

Meeting 2-6.12.15

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PUBLIC MEETING
FOR THE
DRAFT ENVIRONMENTAL IMPACT STATEMENT
FOR THE
PROPOSED TONGUE RIVER RAILROAD

FORSYTH, MONTANA

JUNE 12, 2015

6:33 P.M. MT

Meeting 2-6.12.15

1 FRIDAY, JUNE 12, 2015

2 6:33 P.M. MT

3 FORSYTH, MONTANA

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5 JENNIFER PIGGOTT: Good evening and welcome.
6 I would like to introduce, from the Surface
7 Transportation Board, Mr. Ken Blodgett.

8 Ken?

9 KEN BLODGETT: Good evening.

10 Can everybody hear me okay?

11 Okay. Great. Thank you for attending this
12 evening's meeting on the proposed construction and
13 operation of the Tongue River Railroad. My name is Ken
14 Blodgett. With me this evening is Catherine Nadals, and
15 we are here representing the Surface Transportation
16 Board's Office of Environmental Analysis.

17 Also with me this evening is Alan Summerville
18 of ICF International, the project manager for our
19 third-party contracting team; Elizabeth Diller, also of
20 ICF International; and Jennifer Piggott, who will act as
21 facilitator this evening.

22 The Surface Transportation Board is a federal
23 agency responsible for the economic regulation of
24 interstate surface transportation within the
25 United States and for granting authority for the

Meeting 2-6.12.15

1 construction and operation of new rail lines and
2 associated facilities.

3 The board's mission is to ensure that
4 competitive, efficient, and safe transportation services
5 are provided to meet the needs of shippers, receivers,
6 and consumers. In all of its decisions, the board is
7 committed to advancing the national transportation
8 policy goals as established by Congress.

9 The Office of Environmental Analysis, or OEA,
10 is responsible for ensuring that the board is in
11 compliance with the requirements of the National
12 Environmental Policy Act. We fulfill that
13 responsibility through an independent environmental
14 review of railroad actions, which require the board's
15 approval.

16 On October 16th, 2012, the Tongue River
17 Railroad Company filed an application with the Surface
18 Transportation Board to construct and operate a rail
19 line from Miles City, Montana, to two endpoints near
20 Ashland. On December 17th, 2012, Tongue River Railroad
21 filed a supplemental application in which it identified
22 its preferred routing for the proposed line as the
23 Colstrip alternative, between Colstrip and the Ashland
24 area.

25 The board is the lead agency responsible for

Meeting 2-6.12.15

1 preparing the Draft Environmental Impact Statement.
2 Four cooperating agencies worked with the board in
3 preparing the Draft EIS: The Bureau of Land Management,
4 the Corps of Engineers, the U.S. Department of
5 Agriculture, and Montana state agencies. All of these
6 cooperating agencies have decision-making authority
7 independent of the board and are agencies from which
8 Tongue River Railroad would obtain separate approvals or
9 permits prior to construction.

10 The purpose of this evening's meeting is for
11 the Surface Transportation Board to receive comments,
12 both oral and written, on the Draft Environmental Impact
13 Statement, which was served and made available to the
14 public for review and comment on April 17th. The Draft
15 EIS reflects our analysis of potential environmental
16 impacts that could result from the construction and
17 operation of the proposed railway.

18 Public involvement is an important component
19 in the environmental review process. Our hope is that
20 the comments you provide to us this evening will provide
21 us with your concerns and allow us to address your
22 concerns about the impacts related to the construction
23 and operation of the railroad, as well as appropriate
24 mitigation measures.

25 The Draft EIS public comment period will last

Meeting 2-6.12.15

1 until August 24th, 2015. After the public comment
2 period has come to a close, we will consider all
3 comments received and address each comment in a Final
4 Environmental Impact Statement, which will present our
5 final conclusions and recommendations for mitigating
6 possible environmental effects.

7 Issuance of the Final Environmental Impact
8 Statement will complete the board's environmental review
9 process. At that point the board will make a final
10 decision on the proposed rail line construction. In
11 making that decision, the board will consider the entire
12 environmental record, including all public comments
13 received, the Draft Environmental Impact Statement, the
14 Final Environmental Impact Statement, and our
15 recommended environmental mitigation. No
16 project-related construction may begin until the board
17 has issued a final decision and that decision has become
18 effective.

19 Those who have indicated that they would like
20 to speak this evening will be called upon in the order
21 in which they signed in this evening, and your comment
22 will be recorded by the court reporter.

23 If you would like to provide a handwritten
24 comment today, there's an area where comment forms are
25 available. Comments may also be mailed to the Surface

Meeting 2-6.12.15

1 Transportation Board at our office in Washington, D.C.,
2 or submitted electronically on the project Web site,
3 tonguerivereis.com.

4 All oral and written comments will be given
5 equal weight and consideration. In preparing your
6 written comments, we encourage you to be as detailed as
7 possible regarding content of the Draft Environmental
8 Impact Statement.

9 That concludes my remarks, and I will now turn
10 the floor over to Mr. Summerville, who will discuss the
11 environmental review process a little more.

12 ALAN SUMMERVILLE: Good evening. During the
13 open house portion of the meeting we provided
14 information on the environmental review process and on
15 the project. Right now I'd like to take just a couple
16 of minutes to provide a recap to summarize that
17 information.

18 In the meeting brochure and on one of the
19 posters in the open house section of the meeting, we
20 provide a figure that depicts the environmental review
21 process. To initiate the scoping process, OEA issued a
22 notification of its intent to prepare an EIS to the
23 public; elected officials; federal, state, and local
24 agencies; tribal organizations; and other potentially
25 interested parties.

Meeting 2-6.12.15

1 OEA issued a Draft Scope of Study and held
2 agency and public meetings to obtain comments on the
3 topics that should be addressed in the EIS and
4 alternatives to TRRC's proposed alignment.

5 Interested agencies and persons were invited
6 to participate in the scoping phase by reviewing the
7 Draft Scope of Study, submitting comments in writing,
8 and attending scoping meetings held in the project area.
9 After considering the comments received through the
10 scoping process, the board published a notice of the
11 Final Scope of Study for the EIS on March 22nd, 2013.

12 Throughout the development of the Draft EIS,
13 OEA met in person and through teleconferences with
14 federal, state, and local agencies, as well as tribes.
15 OEA prepared the Draft EIS by analyzing the potential
16 environmental impacts of the proposed Tongue River
17 Railroad and the reasonable alternatives, including the
18 "No-Action" alternative. The Draft EIS also addresses
19 the impacts of trains traveling to destinations beyond
20 the project area, also known as "downline impacts."

21 Any of the build alternatives could have minor
22 to highly adverse impacts on the following resources:
23 Transportation, greenhouse gases, climate change, noise,
24 biological, water, visual, cultural and historic
25 resources, land resources, geology and soils,

Meeting 2-6.12.15

1 socioeconomics, and environmental justice. All other
2 resources would experience negligible impacts.

3 The Draft EIS also includes OEA's preliminary
4 recommendations for environmental mitigation. These
5 mitigation measures will be considered by the board as
6 potential conditions if the board decides to grant TRRC
7 the ability to construct and operate the rail line.

8 As Ken mentioned, the Draft EIS was
9 distributed and made available on April 17th to
10 interested members of the public; parties of record;
11 elected officials; tribes; and appropriate federal,
12 state, and local officials. OEA provided extensive
13 notification through various means to the project area
14 and downline communities.

15 The Final EIS will consider and respond to all
16 comments received on the Draft EIS and will include any
17 appropriate changes and recommendations for additional
18 mitigation measures. It will also identify OEA's
19 preferred alternative.

20 Completion of the Final EIS will be announced
21 to the public in a Notice of Availability published in
22 the Federal Register and by notification to interested
23 parties.

24 At this time I'd like to hand the meeting over
25 to our facilitator, Jennifer Piggott, who will go over a 8

Meeting 2-6.12.15

1 couple of ground rules, and then we'll start to take
2 comments.

3 Thank you.

4 JENNIFER PIGGOTT: Great. Thanks, Alan.

5 Can everybody hear me? Okay.

6 We will now begin the oral comment portion of
7 tonight's meeting. Before we begin, I'd like to go over
8 just a few things. If you haven't already done so,
9 please silence your cellphones so we don't interrupt the
10 meeting. If you'd like to speak and did not get a
11 chance to sign up when you registered this evening,
12 please raise your hand and we'll get you registered to
13 speak now.

14 A court reporter will transcribe your oral
15 comments for use in preparing the Final Environmental
16 Impact Statement. Please do not provide any personal
17 information in your comments that you would not want to
18 see published in the final document.

19 Please speak slowly and clearly so that the
20 court reporter can easily record your comments. Please
21 state your full name and spell it for the record and
22 indicate if you're representing a group or organization
23 this evening.

24 Out of respect for others, we ask that you
25 limit your comments to three minutes. If you think you 9

Meeting 2-6.12.15

1 have more comments than you can present in the time
2 allotted, please make the most important comments first.
3 This time limit has been set at each meeting to ensure
4 everybody who wishes to speak has a fair and equal
5 opportunity to provide their comments.

6 If you do not get a chance to voice all your
7 comments, you can submit them in writing. If you have a
8 written statement, you can read it out loud, and we
9 recommend that you also submit that written -- that oral
10 statement as a written comment.

11 If time permits at the end of the meeting,
12 we'll invite up additional speakers and anyone who did
13 not get a chance to finish their original comments.
14 Please feel free to provide your comments in either oral
15 or written form. Both forms have equal weight in the
16 final document.

17 Finally, this portion of the public meeting
18 allows you to provide comments that will be transcribed.
19 OEA will not answer questions or respond to your
20 comments during this portion of the meeting. OEA will
21 respond to comments in the Final Environmental Impact
22 Statement. This will allow as much time as possible for
23 members of the public to comment.

24 I will now call up our first speaker this
25 evening, which is Alexis Bonogofsky.

Meeting 2-6.12.15

1 ALEXIS BONOGOFSKY: Hi. Nice to see you guys
2 again.

3 My name is Alexis Bonogofsky, A-l-e-x-i-s,
4 B-o-n-o-g-o-f-s-k-y. Tonight I'm representing the
5 National Wildlife Federation.

6 JENNIFER PIGGOTT: Alexis, you have to get
7 pretty close to that mic. Otherwise the folks in the
8 back might not be able to hear you.

9 ALEXIS BONOGOFSKY: Okay. Our comments today
10 are based on the wildlife and biological resources in
11 the Draft EIS. We are extremely concerned of the
12 methodology used. Obviously, we will be submitting
13 substantive written comments, but I just want to talk
14 about one issue right now.

15 In the Draft EIS it says, quote:
16 "Construction and operation will result in habitat loss,
17 degradation, forage quality, increased mortality rates
18 and animal displacement for large ungulates. Mule deer,
19 whitetail deer and elk count high quality winter range
20 in the right of way."

21 It then goes on to state that that is not a
22 significant impact. The impact would be minimal because
23 "large ungulate species are not vulnerable to decline."
24 And those words, "not vulnerable to decline," are used
25 throughout the biological assessment.

Meeting 2-6.12.15

1 It surprised me, so I called -- I'm not a
2 biologist, but I called -- I've worked for National
3 Wildlife Federation for over a decade. I called
4 biologists that work on the EISS for NWF. I also called
5 friends who work for the Fish & Wildlife Service. And
6 they -- I asked them, is that a term that you would ever
7 use in regards to species? And they were all shocked.
8 They said we would never use that term to describe
9 species. Every species is vulnerable to decline.
10 Nothing is invulnerable to that. He said -- one
11 wildlife biologist said it's unprofessional. It calls
12 into question every other analysis in the wildlife
13 section.

14 So I would highly recommend that you go back
15 through the wildlife biological resources assessment and
16 look at those cases where you said that a species is not
17 vulnerable to decline. Really analyze that.

18 One example of this is the mule deer. So mule
19 deer are a species extremely important in southeastern
20 Montana for hunting. It's one of the most highly prized
21 areas in the state for hunting mule deer. I am a
22 hunter. I hunt animals in Rosebud Creek Valley, Tongue
23 River Valley, and we saw the impacts to mule deer from
24 the Ash Creek fire, the Chalky fire. The places that I
25 hunt I didn't see any mule deer for years after. I

Meeting 2-6.12.15

1 mean, I still don't see them coming back.

2 But it is well-known and studied that mule
3 deer are in severe decline throughout the western
4 United States. So they are not invulnerable to decline.
5 They are in decline.

6 And so intending to base your decision off the
7 conclusion large animal species are not vulnerable to
8 decline, when, in fact, recent studies -- you can Google
9 this. It's all over. It's on NPR, LA Times,
10 everywhere, they're talking about mule deer decline.
11 The Federal Government has its own working group of
12 this. It indicates they are not only vulnerable to
13 decline, but they are in severe decline throughout the
14 West, including Montana and Wyoming. It isn't good
15 enough. The analysis is not good enough. These are two
16 species, and I would question the entire chapter. I
17 mean, I went through it and that's just one example.

18 Another example is the predator. There have
19 been six observations of the black bear since 2006, and
20 13 observations of mountain lions since 1995. It's not
21 valid methodology using the Montana Natural Heritage
22 Program. I mean, people -- no one talked to the
23 ranchers and asked them how many times do you see
24 mountain lions or black bear. I mean, those reportings,
25 people don't -- if I see a black bear, I'm not going to

13

Meeting 2-6.12.15

1 call the State of Montana and say I saw a black bear, so
2 it just seems irrelevant to me. So I highly recommend
3 talking to the people that live there about the wildlife
4 that's there and also reanalyzing how you determine
5 impacts to these species.

6 Thank you.

7 JENNIFER PIGGOTT: Thank you for your
8 comments.

9 Our next speaker this evening is Mike Scott.

10 MIKE SCOTT: Can you guys hear me okay? Mike
11 Scott here, representing the Sierra Club this evening.

12 There's a couple issues about the EIS that I'd
13 like to address tonight, and one of them is the fact
14 that there are parts of the EIS that we have been
15 basically unable to analyze. The reason for this is
16 that the methodology that was used to inform this public
17 process that the public is now supposed to comment on is
18 actually privately owned and, in my opinion, serving a
19 private interest.

20 Methodology, the underlying assumptions are
21 absolutely vital to actually provide you good
22 information about the conclusions you make. I have
23 scientific training. I know that bad assumptions,
24 bad -- will lead to bad data and bad data leads to bad
25 conclusions.

Meeting 2-6.12.15

1 That said, one of the conclusions that
2 [indiscernible] did come to that I'd like to touch on is
3 this idea that the coal hauled of the Tongue River
4 Railroad will, in fact, displace other coal from the
5 Powder River Basin from the domestic market. If this is
6 the case, it is not clearly spelled out which mines will
7 be displaced.

8 It seems that by comparing BTU, sodium,
9 sulfur, stripping ratios and distance to market, we
10 could easily get an idea of what mines will be in
11 competition with the Otter Creek Mine, which is the sole
12 purpose for the Tongue River Railroad.

13 This is a cumulative impact, and it's a
14 cumulative impact that needs to be analyzed under NEPA.
15 These are real jobs that exist somewhere right now. And
16 in fact, this is really just robbing Peter to pay Paul,
17 if that is the case.

18 If this displacement means that you're going
19 to displace the existing mines from the domestic market
20 and actually put them on the international market, you
21 said that Otter Creek will not be sold on the
22 international market. But if the coal that is displaced
23 is, that again is an economic impact that needs to be
24 considered under the greenhouse gas section of the EIS,
25 because in that case we would see an increase in

Meeting 2-6.12.15

1 greenhouse gasses, or the negligible impact that's
2 described in this EIS.

3 That's all for tonight. We will be submitting
4 detailed written comments before the end of the
5 deadline.

6 Thank you, and thank you guys all for hanging
7 in there.

8 JENNIFER PIGGOTT: Thank you for your
9 comments.

10 Our next speaker this evening is Brad Sauer.

11 BRAD SAUER: My name is Brad, B-r-a-d,
12 S-a-u-e-r. Just like sauerkraut.

13 Thanks for being here. Thanks for listening
14 to us and your diligence and your attention to detail,
15 but I would really hope that you pay a little bit more
16 attention to detail in your final draft. I'd like to
17 see a better description of the existing environment,
18 the current uses.

19 I know in scoping, we mentioned the number of
20 frost-free days, the potential for what can be grown
21 agriculturewise, the other crops that -- besides alfalfa
22 and grains and cattle that are in the valley, such as
23 the melons and chilies and a vineyard, even. And in
24 times like this, when there's serious drought in
25 California, the major vegetation-producing region in the

Meeting 2-6.12.15

1 country -- vegetable-producing region in the country --
2 sorry, I get a little twisted up with all these words --
3 what -- you know, these are huge concepts to consider.

4 What if they have a ten-year drought? What
5 are 110 frost-free growing days worth that are present
6 here? And how will this railroad impact that? This
7 valley is essentially an unappreciated natural resource.

8 The culture -- cultural history here is
9 unparalleled. BLM documents talk about how this is the
10 closest area to the time when Lewis and Clark, Montana
11 in general, but, you know, the areas along Lower
12 Yellowstone here in the Tongue River. It's sustainable.

13 Agriculture and herding and Native American
14 livelihoods and, I mean, I can speak to agriculture, but
15 it's been going on for 100-some years. It could easily
16 go on for another 150 with -- you know, if there can be
17 a balance achieved.

18 My thinking is that -- oh, one more thing. We
19 could actually produce power from the Tongue River
20 electric dam. So if this is a big need for power, no
21 one's evaluated that.

22 Yes, I see the card. I'll try to go on faster
23 here, but this is the last meeting and doesn't seem like
24 there's a big crowd out here. If I'm the last speaker,
25 I think it's all right I'll take a little more time.

Meeting 2-6.12.15

1 The status quo of environmental analysis does
2 not seem to be what we need to be doing here. I mean,
3 considering -- you know, I really don't want to talk
4 about climate change, but I see differences. I'll
5 allude to here that things are not the same anymore. I
6 think everybody can maybe agree on that. There's things
7 happening we haven't seen before.

8 So what about -- I'm -- in past lives I've
9 been trained in emergency management and things like
10 that. Have to consider the worst-case scenario. So
11 what if the Otter Creek Mine's approved, coal bed
12 methane development takes off, the railroad comes in and
13 it's a huge drought and there's fires everywhere. You
14 know, I have a lot of time on my own and I think about
15 stuff like this. Like, what am I going to do for my
16 particular situation.

17 But is anybody thinking about that in a larger
18 term in society? You folks are planners, and I know
19 insurance companies are totally reevaluating the way
20 they do business, the things they consider, and how to
21 pay for them. From what I understand, from reading I've
22 done -- and I'll put references to it in my written
23 comments -- they're covering new ground. So along those
24 lines, I would encourage you as environmental planners
25 to set a new mark here.

Meeting 2-6.12.15

1 You heard from people last night that their
2 ancestors drew things in rock that are still existing.
3 We know this won't be the last attempt to consider
4 development here. What will your record be? What will
5 your mark be? Right now a lot of people view what
6 you've done -- and don't take this personally, I don't
7 mean it that way -- as something to use for a door stop
8 or to put them to sleep at night. There's substance in
9 there, but set a new mark in environmental analysis.

10 I just, you know, ask you to consider that
11 because the losses, the potential for loss here to
12 livelihoods and cultures and the chance to -- potential
13 for feeding a region and a world are right at the
14 doorstep, please spend more time on documenting public
15 meeting convenience and why the railroad should be given
16 common carrier status. I don't see any cattle cars on
17 the railroad. I really wouldn't want to put any hay on
18 the railroad, because there is a little trouble with
19 fire on their cars blowing up and stuff here lately.

20 Humans are a part of the environment. You
21 heard about that last night. I'm de facto second
22 generation dealing with this, and there is a third one
23 coming on. And you heard about -- and you saw the
24 fourth and fifth ones on the reservation last night.

25 What is the cumulative analysis on our

Meeting 2-6.12.15

1 subpopulation here that has to continually address these
2 things? Living around and ranching around
3 environmental -- or energy development is -- has
4 become -- keeping track of what's going on and what the
5 different proposals are, it's become a part of our
6 workload. And I have way better things to do.

7 I'd way rather be worried about whether I'm
8 managing our grass well, if I'm producing a quality
9 product for the consumer that's safe to eat, and things
10 like that. The time that this takes is substantial and
11 time is money and, again, please do a better, more
12 concise, expanded consideration of your existing
13 environment and its potential.

14 Thank you very much for your time.

15 JENNIFER PIGGOTT: Thank you for your
16 comments.

17 Is there anyone who hasn't already spoken that
18 would like to provide an oral comment this evening?

19 Anyone who's already spoken who would like to
20 expand on their comments?

21 I was going to say, you look like you're
22 thinking.

23 MIKE SCOTT: There's just one thing. Mike
24 Scott with Sierra Club.

25 One thing I forgot to mention in terms of the 20

Meeting 2-6.12.15

1 displacement issue is that the "No-Action" alternative
2 actually proves no displacement of other coal and that
3 should be counted as an economic benefit in the NEPA
4 analysis. So I just want to put that on the record,
5 because that's an economic benefit to the towns that are
6 depending on that for their existing economy.

7 Thank you.

8 JENNIFER PIGGOTT: Thanks for your comments.

9 Anyone else?

10 Okay. With that, thank you for your comments
11 and for your participation. I'll turn it back over to
12 Ken for some closing remarks this evening.

13 Ken?

14 KEN BLODGETT: Thank you.

15 I'd just like to thank everybody for coming to
16 this evening's meeting. I know it's a Friday night and
17 people probably have lots of more fun things to do. But
18 we do greatly appreciate your interest and participation
19 in the Surface Transportation Board's environmental
20 review process.

21 Comments can continue to be provided through
22 August 24th by writing to the board at our Washington
23 address or by visiting the project Web site at
24 tonguerivereis.com and submitting them electronically
25 from there.

Meeting 2-6.12.15

1 So with that, that concludes this meeting. So
2 thank you all for coming.

3 (Whereupon, the proceeding
4 concluded at 7:01 p.m.)

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CERTIFICATE OF REPORTER

STATE OF MONTANA)
) ss.
COUNTY OF)

I, Emily K. Niles, Certified Court Reporter,
do hereby certify:

That I reported in shorthand (Stenotype) the
proceedings had in the above-entitled matter at the
place and date indicated.

That I thereafter transcribed my said
shorthand notes into typewriting, and that the
typewritten transcript is a complete, true and accurate
transcription of my said shorthand notes to the best of
my skill and ability.

IN WITNESS WHEREOF, I have set my hand in my
office in the County of Gallatin, State of Montana, this
day of , 2015.

EMILY K. NILES, CCR #2794
Notary Public in the State of Montana
Residing in Bozeman, Montana
My Commission expires: January 16, 2019

[allows (1) 10:18	14:20,23	17:9	9:9
[indiscernible] (1) 15:2	allude (1) 18:5	attempt (1) 19:3	Blodgett (4) 2:7,9,14;21:14	Chalky (1) 12:24
A	along (2) 17:11;18:23	attending (2) 2:11;7:8	blowing (1) 19:19	chance (4) 9:11;10:6,13;19:12
ability (1) 8:7	alternative (4) 3:23;7:18;8:19; 21:1	attention (2) 16:14,16	Board (17) 2:7,22;3:6,10,18, 25;4:2,7,11;5:9,11, 16;6:1;7:10;8:5,6; 21:22	change (2) 7:23;18:4
able (1) 11:8	alternatives (3) 7:4,17,21	August (2) 5:1;21:22	Board's (5) 2:16;3:3,14;5:8; 21:19	changes (1) 8:17
absolutely (1) 14:21	American (1) 17:13	authority (2) 2:25;4:6	Bonogofsky (4) 10:25;11:1,3,9	chapter (1) 13:16
achieved (1) 17:17	Analysis (9) 2:16;3:9;4:15; 12:12;13:15;18:1; 19:9,25;21:4	Availability (1) 8:21	B-o-n-o-g-o-f-s-k-y (1) 11:4	chilies (1) 16:23
act (2) 2:20;3:12	analyze (2) 12:17;14:15	available (3) 4:13;5:25;8:9	both (2) 4:12;10:15	City (1) 3:19
actions (1) 3:14	analyzed (1) 15:14	B	B-r-a-d (1) 16:11	Clark (1) 17:10
actually (5) 14:18,21;15:20; 17:19;21:2	analyzing (1) 7:15	back (4) 11:8;12:14;13:1; 21:11	brochure (1) 6:18	clearly (2) 9:19;15:6
additional (2) 8:17;10:12	ancestors (1) 19:2	bad (5) 14:23,24,24,24,24	BTU (1) 15:8	climate (2) 7:23;18:4
address (5) 4:21;5:3;14:13; 20:1;21:23	animal (2) 11:18;13:7	balance (1) 17:17	build (1) 7:21	close (2) 5:2;11:7
addressed (1) 7:3	animals (1) 12:22	base (1) 13:6	Bureau (1) 4:3	closest (1) 17:10
addresses (1) 7:18	announced (1) 8:20	based (1) 11:10	business (1) 18:20	closing (1) 21:12
advancing (1) 3:7	anyone (1) 18:5	basically (1) 14:15	California (1) 16:25	Club (2) 14:11;20:24
adverse (1) 7:22	application (2) 3:17,21	Basin (1) 15:5	call (2) 10:24;14:1	coal (5) 15:3,4,22;18:11; 21:2
again (3) 11:2;15:23;20:11	appreciate (1) 21:18	bear (4) 13:19,24,25;14:1	called (5) 5:20;12:1,2,3,4	Colstrip (2) 3:23,23
agencies (7) 4:2,5,6,7;6:24;7:5, 14	appropriate (3) 4:23;8:11,17	become (3) 5:17;20:4,5	calls (1) 12:11	coming (4) 13:1;19:23;21:15; 22:2
agency (3) 2:23;3:25;7:2	approval (1) 3:15	bed (1) 18:11	Can (13) 2:10;9:5,20;10:1,7, 8;13:8;14:10;16:20; 17:14,16;18:6;21:21	comment (12) 4:14,25;5:1,3,21, 24,24;9:6;10:10,23; 14:17;20:18
agree (1) 18:6	approvals (1) 4:8	begin (3) 5:16;9:6,7	card (1) 17:22	comments (36) 4:11,20;5:3,12,25; 6:4,6;7:2,7,9;8:16; 9:2,15,17,20,25;10:1, 2,5,7,13,14,18,20,21; 11:9,13;14:8;16:4,9; 18:23;20:16,20;21:8, 10,21
Agriculture (3) 4:5;17:13,14	approved (1) 18:11	benefit (2) 21:3,5	carrier (1) 19:16	committed (1) 3:7
agriculturewise (1) 16:21	April (2) 4:14;8:9	besides (1) 16:21	cars (2) 19:16,19	common (1) 19:16
Alan (3) 2:17;6:12;9:4	area (6) 3:24;5:24;7:8,20; 8:13;17:10	better (3) 16:17;20:6,11	case (3) 15:6,17,25	communities (1) 8:14
Alexis (5) 10:25;11:1,3,6,9	areas (2) 12:21;17:11	beyond (1) 7:19	cases (1) 12:16	companies (1) 18:19
A-l-e-x-i-s (1) 11:3	around (2) 20:2,2	big (2) 17:20,24	Catherine (1) 2:14	Company (1) 3:17
alfalfa (1) 16:21	Ash (1) 12:24	biological (4) 7:24;11:10,25; 12:15	cattle (2) 16:22;19:16	comparing (1) 15:8
alignment (1) 7:4	Ashland (2) 3:20,23	biologist (2) 12:2,11	cellphones (1)	competition (1) 15:11
allotted (1) 10:2	assessment (2) 11:25;12:15	biologists (1) 12:4		
allow (2) 4:21;10:22	associated (1) 3:2	bit (1) 16:15		
	assumptions (2)	black (4) 13:19,24,25;14:1		
		BLM (1)		

<p>competitive (1) 3:4</p> <p>complete (1) 5:8</p> <p>Completion (1) 8:20</p> <p>compliance (1) 3:11</p> <p>component (1) 4:18</p> <p>concepts (1) 17:3</p> <p>concerned (1) 11:11</p> <p>concerns (2) 4:21,22</p> <p>concise (1) 20:12</p> <p>concluded (1) 22:4</p> <p>concludes (2) 6:9;22:1</p> <p>conclusion (1) 13:7</p> <p>conclusions (4) 5:5;14:22,25;15:1</p> <p>conditions (1) 8:6</p> <p>Congress (1) 3:8</p> <p>consider (8) 5:2,11;8:15;17:3; 18:10,20;19:3,10</p> <p>consideration (2) 6:5;20:12</p> <p>considered (2) 8:5;15:24</p> <p>considering (2) 7:9;18:3</p> <p>construct (2) 3:18;8:7</p> <p>construction (8) 2:12;3:1;4:9,16,22; 5:10,16;11:16</p> <p>consumer (1) 20:9</p> <p>consumers (1) 3:6</p> <p>content (1) 6:7</p> <p>continually (1) 20:1</p> <p>continue (1) 21:21</p> <p>contracting (1) 2:19</p> <p>convenience (1) 19:15</p> <p>cooperating (2) 4:2,6</p> <p>Corps (1) 4:4</p> <p>count (1)</p>	<p>11:19</p> <p>counted (1) 21:3</p> <p>country (2) 17:1,1</p> <p>couple (3) 6:15;9:1;14:12</p> <p>court (3) 5:22;9:14,20</p> <p>covering (1) 18:23</p> <p>Creek (5) 12:22,24;15:11,21; 18:11</p> <p>crops (1) 16:21</p> <p>crowd (1) 17:24</p> <p>cultural (2) 7:24;17:8</p> <p>culture (1) 17:8</p> <p>cultures (1) 19:12</p> <p>cumulative (3) 15:13,14;19:25</p> <p>current (1) 16:18</p>	<p>degradation (1) 11:17</p> <p>Department (1) 4:4</p> <p>depending (1) 21:6</p> <p>depicts (1) 6:20</p> <p>describe (1) 12:8</p> <p>described (1) 16:2</p> <p>description (1) 16:17</p> <p>destinations (1) 7:19</p> <p>detail (2) 16:14,16</p> <p>detailed (2) 6:6;16:4</p> <p>determine (1) 14:4</p> <p>development (4) 7:12;18:12;19:4; 20:3</p> <p>differences (1) 18:4</p> <p>different (1) 20:5</p> <p>diligence (1) 16:14</p> <p>Diller (1) 2:19</p> <p>discuss (1) 6:10</p> <p>displace (2) 15:4,19</p> <p>displaced (2) 15:7,22</p> <p>displacement (4) 11:18;15:18;21:1,2</p> <p>distance (1) 15:9</p> <p>distributed (1) 8:9</p> <p>document (2) 9:18;10:16</p> <p>documenting (1) 19:14</p> <p>documents (1) 17:9</p> <p>domestic (2) 15:5,19</p> <p>done (3) 9:8;18:22;19:6</p> <p>door (1) 19:7</p> <p>doorstep (1) 19:14</p> <p>downline (2) 7:20;8:14</p> <p>Draft (18) 4:1,3,12,14,25;</p>	<p>5:13;6:7;7:1,7,12,15, 18;8:3,8,16;11:11,15; 16:16</p> <p>drew (1) 19:2</p> <p>drought (3) 16:24;17:4;18:13</p> <p>During (2) 6:12;10:20</p>	<p>ensuring (1) 3:10</p> <p>entire (2) 5:11;13:16</p> <p>environment (3) 16:17;19:20;20:13</p> <p>Environmental (30) 2:16;3:9,12,13;4:1, 12,15,19;5:4,6,7,8,12, 13,14,15;6:7,11,14, 20;7:16;8:1,4;9:15; 10:21;18:1,24;19:9; 20:3;21:19</p> <p>equal (3) 6:5;10:4,15</p> <p>essentially (1) 17:7</p> <p>established (1) 3:8</p> <p>evaluated (1) 17:21</p> <p>even (1) 16:23</p> <p>evening (17) 2:5,9,14,17,21; 4:20;5:20,21;6:12; 9:11,23;10:25;14:9, 11;16:10;20:18; 21:12</p> <p>evening's (3) 2:12;4:10;21:16</p> <p>everybody (5) 2:10;9:5;10:4; 18:6;21:15</p> <p>everywhere (2) 13:10;18:13</p> <p>example (3) 12:18;13:17,18</p> <p>exist (1) 15:15</p> <p>existing (5) 15:19;16:17;19:2; 20:12;21:6</p> <p>expand (1) 20:20</p> <p>expanded (1) 20:12</p> <p>experience (1) 8:2</p> <p>extensive (1) 8:12</p> <p>extremely (2) 11:11;12:19</p>
	D		E	
	<p>dam (1) 17:20</p> <p>data (2) 14:24,24</p> <p>days (2) 16:20;17:5</p> <p>DC (1) 6:1</p> <p>de (1) 19:21</p> <p>deadline (1) 16:5</p> <p>dealing (1) 19:22</p> <p>decade (1) 12:3</p> <p>December (1) 3:20</p> <p>decides (1) 8:6</p> <p>decision (5) 5:10,11,17,17;13:6</p> <p>decision-making (1) 4:6</p> <p>decisions (1) 3:6</p> <p>decline (11) 11:23,24;12:9,17; 13:3,4,5,8,10,13,13</p> <p>deer (9) 11:18,19;12:18,19, 21,23,25;13:3,10</p>	<p>displacement (4) 11:18;15:18;21:1,2</p> <p>discuss (1) 6:10</p> <p>displace (2) 15:4,19</p> <p>displaced (2) 15:7,22</p> <p>displacement (4) 11:18;15:18;21:1,2</p> <p>distance (1) 15:9</p> <p>distributed (1) 8:9</p> <p>document (2) 9:18;10:16</p> <p>documenting (1) 19:14</p> <p>documents (1) 17:9</p> <p>domestic (2) 15:5,19</p> <p>done (3) 9:8;18:22;19:6</p> <p>door (1) 19:7</p> <p>doorstep (1) 19:14</p> <p>downline (2) 7:20;8:14</p> <p>Draft (18) 4:1,3,12,14,25;</p>	<p>easily (3) 9:20;15:10;17:15</p> <p>eat (1) 20:9</p> <p>economic (4) 2:23;15:23;21:3,5</p> <p>economy (1) 21:6</p> <p>effective (1) 5:18</p> <p>effects (1) 5:6</p> <p>efficient (1) 3:4</p> <p>EIS (20) 4:3,15,25;6:22;7:3, 11,12,15,18;8:3,8,15, 16,20;11:11,15; 14:12,14;15:24;16:2</p> <p>EISs (1) 12:4</p> <p>either (1) 10:14</p> <p>elected (2) 6:23;8:11</p> <p>electric (1) 17:20</p> <p>electronically (2) 6:2;21:24</p> <p>Elizabeth (1) 2:19</p> <p>elk (1) 11:19</p> <p>else (1) 21:9</p> <p>emergency (1) 18:9</p> <p>encourage (2) 6:6;18:24</p> <p>end (2) 10:11;16:4</p> <p>endpoints (1) 3:19</p> <p>energy (1) 20:3</p> <p>Engineers (1) 4:4</p> <p>enough (2) 13:15,15</p> <p>ensure (2) 3:3;10:3</p>	<p>facilitator (2) 2:21;8:25</p> <p>facilities (1) 3:2</p> <p>fact (4) 13:8;14:13;15:4,16</p> <p>facto (1)</p>
			F	

19:21 fair (1) 10:4 faster (1) 17:22 federal (6) 2:22;6:23;7:14; 8:11,22;13:11 Federation (2) 11:5;12:3 feeding (1) 19:13 feel (1) 10:14 few (1) 9:8 fifth (1) 19:24 figure (1) 6:20 filed (2) 3:17,21 Final (14) 5:3,5,7,9,14,17; 7:11;8:15,20;9:15, 18;10:16,21;16:16 Finally (1) 10:17 finish (1) 10:13 fire (3) 12:24,24;19:19 fires (1) 18:13 first (2) 10:2,24 Fish (1) 12:5 floor (1) 6:10 folks (2) 11:7;18:18 following (1) 7:22 forage (1) 11:17 forgot (1) 20:25 form (1) 10:15 forms (2) 5:24;10:15 FORSYTH (1) 2:3 Four (1) 4:2 fourth (1) 19:24 free (1) 10:14 FRIDAY (2) 2:1;21:16 friends (1)	12:5 frost-free (2) 16:20;17:5 fulfill (1) 3:12 full (1) 9:21 fun (1) 21:17	H	Impact (16) 4:1,12;5:4,7,13,14; 6:8;9:16;10:21; 11:22,22;15:13,14, 23;16:1;17:6 impacts (9) 4:16,22;7:16,19,20, 22;8:2;12:23;14:5 important (3) 4:18;10:2;12:19 include (1) 8:16 includes (1) 8:3 including (3) 5:12;7:17;13:14 increase (1) 15:25 increased (1) 11:17 independent (2) 3:13;4:7 indicate (1) 9:22 indicated (1) 5:19 indicates (1) 13:12 inform (1) 14:16 information (4) 6:14,17;9:17;14:22 initiate (1) 6:21 insurance (1) 18:19 intending (1) 13:6 intent (1) 6:22 interest (2) 14:19;21:18 interested (4) 6:25;7:5;8:10,22 International (4) 2:18,20;15:20,22 interrupt (1) 9:9 interstate (1) 2:24 into (1) 12:12 introduce (1) 2:6 invite (1) 10:12 invited (1) 7:5 involvement (1) 4:18 invulnerable (2) 12:10;13:4 irrelevant (1)	14:2 Issuance (1) 5:7 issue (2) 11:14;21:1 issued (3) 5:17;6:21;7:1 issues (1) 14:12
	G	habitat (1) 11:16 hand (2) 8:24;9:12 handwritten (1) 5:23 hanging (1) 16:6 happening (1) 18:7 hauled (1) 15:3 hay (1) 19:17 hear (4) 2:10;9:5;11:8; 14:10 heard (3) 19:1,21,23 held (2) 7:1,8 herding (1) 17:13 Heritage (1) 13:21 Hi (1) 11:1 high (1) 11:19 highly (4) 7:22;12:14,20;14:2 historic (1) 7:24 history (1) 17:8 hope (2) 4:19;16:15 house (2) 6:13,19 huge (2) 17:3;18:13 Humans (1) 19:20 hunt (2) 12:22,25 hunter (1) 12:22 hunting (2) 12:20,21		J
	gas (1) 15:24 gases (1) 7:23 gasses (1) 16:1 general (1) 17:11 generation (1) 19:22 geology (1) 7:25 given (2) 6:4;19:15 goals (1) 3:8 goes (1) 11:21 Good (6) 2:5,9;6:12;13:14, 15;14:21 Google (1) 13:8 Government (1) 13:11 grains (1) 16:22 grant (1) 8:6 granting (1) 2:25 grass (1) 20:8 Great (2) 2:11;9:4 greatly (1) 21:18 greenhouse (3) 7:23;15:24;16:1 ground (2) 9:1;18:23 group (2) 9:22;13:11 growing (1) 17:5 grown (1) 16:20 guys (3) 11:1;14:10;16:6	I	JENNIFER (9) 2:5,20;8:25;9:4; 11:6;14:7;16:8; 20:15;21:8 jobs (1) 15:15 JUNE (1) 2:1 justice (1) 8:1	
		ICF (2) 2:18,20 idea (2) 15:3,10 identified (1) 3:21 identify (1) 8:18		K
				keeping (1) 20:4 Ken (8) 2:7,8,9,13;8:8; 21:12,13,14 known (1) 7:20
				L
				LA (1) 13:9 Land (2) 4:3;7:25 large (3) 11:18,23;13:7 larger (1) 18:17 last (7) 4:25;17:23,24; 19:1,3,21,24 lately (1) 19:19 lead (2) 3:25;14:24 leads (1) 14:24 Lewis (1) 17:10 limit (2) 9:25;10:3 line (4) 3:19,22;5:10;8:7 lines (2) 3:1;18:24 lions (2) 13:20,24 listening (1)

<p>16:13 little (5) 6:11;16:15;17:2, 25;19:18 live (1) 14:3 livelihoods (2) 17:14;19:12 lives (1) 18:8 Living (1) 20:2 local (3) 6:23;7:14;8:12 look (2) 12:16;20:21 loss (2) 11:16;19:11 losses (1) 19:11 lot (2) 18:14;19:5 lots (1) 21:17 loud (1) 10:8 Lower (1) 17:11</p>	<p>3:5 meeting (16) 2:12;4:10;6:13,18, 19;8:24;9:7,10;10:3, 11,17,20;17:23; 19:15;21:16;22:1 meetings (2) 7:2,8 melons (1) 16:23 members (2) 8:10;10:23 mention (1) 20:25 mentioned (2) 8:8;16:19 met (1) 7:13 methane (1) 18:12 methodology (4) 11:12;13:21;14:16, 20 mic (1) 11:7 might (1) 11:8 Mike (5) 14:9,10,10;20:23, 23 Miles (1) 3:19 Mine (1) 15:11 mines (3) 15:6,10,19 Mine's (1) 18:11 minimal (1) 11:22 minor (1) 7:21 minutes (2) 6:16;9:25 mission (1) 3:3 mitigating (1) 5:5 mitigation (5) 4:24;5:15;8:4,5,18 money (1) 20:11 MONTANA (8) 2:3;3:19;4:5; 12:20;13:14,21;14:1; 17:10 more (8) 6:11;10:1;16:15; 17:18,25;19:14; 20:11;21:17 mortality (1) 11:17 most (2)</p>	<p>10:2;12:20 mountain (2) 13:20,24 MT (1) 2:2 much (2) 10:22;20:14 Mule (8) 11:18;12:18,18,21, 23,25;13:2,10</p>	<p>Obviously (1) 11:12 October (1) 3:16 OEA (8) 3:9;6:21;7:1,13,15; 8:12;10:19,20 OEA's (2) 8:3,18 off (2) 13:6;18:12 Office (3) 2:16;3:9;6:1 officials (3) 6:23;8:11,12 one (13) 6:18;11:14;12:10, 18,20;13:17,22; 14:13;15:1;17:18; 19:22;20:23,25 ones (1) 19:24 one's (1) 17:21 only (1) 13:12 oOo- (1) 2:4 open (2) 6:13,19 operate (2) 3:18;8:7 operation (5) 2:13;3:1;4:17,23; 11:16 opinion (1) 14:18 opportunity (1) 10:5 oral (7) 4:12;6:4;9:6,14; 10:9,14;20:18 order (1) 5:20 organization (1) 9:22 organizations (1) 6:24 original (1) 10:13 others (1) 9:24 Otherwise (1) 11:7 Otter (3) 15:11,21;18:11 Out (4) 9:24;10:8;15:6; 17:24 over (7) 6:10;8:24,25;9:7; 12:3;13:9;21:11 own (2)</p>	<p>13:11;18:14 owned (1) 14:18</p>	
M		N		P	
<p>mailed (1) 5:25 major (1) 16:25 making (1) 5:11 Management (2) 4:3;18:9 manager (1) 2:18 managing (1) 20:8 many (1) 13:23 March (1) 7:11 mark (3) 18:25;19:5,9 market (5) 15:5,9,19,20,22 may (2) 5:16,25 maybe (1) 18:6 mean (7) 13:1,17,22,24; 17:14;18:2;19:7 means (2) 8:13;15:18 measures (3) 4:24;8:5,18 meet (1)</p>	<p>Nadals (1) 2:14 name (4) 2:13;9:21;11:3; 16:11 national (4) 3:7,11;11:5;12:2 Native (1) 17:13 Natural (2) 13:21;17:7 near (1) 3:19 need (2) 17:20;18:2 needs (3) 3:5;15:14,23 negligible (2) 8:2;16:1 NEPA (2) 15:14;21:3 new (4) 3:1;18:23,25;19:9 next (2) 14:9;16:10 Nice (1) 11:1 night (5) 19:1,8,21,24;21:16 No-Action (2) 7:18;21:1 noise (1) 7:23 notice (2) 7:10;8:21 notification (3) 6:22;8:13,22 NPR (1) 13:9 number (1) 16:19 NWF (1) 12:4</p>	<p>observations (2) 13:19,20 obtain (2) 4:8;7:2</p>	<p>part (2) 19:20;20:5 participate (1) 7:6 participation (2) 21:11,18 particular (1) 18:16 parties (3) 6:25;8:10,23 parts (1) 14:14 past (1) 18:8 Paul (1) 15:16 pay (3) 15:16;16:15;18:21 people (6) 13:22,25;14:3; 19:1,5;21:17 period (2) 4:25;5:2 permits (2) 4:9;10:11 person (1) 7:13 personal (1) 9:16 personally (1) 19:6 persons (1) 7:5 Peter (1) 15:16 phase (1) 7:6 PIGGOTT (9) 2:5,20;8:25;9:4; 11:6;14:7;16:8; 20:15;21:8 places (1) 12:24 planners (2) 18:18,24 please (9) 9:9,12,16,19,20; 10:2,14;19:14;20:11 PM (2) 2:2;22:4 point (1) 5:9 policy (2) 3:8,12 portion (4) 6:13;9:6;10:17,20 possible (3)</p>		

5:6;6:7;10:22 posters (1) 6:19 potential (7) 4:15;7:15;8:6; 16:20;19:11,12; 20:13 potentially (1) 6:24 Powder (1) 15:5 power (2) 17:19,20 predator (1) 13:18 preferred (2) 3:22;8:19 preliminary (1) 8:3 prepare (1) 6:22 prepared (1) 7:15 preparing (4) 4:1,3;6:5;9:15 present (3) 5:4;10:1;17:5 pretty (1) 11:7 prior (1) 4:9 private (1) 14:19 privately (1) 14:18 prized (1) 12:20 probably (1) 21:17 proceeding (1) 22:3 process (9) 4:19;5:9;6:11,14, 21,21;7:10;14:17; 21:20 produce (1) 17:19 producing (1) 20:8 product (1) 20:9 Program (1) 13:22 project (7) 2:18;6:2,15;7:8,20; 8:13;21:23 project-related (1) 5:16 proposals (1) 20:5 proposed (6) 2:12;3:22;4:17; 5:10;7:4,16	proves (1) 21:2 provide (11) 4:20,20;5:23;6:16, 20;9:16;10:5,14,18; 14:21;20:18 provided (4) 3:5;6:13;8:12; 21:21 public (14) 4:14,18,25;5:1,12; 6:23;7:2;8:10,21; 10:17,23;14:16,17; 19:14 published (3) 7:10;8:21;9:18 purpose (2) 4:10;15:12 put (5) 15:20;18:22;19:8, 17;21:4	12:17;15:16;16:15; 18:3;19:17 reanalyzing (1) 14:4 reason (1) 14:15 reasonable (1) 7:17 recap (1) 6:16 receive (1) 4:11 received (4) 5:3,13;7:9;8:16 receivers (1) 3:5 recent (1) 13:8 recommend (3) 10:9;12:14;14:2 recommendations (3) 5:5;8:4,17 recommended (1) 5:15 record (6) 5:12;8:10;9:20,21; 19:4;21:4 recorded (1) 5:22 reevaluating (1) 18:19 references (1) 18:22 reflects (1) 4:15 regarding (1) 6:7 regards (1) 12:7 region (3) 16:25;17:1;19:13 Register (1) 8:22 registered (2) 9:11,12 regulation (1) 2:23 related (1) 4:22 remarks (2) 6:9;21:12 reporter (3) 5:22;9:14,20 reportings (1) 13:24 representing (4) 2:15;9:22;11:4; 14:11 require (1) 3:14 requirements (1) 3:11 reservation (1)	19:24 resource (1) 17:7 resources (6) 7:22,25,25;8:2; 11:10;12:15 respect (1) 9:24 respond (3) 8:15;10:19,21 responsibility (1) 3:13 responsible (3) 2:23;3:10,25 result (2) 4:16;11:16 review (8) 3:14;4:14,19;5:8; 6:11,14,20;21:20 reviewing (1) 7:6 Right (7) 6:15;11:14,20; 15:15;17:25;19:5,13 River (11) 2:13;3:16,20;4:8; 7:16;12:23;15:3,5, 12;17:12,19 robbing (1) 15:16 rock (1) 19:2 Rosebud (1) 12:22 routing (1) 3:22 rules (1) 9:1	14:9,10,11;20:23, 24 second (1) 19:21 section (3) 6:19;12:13;15:24 seem (2) 17:23;18:2 seems (2) 14:2;15:8 separate (1) 4:8 serious (1) 16:24 served (1) 4:13 Service (1) 12:5 services (1) 3:4 serving (1) 14:18 set (3) 10:3;18:25;19:9 severe (2) 13:3,13 shippers (1) 3:5 shocked (1) 12:7 Sierra (2) 14:11;20:24 sign (1) 9:11 signed (1) 5:21 significant (1) 11:22 silence (1) 9:9 site (2) 6:2;21:23 situation (1) 18:16 six (1) 13:19 sleep (1) 19:8 slowly (1) 9:19 society (1) 18:18 socioeconomics (1) 8:1 sodium (1) 15:8 soils (1) 7:25 sold (1) 15:21 sole (1) 15:11 somewhere (1)
	Q			
	quality (3) 11:17,19;20:8 quo (1) 18:1 quote (1) 11:15			
	R			
	rail (4) 3:1,18;5:10;8:7 Railroad (14) 2:13;3:14,17,20; 4:8,23;7:17;15:4,12; 17:6;18:12;19:15,17, 18 railway (1) 4:17 raise (1) 9:12 ranchers (1) 13:23 ranching (1) 20:2 range (1) 11:19 rates (1) 11:17 rather (1) 20:7 ratios (1) 15:9 read (1) 10:8 reading (1) 18:21 real (1) 15:15 Really (5)			
			S	
			safe (2) 3:4;20:9 same (1) 18:5 Sauer (2) 16:10,11 S-a-u-e-r (1) 16:12 sauerkraut (1) 16:12 saw (3) 12:23;14:1;19:23 scenario (1) 18:10 scientific (1) 14:23 Scope (3) 7:1,7,11 scoping (5) 6:21;7:6,8,10; 16:19 Scott (5)	

<p>15:15 sorry (1) 17:2 southeastern (1) 12:19 speak (6) 5:20;9:10,13,19; 10:4;17:14 speaker (4) 10:24;14:9;16:10; 17:24 speakers (1) 10:12 species (9) 11:23;12:7,9,9,16, 19;13:7,16;14:5 spell (1) 9:21 spelled (1) 15:6 spend (1) 19:14 spoken (2) 20:17,19 start (1) 9:1 state (8) 4:5;6:23;7:14; 8:12;9:21;11:21; 12:21;14:1 Statement (11) 4:1,13;5:4,8,13,14; 6:8;9:16;10:8,10,22 States (2) 2:25;13:4 status (2) 18:1;19:16 still (2) 13:1;19:2 stop (1) 19:7 stripping (1) 15:9 studied (1) 13:2 studies (1) 13:8 Study (3) 7:1,7,11 stuff (2) 18:15;19:19 submit (2) 10:7,9 submitted (1) 6:2 submitting (4) 7:7;11:12;16:3; 21:24 subpopulation (1) 20:1 substance (1) 19:8 substantial (1)</p>	<p>20:10 substantive (1) 11:13 sulfur (1) 15:9 summarize (1) 6:16 Summerville (3) 2:17;6:10,12 supplemental (1) 3:21 supported (1) 14:17 Surface (8) 2:6,15,22,24;3:17; 4:11;5:25;21:19 surprised (1) 12:1 sustainable (1) 17:12</p> <p style="text-align: center;">T</p> <p>talk (3) 11:13;17:9;18:3 talked (1) 13:22 talking (2) 13:10;14:3 team (1) 2:19 teleconferences (1) 7:13 ten-year (1) 17:4 term (3) 12:6,8;18:18 terms (1) 20:25 Thanks (4) 9:4;16:13,13;21:8 thinking (3) 17:18;18:17;20:22 third (1) 19:22 third-party (1) 2:19 three (1) 9:25 Throughout (4) 7:12;11:25;13:3,13 Times (3) 13:9,23;16:24 today (2) 5:24;11:9 Tongue (10) 2:13;3:16,20;4:8; 7:16;12:22;15:3,12; 17:12,19 tonguereiscom (2) 6:3;21:24 Tonight (3) 11:4;14:13;16:3</p>	<p>tonight's (1) 9:7 topics (1) 7:3 totally (1) 18:19 touch (1) 15:2 towns (1) 21:5 track (1) 20:4 trained (1) 18:9 training (1) 14:23 trains (1) 7:19 transcribe (1) 9:14 transcribed (1) 10:18 Transportation (11) 2:7,15,22,24;3:4,7, 18;4:11;6:1;7:23; 21:19 traveling (1) 7:19 tribal (1) 6:24 tribes (2) 7:14;8:11 trouble (1) 19:18 TRRC (1) 8:6 TRRC's (1) 7:4 try (1) 17:22 turn (2) 6:9;21:11 twisted (1) 17:2 two (2) 3:19;13:15</p> <p style="text-align: center;">U</p> <p>unable (1) 14:15 unappreciated (1) 17:7 under (2) 15:14,24 underlying (1) 14:20 ungulate (1) 11:23 ungulates (1) 11:18 United (2) 2:25;13:4</p>	<p>unparalleled (1) 17:9 unprofessional (1) 12:11 up (5) 9:11;10:12,24; 17:2;19:19 upon (1) 5:20 use (4) 9:15;12:7,8;19:7 used (3) 11:12,24;14:16 uses (1) 16:18 using (1) 13:21</p> <p style="text-align: center;">V</p> <p>valid (1) 13:21 Valley (4) 12:22,23;16:22; 17:7 various (1) 8:13 vegetable-producing (1) 17:1 vegetation-producing (1) 16:25 view (1) 19:5 vineyard (1) 16:23 visiting (1) 21:23 visual (1) 7:24 vital (1) 14:21 voice (1) 10:6 vulnerable (6) 11:23,24;12:9,17; 13:7,12</p> <p style="text-align: center;">W</p> <p>Washington (2) 6:1;21:22 water (1) 7:24 way (5) 11:20;18:19;19:7; 20:6,7 Web (2) 6:2;21:23 weight (2) 6:5;10:15 welcome (1) 2:5 well-known (1)</p>	<p>13:2 West (1) 13:14 western (1) 13:3 what's (1) 20:4 Whereupon (1) 22:3 whitetail (1) 11:19 who's (1) 20:19 Wildlife (8) 11:5,10;12:3,5,11, 12,15;14:3 winter (1) 11:19 wishes (1) 10:4 within (1) 2:24 words (2) 11:24;17:2 work (2) 12:4,5 worked (2) 4:2;12:2 working (1) 13:11 workload (1) 20:6 world (1) 19:13 worried (1) 20:7 worst-case (1) 18:10 worth (1) 17:5 writing (3) 7:7;10:7;21:22 written (10) 4:12;6:4,6;10:8,9, 10,15;11:13;16:4; 18:22 Wyoming (1) 13:14</p> <p style="text-align: center;">Y</p> <p>years (2) 12:25;17:15 Yellowstone (1) 17:12</p> <p style="text-align: center;">1</p> <p>100-some (1) 17:15 110 (1) 17:5 12 (1)</p>
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2:1 13 (1) 13:20 150 (1) 17:16 16th (1) 3:16 17th (3) 3:20;4:14;8:9 1995 (1) 13:20				
2				
2006 (1) 13:19 2012 (2) 3:16,20 2013 (1) 7:11 2015 (2) 2:1;5:1 22nd (1) 7:11 24th (2) 5:1;21:22				
6				
6:33 (1) 2:2				
7				
7:01 (1) 22:4				