10 111:3 118:4  
**requests** 24:23 96:18 109:3  
**require** 112:6  
**required** 13:22 15:7,15 17:1,3 35:21  
47:6 48:9 70:20,21,25 75:18,21  
76:16 79:10,18 86:21 93:17 109:20



**requirement** 75:2 94:12  
**requirements** 33:3 48:4 72:17  
85:21 109:19 115:24  
**requires** 15:16 32:1 33:4 67:5  
**requiring** 93:11  
**residential** 81:14 109:16  
**resistance** 67:7 81:6  
**resolution** 61:21  
**resolve** 63:18  
**resolved** 73:3  
**respiratory** 5:14  
**respond** 40:12 43:24 48:19 53:9  
108:5  
**responded** 69:20  
**response** 22:3 48:9  
**responsibilities** 105:16  
**responsibility** 13:10 45:16,19,22  
47:4,5 53:10,13,18,20  
**responsible** 44:5 46:11 47:1  
104:13  
**result** 31:12 98:3  
**resurrect** 90:4  
**retention** 100:23  
**retirement** 102:12  
**retirements** 102:20  
**retrofit** 109:5  
**return** 15:24  
**returns** 14:2,17 15:1,18  
**revenue** 32:18 33:5 96:5  
**reverse** 9:14 12:18,22 16:12 38:14  
**reversed** 14:25 66:4  
**review** 8:4,11,13,15 10:22 11:2,10  
89:18 91:4,8 93:7,12 94:4,13,20  
98:5 105:5 117:14 118:2  
**reviewed** 10:14,19,24 11:6,14,17  
30:10 66:22 98:9  
**reviews** 11:3  
**Reviser** 90:22 91:13  
**RH** 23:1,4  
**rides** 105:15  
**ridiculous** 74:14 115:15  
**Rights** 105:8  
**rights/appeals** 104:2  
**rock** 73:17  
**rod** 67:7,8 69:17 70:9 73:10 74:24  
75:1,9,25 76:8,18,23 77:1,13 78:2,5,  
12,13,21,22 79:4,13 80:14  
**rods** 67:9 68:12 69:7 70:11,13,16  
71:4,5,9,22 72:2 74:7 75:21,24 76:2,  
16 80:19 81:24  
**role** 113:14  
**roll** 95:19  
**roof** 114:23 115:5  
**roofers** 114:16 116:16  
**Room** 3:4  
**ropes** 103:5  
**routes** 4:14  
**rule** 9:23 10:2,3,12 12:1,6,11,12  
20:5,7,9 78:21 85:18 108:16  
**ruled** 64:9,12 72:24  
**rulemaking** 94:24  
**rules** 9:2 12:2 13:21 36:7 46:16  
58:24 78:13 85:20 91:12  
**ruling** 58:25 73:21 82:12  
**rumor** 93:10  
**run** 48:8 111:7  
**running** 9:21,24 10:9,13 12:13  
55:17 111:9  
**runs** 112:13

---

**S**

---

**S-T-E-P-H-E-N** 112:25  
**safe** 40:7 110:16  
**safely** 110:2  
**safety** 4:7,9 5:2 13:21 35:10 36:8  
**salary** 13:9 24:16  
**sales** 96:16  
**scale** 100:25 101:14  
**Schartiger** 30:21 41:10,14 42:2  
43:12,19 44:8 45:5,21 46:20 47:3  
48:12,19,22 49:20 50:9,14 53:22  
**schedule** 13:17 85:2  
**scheduled** 28:5 83:18  
**school** 94:19  
**schools** 93:18  
**scope** 110:17  
**scorecard** 97:1  
**sealed** 71:7  
**seamless** 112:2  
**search** 31:16  
**seat** 6:25 7:5  
**Seattle** 113:24  
**secretary** 3:10 4:1,3,4,10 17:3 19:4  
23:13 28:14 41:21,25 42:6 57:14  
58:11 63:12 64:21 84:1,10,17 85:8  
86:4 92:17 93:2 94:11 95:9 99:20  
100:1,11,15,19 101:23 102:3,13,16  
103:11,18,21,24 106:13 107:15  
**Secretary's** 64:21 95:7,8 106:9  
**section** 22:25 105:8  
**secure** 86:23  
**securement** 116:1  
**Security** 14:13 31:10 51:20 57:8  
86:22,23 87:10,15  
**self-employed** 23:2,5  
**self-reporting** 20:10  
**sell** 68:16  
**selling** 68:3  
**Senate** 85:22 105:20  
**send** 27:16 49:9  
**sense** 34:11 47:7  
**sentiment** 58:21  
**separate** 8:3 25:10 32:16 36:3,15,  
22 37:1,2,19 39:4,5,16,21,23 41:1  
44:15 51:13 56:23 58:17 71:2,24  
72:3 82:3



**separately** 40:16,21  
**September** 29:19 91:14  
**service** 96:9  
**services** 5:20 81:14 111:5  
**session** 100:20  
**set** 28:4 83:17  
**setting** 117:8  
**settle** 63:16  
**settlement** 62:3,15  
**seven-and-a-half** 95:23  
**share** 5:1  
**sharing** 86:22  
**shifts** 14:15  
**shoot** 103:13  
**shop** 89:13  
**short** 41:11 63:7 65:5 91:6  
**shortening** 31:22  
**shoulder** 5:17  
**show** 12:25 13:4 14:18,21 15:11  
21:1,12,14 25:14 40:3 69:5,7 78:4  
86:13  
**showed** 15:20 88:2  
**showing** 15:20 17:6 21:17 22:4 25:6  
116:12  
**shown** 39:8  
**shows** 14:3 16:9 17:2 26:3 54:3  
75:10 94:14  
**side** 4:25 5:6 17:8 53:2 57:17 81:16  
103:4 111:16  
**sign** 117:15  
**signal** 62:21  
**signature** 19:15,19 117:4,13  
**signed** 28:15 63:13 84:2 105:23  
108:1,7  
**significant** 68:15  
**signify** 6:11  
**signs** 4:17  
**siloed** 51:21  
**similar** 13:9 15:16,19 39:16 70:23  
**Similarly** 40:3  
**simple** 69:16 72:19  
**simply** 25:5 55:11  
**single** 31:5 36:18 56:20 78:5  
**sit** 8:14 26:10 110:11,14  
**site** 115:3  
**sites** 117:24  
**sits** 114:19  
**situation** 15:10 25:4 31:7 36:5,11  
54:7,10  
**size** 73:11  
**skip** 20:21  
**skirt** 36:2  
**slab** 74:16  
**small** 67:21 72:1  
**smoothly** 112:13  
**Social** 86:22,23 87:9,15  
**solar** 113:6 114:2,19 115:10  
**sold** 96:10,13  
**Solex** 113:4  
**sort** 52:4 63:18 89:20 113:13  
115:18,20  
**Sosa** 7:2,3 9:4 16:18,19 27:12,13,  
16,19,23 28:17  
**sought** 38:11  
**sounded** 63:22,24 92:8  
**sounds** 76:11  
**source** 93:17  
**space** 4:13 71:5 72:2  
**speak** 30:17 67:14 89:25 90:4 92:11  
112:22  
**SPEAKER** 27:7 119:5,8  
**special** 116:5 117:6  
**specialist** 84:8 86:3,6 87:21,25  
88:5,8,12 94:23 95:2,3  
**specialists** 103:1  
**specialize** 113:6  
**specific** 64:8,12 94:8 106:25  
**specifically** 74:6 93:23 114:6  
**spell** 30:17 67:14 112:22  
**spite** 14:4  
**spoke** 38:1 113:7  
**squared** 56:12  
**staff** 104:13 105:3  
**staffing** 104:21  
**stake** 35:11  
**stakeholder** 92:20  
**stance** 54:6  
**stand** 89:22  
**standard** 100:2 104:24  
**standing** 3:10 4:4,10 57:14 84:10,  
17 85:8 92:17 93:2 94:11 95:9 99:20  
100:1,11,15,19 101:23 102:3,13,16  
103:11,18,21,24 106:13 107:15  
**standoff** 114:18  
**standpoint** 111:4  
**start** 5:13,14,16 9:24 10:13 17:12  
19:23 27:19 99:3 103:1,2  
**started** 10:9 12:13 19:21 21:23,25  
22:5,13 49:15 99:22  
**starting** 85:19  
**state** 5:6 13:21 17:3 19:4 23:13  
32:20,21 41:21,25 42:6 43:9 47:4,9,  
11 49:9 55:22 57:23 58:11 73:1  
75:23 86:21 108:14 109:14 110:9  
113:18,20  
**State's** 59:24  
**stated** 56:20  
**statement** 39:22 92:7 100:18  
**states** 9:23 39:6  
**statewide** 100:8 101:11 102:6  
**stating** 59:13  
**status** 22:6 46:5  
**statute** 9:16,17,18,20,23 10:8,11,12  
11:18 12:7,9,13,16 17:10 34:9 38:9  
**statutes** 12:5 35:12



**stay** 101:22  
**stems** 107:8  
**Stephen** 112:24 113:3 116:24  
**Steven** 112:21  
**stings** 5:11  
**stop** 43:5 45:6 79:19 85:4 98:25  
**stops** 97:25  
**strapping** 111:12  
**strip** 71:8  
**structural** 114:10  
**structure** 51:12,16 99:9 114:5,6,17  
**stubbed** 82:4  
**stuck** 73:17  
**study** 113:20,23  
**stuff** 4:18 99:18 101:18 115:9  
116:19  
**Styph** 69:13  
**subcontractor** 22:9  
**subject** 8:11 108:8 115:24 116:14  
**submission** 37:23  
**submit** 54:19  
**submitted** 8:19 18:3,13 30:6 89:16  
104:7  
**submitting** 94:17 104:9  
**substantial** 52:6,8  
**Substitute** 105:20  
**succession** 103:8 105:17  
**sue** 40:17  
**suffice** 69:17  
**sufficient** 70:9  
**suggested** 113:8  
**suggestions** 107:2 108:6  
**suits** 12:7 34:16  
**summarize** 84:23  
**summary** 9:11,13 12:19 17:11,12  
20:15  
**superclean** 36:8

**superior** 60:19  
**supervise** 97:18  
**supervised** 13:18  
**supervising** 16:10  
**supervision** 98:21  
**supervisor** 73:5 102:19 105:12  
107:10  
**supervisors** 103:10 106:20,23  
**supervisors'** 106:19  
**supervisory** 12:24 13:1,6,7,10  
14:4,6,11 15:3,12 16:13,25 17:7  
19:3,25 20:19,23 21:9,13 22:20  
23:15,19,25 24:7,8,16 105:16  
**supplement** 67:9  
**supplemental** 77:13 78:12,20 79:3  
**supplementary** 74:23  
**supplemented** 67:3 74:7,25 78:3,  
10,15,22 79:4  
**supplied** 25:6  
**supplying** 75:24  
**support** 16:5 52:9 77:3 105:12  
111:4 114:5,7,10,17 118:3  
**supported** 9:1 52:6,8  
**supports** 16:22  
**suppose** 70:5  
**supposed** 26:1 46:12 55:20,21  
**supposedly** 70:1  
**Supreme** 20:6  
**surprised** 73:1  
**suspect** 10:20  
**suspend** 76:1,19  
**suspension** 76:17 77:3  
**swept** 99:6  
**sympathize** 54:6 57:21  
**system** 47:13,15 80:10,11 81:25  
89:7 109:25 114:9  
**systems** 87:1 93:23 109:7,21  
113:22  
**systems-study** 113:17

---

**T**

---

**table** 61:25 62:4  
**tabled** 89:20  
**TAC** 84:19 89:9,17 90:12  
**takes** 7:25 57:21  
**taking** 73:2  
**talk** 20:17 98:11 108:21  
**talked** 36:1 70:22 90:11 99:4  
**talking** 19:16 61:4 110:3 114:17  
118:1  
**talks** 33:2  
**targeting** 97:20  
**tax** 14:2,17,18 15:1,18,24 32:22  
**teaches** 70:6  
**team** 104:25 105:9,16 111:4  
**technical** 66:22 84:8 86:3,6,9  
87:21,25 88:5,8,12 94:23 95:2,3  
102:25 111:4,5  
**technically** 77:24 79:11 108:15  
**techs** 110:9  
**telling** 109:1  
**tells** 76:6  
**ten** 65:5 102:20  
**term** 45:7 48:15  
**terms** 34:8 57:17 101:10 109:23  
**test** 80:3,13 81:11  
**testified** 10:18,22 13:14,15,25  
14:10 15:4 36:4 38:1 39:19  
**testifying** 72:7  
**testimony** 14:7,9 21:1 37:24 40:22  
71:11 74:10 81:3  
**testing** 81:6,11 105:19  
**tests** 80:20  
**Theoretically** 115:4  
**thereof** 111:14  
**thing** 5:1 24:2 34:7 37:15 45:11  
49:24 57:22 74:14 75:23 85:10,17



86:18 94:12 109:17 116:4 118:23  
**things** 5:4,8,17 46:16 51:21 53:2,18  
56:4 57:2 61:11 70:4 85:15 88:16  
89:8 90:25 95:13 99:10 101:6  
**third-party** 32:2 42:23 45:17 53:3  
**thought** 4:21 33:8 68:14 73:18  
76:15  
**Thursday** 3:2  
**tied** 81:24  
**time** 5:4,19 8:22,23 9:17 10:23 11:4  
12:3,7 14:21 18:25 21:8,12 22:20  
23:24 32:11 39:1 41:23 62:2 65:4  
68:15 69:23 72:22 80:19 81:12 90:3  
91:3,6,15 92:12 93:16 98:5,7  
104:15,22 107:1 112:19 115:17,21  
116:23  
**timecards** 15:14,15,16  
**timeline** 90:16  
**timely** 7:19 29:21 47:2 66:8  
**times** 25:8 26:1 41:20 95:23  
**Timothy** 69:13  
**title** 111:5  
**Tobin** 12:23,25 13:5,7,15,18,22  
14:3,5,19,21 15:1,11,21 16:9,13,23  
17:2,5,7 18:5 19:2,24 20:18,20,22  
21:2,3,8,13,17,20 22:8,11,21 23:2,9,  
15,19,25  
**Tobin's** 13:16 17:15 18:1,25 22:6  
**today** 4:2,4 7:6 8:21 28:1,3 29:9  
42:12 63:8 64:13 65:19,20 83:15,24  
108:21 113:7  
**today's** 64:18  
**told** 71:8,21,22  
**tools** 19:1  
**top** 18:10 76:23 86:20 91:11 100:19,  
24 101:13 114:19  
**topic** 5:2 99:7  
**topics** 85:13  
**total** 52:20 97:11,22,24 98:9 104:2,  
16  
**totally** 23:16 57:15  
**touch** 5:10 60:14

**tours** 81:5  
**tracking** 102:12  
**traction** 90:5  
**trade** 33:4 75:22  
**traditional** 109:6  
**trained** 17:21 104:25  
**trainee** 98:20  
**trainees** 97:19 104:9  
**training** 110:17 112:6,7,9 118:15  
**trans** 69:1  
**transcript** 5:23 6:1 64:18,22 79:21  
**transcripts** 72:11  
**transfer** 86:24  
**Transparency** 40:6  
**transparent** 34:19  
**traveled** 4:1  
**trench** 88:22  
**Trent** 69:24 70:5,10,21 73:5  
**trespassing** 115:11  
**trial** 69:13,23  
**trouble** 5:15  
**Tumelson** 3:8 81:19,20 93:4,5  
94:22  
**turn** 12:20  
**turnaround** 98:5,7  
**twelve** 49:8  
**two-year** 10:10 100:23  
**type** 64:5 109:25  
**types** 56:22 106:21,23  
**typically** 81:8,9 82:2 90:10 114:17  
118:14

---

**U**

---

**UBI** 31:2,20,22 32:4,16,17,18,19,21,  
24 33:4,6,8,10 34:1,24 36:15,19,20,  
21,23 37:2,18 38:25 39:3,5,11,12,  
13,19 40:9,20 41:2,23 42:7,11 43:7  
46:12 47:1,17,20 48:7,24 49:10,13,

15,25 50:2,8,11 51:19 53:5,23 54:13  
56:2,7,22 57:20  
**UBIS** 31:6 36:3 47:13 51:11 56:23  
57:4  
**Uh-huh** 103:21  
**umbrella** 39:20 40:24,25  
**unable** 28:12  
**unaware** 70:1  
**unclear** 15:25  
**uncommon** 69:21  
**undefined** 34:9  
**underground** 67:2,9 74:12,23  
78:10 97:19  
**underlining** 14:20  
**underlying** 117:12  
**understand** 15:5,6 22:13 23:7  
34:11 50:4 53:1 57:21 77:11 110:1  
113:13  
**understanding** 7:14,18 29:16,20  
45:5,6 48:13 51:18 66:3,7 81:8  
89:20  
**understood** 77:10  
**UNIDENTIFIED** 27:7 119:5,8  
**union** 3:4 53:4  
**unique** 87:7,9  
**unit** 110:5 111:9,10 112:4  
**units** 89:4 108:20  
**unknowingly** 31:7 32:3 37:16  
**unpersuasive** 36:20  
**unreasonable** 115:16  
**unrelated** 69:14  
**untimely** 19:14  
**unused** 47:13  
**update** 70:7 84:7,12,24 88:14  
108:16  
**updated** 104:24 105:5  
**updating** 118:25  
**uphold** 27:3 59:5 73:21  
**upper** 100:7





**user** 85:15  
**utilize** 38:25 53:11,14  
**utilizes** 40:19

---

**V**

---

**vacancy** 102:5 105:8  
**vacated** 105:10  
**valid** 33:4,6,20 35:19 36:24 39:25  
40:1,2 47:20,21,25 51:25 52:15  
54:20,21 55:5,6,8,15,16,18,19 74:5  
**Vance** 84:8 86:3,6 87:21,25 88:5,8,  
12 94:23 95:2,3  
**Vancouver** 3:3,4,21 7:10 29:13,14  
65:24  
**VEI** 97:13  
**verify** 15:17 74:13,15  
**version** 91:1,15,23  
**versus** 25:7 37:14  
**Vest** 37:25 38:1 40:23  
**view** 93:22  
**violate** 38:15  
**violation** 23:24 58:24 61:3 89:6  
**violations** 52:11 53:17 59:15  
**virtual** 97:14  
**voided** 11:21  
**voltage** 112:3

---

**W**

---

**W-2** 21:16  
**WAC** 13:6 15:15 24:18 85:13 93:21  
94:4 114:4 116:9  
**WACS** 33:19  
**wage** 13:9 14:18  
**wages** 21:18 100:6  
**wait** 24:9 75:3 77:16 89:5  
**wallet** 4:18  
**wanted** 5:1 35:13 40:12 52:10 73:1  
90:2 92:9 108:20 110:19 116:19

**warnings** 97:16 98:15,18,19,20,23  
**Washington** 3:5,21,23 5:7 7:10  
29:13,14 32:21 39:2,17 55:23 65:24  
75:23 108:11,14 112:14,15

**Watalovich** 39:18

**water** 67:3,9 68:13,23 69:2,4,16  
70:2,9 74:8,13,21,23 75:1,24 77:12  
78:6,10,18,24 79:1,2 81:23 115:14

**Wayne** 89:25 92:19 101:18 106:16  
110:13

**website** 32:18 33:2

**week** 26:7 104:17

**weeks** 68:22 98:6

**Western** 5:8

**wheezing** 5:15

**white** 4:17

**wholesaler** 110:25

**William** 28:21,24 29:10

**Wilson** 7:3 16:19

**WIN** 94:24

**wind** 45:12

**wipe** 78:24

**wire** 70:18 88:25 89:15

**wires** 70:15

**wiring** 89:3 117:7

**wit** 3:15

**wo** 34:17

**wondering** 44:23

**woods** 87:18

**word** 54:7

**words** 88:21 89:13 90:4

**work** 5:10 10:15,18,20 12:8 13:11,  
19,20 14:2 15:18 26:11 27:21 33:21  
35:17,20 36:23 37:13,20 39:25  
42:20 47:6 53:25 54:1 57:17 58:4,14  
69:21 70:4 73:13 75:12,17 85:3  
86:15 91:11 101:17,19 106:25  
108:24 110:10,20,24 112:3 114:15,  
24 116:1,2,14,15

**worked** 13:17,18 15:22 34:21 80:13  
104:9

**worker** 46:10 67:21 97:17

**workers** 35:2 39:24

**workers'** 40:23,24 41:1

**workflow** 104:24

**working** 15:17,20 19:10 26:7 27:19  
34:16 85:16 86:10 108:14

**workload** 104:4

**world** 42:24

**worse** 115:22

**worth** 87:12,13

**written** 61:2 103:8

**wrong** 19:11 34:18

---

**Y**

---

**yard** 73:10

**year** 5:5,19 96:1,3,6,7 97:3,4,8,11,  
12,13,14,20,22 98:1,4,6,8,10,16  
100:2 101:9 111:17,18,20

**year's** 87:12,13

**years** 9:19 11:11,23 12:15 17:9  
24:11 26:9 32:10 33:9 47:14,21,22  
48:9,14,23 49:8 50:3,6 61:14,15  
70:8 73:6 75:22 99:4,7,10 100:4,25  
101:14 102:15,20 107:9 108:25  
111:3,24

**yesterday** 102:4

**you-all** 3:24,25 112:9 117:5

**younger** 103:4

---

**Z**

---

**zone** 109:12

