NATIONAL FEDERAL MILK MARKETING ORDER

PRICING FORMULA HEARING

DOCKET NO.:   23-J-0067; AMS-DA-23-0031

Before the Honorable Jill Clifton, Judge

---o0o---

Zionsville, Indiana

December 5, 2023

---o0o---

Reported by:

MYRA A. PISH, RPR, C.S.R.
Certificate No. 11613

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

2   FOR THE USDA ORDER FORMULATION AND ENFORCEMENT DIVISION,
    USDA-AMS DAIRY PROGRAM:

3

        Erin Taylor
4   Todd Wilson
        Brian Hill
5   Michelle McMurtray

6   FOR THE MILK INNOVATION GROUP:

7   Charles "Chip" English
        Grace Bulger
8   Ashley Vulin

9   FOR THE NATIONAL MILK PRODUCERS FEDERATION:

10   Nicole Hancock
        Brad Prowant
11

    FOR SELECT MILK PRODUCERS, INC.:

12
        Ryan Miltner
13

    FOR INTERNATIONAL DAIRY FOODS ASSOCIATION:

14
        Steve Rosenbaum
15

    FOR LAMERS DAIRY:

16
        Mark Lamers
17

18
                         ---o0o---
19

20

21 (Please note: Appearances for all parties are subject to

22 change daily, and may not be reported or listed on

23 subsequent days' transcripts.)

24

25   ---o0o---

26

27

28

1   M A S T E R   I N D E X

2   SESSIONS

5

6

7   ---o0o---

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1   M A S T E R   I N D E X

2   WITNESSES IN CHRONOLOGICAL ORDER

3   WITNESSES: PAGE

20

21   ---o0o---

22

23

24

25

26

27

28

1   M A S T E R   I N D E X

2   INDEX OF EXHIBITS

3   IN CHRONOLOGICAL ORDER:

4   NO.   DESCRIPTION   I.D.   EVD.

5   414   MIG-59   9568   9603

6   403   NMPF-53   9600

7   404   NMPF-53A   9602

8   405   MIG-60   9602

9   407   NMPF-54   9624

10   408   NMPF-54A   9624

11   409   NMPF-54B   9625

12   410   NMPF-54C   9625

13   411   NMPF-54D   9625

14   412   MIG-62   9629

15   413   MIG-63   9629

16   415   NMPF-109   9633   9636

17   416   MIG-44   9638   9638

18   299   NMPF-35   9670

19   417   NMPF-38   9692   9732

20   418   MIG-41   9692   9732

21   419   MIG-42   9692   9732

22   420   MIG-43   9713   9732

23   ---o0o---

24

25

26

27

28

1   TUESDAY, DECEMBER 5, 2023 -- MORNING SESSION

2   THE COURT: Let's go back on record.

3   We're back on record. It is 2023, December 5.

4   It's Tuesday. It's about 8:00 in the morning.

5   More importantly, this is Day 40 of this

6   proceeding.

7   Will Steve Stout resume the stand to begin? He's

8   welcome to return to the witness stand.

9   MS. TAYLOR: Your Honor, I have one administrative

10   thing, housekeeping item.

11   THE COURT: Yes, please.

12   MS. TAYLOR: Well, you just said this is Day 40.

13   The record is 43 days, so I guess we'll be breaking the

14   record of hearing length this week. I'm not sure if I'm

15   happy or sad about that.

16   THE COURT: Yeah, I know what you mean.

17   MS. TAYLOR: But the actual thing I wanted to

18   state, I had said last week we needed to end this Friday

19   at 3 o'clock. We have to be out of the building at 3:00.

20   So I would advocate maybe we end at 2:40-ish to give

21   everybody 20 minutes to exit the building with their

22   things, and I just wanted to give everyone the most

23   heads-up about that.

24   THE COURT: Excellent.

25   Would you state and spell your name?

26   THE WITNESS: Steve Stout.

27   S-T-E-V-E, last name S-T-O-U-T.

28   THE COURT: You remain sworn. I have in front of

1   me Exhibit 403 and Exhibit 404.

2   We were in cross-examination by Mr. English, as I

3   recall.

4   Is that how we will resume?

5   MR. ENGLISH: This is Chip English for the Milk

6   Innovation Group.

7   With your permission, Your Honor, yes, that's how

8   we would proceed. Resume, I guess.

9   As we get started, Your Honor, if I may, I have

10 another exhibit.

11   THE COURT: Yes.

12   MR. ENGLISH: This is labeled MIG Exhibit 59, and

13 it is a map of Colorado with counties, but it also

14 actually has some highways on it. So I have got 15 copies

15 for USDA. It's marked MIG Exhibit 59.

16   THE COURT: I believe we will mark it as 414. Am

17 I correct? Yes.

18   So this is Exhibit 414, also MIG-59.

19   (Thereafter, Exhibit Number 414 was marked

20   for identification.)

21   THE COURT: And have they already been

22 distributed, Mr. English, or should we take a moment off

23 record?

24   MR. ENGLISH: They have not already been

25 distributed, Your Honor. If I may approach you and the

26 witness, I will bring one to each of you.

27   THE COURT: Yes, please approach us, and I will go

28 off record at 8:04.

1   (An off-the-record discussion took place.)

2   THE COURT: Let's go back on record.

3   We're back on record at 8:05.

4   Exhibit 414, also MIG-59, is before me now and has

5   been distributed.

6   Mr. English.

7   MR. ENGLISH: Thank you, Your Honor.

8   STEVE STOUT,

9   Having been previously sworn, was examined

10   and testified as follows:

11   CROSS-EXAMINATION (Cont'd)

12   BY MR. ENGLISH:

13   Q.   So, Mr. Stout, we have discussed some of these

14   issues, but now that we have the map in front of us, Weld

15   County is where the -- in the upper -- or northern east

16   central part of the state, is where this milk production

17   has really grown, correct?

18   A.   Quite a bit of it, yes.

19   Q.   Okay. Where else has it grown in Colorado, other

20   than Weld County?

21   A.   Fort Morgan. Excuse me, Morgan County.

22   Q.   And that's immediately sort of to the south and

23   east of Weld, correct?

24   A.   Correct.

25   Q.   And where is the cheese plant? It's in the --

26   which county is the cheese plant located we have talked

27   about, the one that you have a full supply contract with?

28   A.   There is two.

1   Q.   Okay.

2   A.   There is one in Morgan County and one in Weld

3   County.

4   Q.   Morgan County is a DFA plant, correct?

5   A.   No, Leprino also has a --

6   Q.   Sorry. They are both Leprino plants.

7   A.   Uh-huh.

8   Q.   Sorry, that's a "yes" --

9   A.   Yes.

10   Q.   -- for the court reporter?

11   MS. TAYLOR: Chip, can you please speak up?

12   MR. ENGLISH: Excuse me?

13   THE COURT: A little more microphone for the

14   questioner. Thank you.

15   MR. ENGLISH: I think today is the first day I

16   will adjust to this particular location.

17   Thank you, Ms. Taylor.

18   THE COURT: So that last answer -- so there is a

19   plant in Weld County and there is a plant in Morgan

20   County?

21   THE WITNESS: Correct.

22   THE COURT: And would you describe the nature of

23   those plants?

24   THE WITNESS: One is a cheese plant; the other one

25   is a cheese and nonfat dry milk plant.

26   There is also a small cheese plant as well in

27   Morgan County, in addition to Leprino.

28   ///

1 BY MR. ENGLISH:

2   Q.   And whose plant is that, the small plant?

3   A.   It's a local processor there in Denver.

4   Q.   So on page 10 of your testimony, you said, "The

5 growth of the milk supply in Colorado has not changed due

6 to the change in needs of the beverage demand, but due to

7 the change in demands of milk needs for manufacturing."

8   Correct?

9   A.   That is correct.

10   Q.   So if that's the case, why should Class I have to

11 pay more for its milk?

12   A.   The nature of this hearing is regarding all milk

13 across the whole nation. It's not specifically

14 identifying just for the circumstances within Colorado.

15   Q.   Has the demand for conventional milk in Colorado

16 increased since 2000?

17   A.   You say "conventional milk," so that would be --

18   Q.   Not organic. Not organic milk.

19   A.   Understood. Obviously, yes, based on all of our

20 milk sources, customers -- you know, not sources, but

21 dispositions of our milk, yes.

22   Q.   We're talking about Class I.

23   Has the demand for Class I conventional milk gone

24 up since 2000?

25   A.   No.

26   Q.   So if the demand for conventional Class I milk has

27 not gone up, and there is growth in the milk supply, why,

28 then, does the fact that DFA has voluntarily made a

1 rational economic decision to enter into a business

2 agreement with a cheese manufacturer require that Class I

3 prices increase from the model output by the amount that

4 National Milk proposes?

5   A.   As I stated earlier, and as others have stated in

6 Ed Gallagher's testimony, we're not asking -- we're

7 actually not asking for additional increase, we're asking

8 for something less than what -- what the same slope

9 situation that occurs currently. So we are seeking

10 something, yes, higher than the model, but something far

11 from what is the current slope between varying cities.

12   Q.   How does slope define the actual need for Class I

13 milk in Colorado?

14   A.   I guess you could pose that question to USDA.

15 It's been around since -- for decades.

16   Q.   My question remains, why is it necessary, in a

17 market that has not grown in conventional needs for

18 Class I, when there's the kind of growth we have in Weld

19 County and Colorado, to increase the Class I -- proposed

20 Class I differential over the model, by $0.85 a

21 hundredweight?

22   A.   I guess I would ask you the question, why do we

23 need that growth in Florida, of the increase in the

24 Class I?

25   Q.   I will repeat my question. I'm not on the witness

26 stand.

27   What is the justification, in a static

28 conventional Class I market, for increasing -- proposing

1 increase the Class I differential by $0.85 a hundredweight

2 over the model results, given the growth of milk

3 production in Colorado?

4   A.   We are looking at the whole industry in regards to

5 Colorado, and looking at the situation in which, that if

6 the model was enacted the way it is, that we would see a

7 potential, concerning, most likely drop in production, as

8 dairy farmers would probably exit the state and/or exit

9 the business, as their costs have increased significantly

10 in the last 20 years in relation to other neighboring

11 states. And they would choose to exit, and we would be in

12 a very ugly situation of being able to satisfy that

13 Class I milk if we don't have enough milk.

14   Q.   Do you actually have an analysis that shows that

15 milk production would go down in Colorado if the proposed

16 Make Allowances were adopted and the model Class I

17 differentials as opposed to National Milk were adopted?

18   A.   If all of -- we don't have a study, of course,

19 because there is so many parameters of what might happen.

20 But as the analysis came back from -- from Federal

21 Order 32's Market Administrator's office, that if we did

22 have -- with this particular case of the model retained

23 for Colorado, that there would be roughly 40 to $0.50 drop

24 in the blend price, coupled with the Make Allowance,

25 therefore approaching almost $1, that the word that we

26 have heard from our producers in the area has been that

27 they said what I just stated, that they might be having to

28 exit the business and/or go out of business.

1   Q.   Now, in questions -- I know you weren't here

2   yesterday, and I don't know if you were on travel and not

3   able to listen to the examination of Mr. Gallagher -- but

4   in the questions of Mr. Gallagher --

5   A.   Uh-huh.

6   Q.   -- he acknowledged that leaving aside organic

7   milk, the DFA provides -- try not to characterize it --

8   let me strike that. Let me start over.

9   If you leave out the organic milk in Colorado,

10   what percentage of the milk supply in Colorado is DFA

11   member milk?

12   A.   I don't have that number for you.

13   Q.   Is it very, very high, like 95%?

14   A.   Yes, approaching that.

15   Q.   Okay. So leaving out the organic milk, if DFA

16   were to believe that the Federal Order prices were too

17   low, and Mr. Gallagher said that they might depool the

18   milk, if you depooled milk for Class III purposes and you

19   have 95% of the milk, can't DFA protect itself by saying

20   to all the Class I processors in the conventional market

21   in Colorado, "You pay this price or you get no milk"?

22   A.   That would not be our stance. Absolutely not.

23   Q.   Going back to our conversation at the very end of

24   Friday about organic milk.

25   The proposed increase by National Milk of $0.85 a

26   hundredweight in Weld County, Colorado, that effectively

27   increases the pool obligation of an organic Class I

28   handler, correct?

1   A.   You're referring to the model versus the proposal?

2   Q.   I'm referring to the proposal of 85 -- the $0.85

3 increase over the model. That $0.85 increase over the

4 model is going to tell a Class I processor, who is

5 organic, "Congratulations, your Class I price just went

6 up," correct?

7   A.   I don't know the dealings of what Aurora -- how

8 their situation is.

9   Q.   Well, I think you acknowledged, or at least other

10 witnesses acknowledged, that organic milk pays a price

11 higher than the Federal Order price to their dairy

12 farmers, correct?

13   A.   Correct.

14   Q.   Okay. If they are already paying at a price

15 higher than the Federal Order, if you increase the Class I

16 price by $0.85, you are basically saying that entire

17 difference goes into the pool, correct?

18   A.   That would be my assumption without knowing what

19 Aurora's situation is.

20   Q.   And so for this, according to Exhibit 405, percent

21 change, third to the -- second to the last column --

22   THE COURT: What page?

23   MR. ENGLISH: Exhibit 405, Your Honor. It's only

24 one page.

25   THE COURT: Oh, oh, oh.

26   MR. ENGLISH: This is an exhibit from last Friday.

27   Does the witness have a copy with him?

28   THE WITNESS: Yes.

1   MR. ENGLISH: Do you have a copy, Your Honor?

2   THE COURT: I do. I just need to see where I put

3 it.

4   You go ahead, Mr. English. I'm with you.

5 BY MR. ENGLISH:

6   Q.   So if you look at Exhibit 405, and the column

7 labeled "Percent Change Proposal 19 versus University of

8 Wisconsin Average," that percent change is 36%, correct?

9   A.   For that column, yes.

10   Q.   Given that conventional milk cannot substitute for

11 organic milk, Aurora is going to pay that extra 36% on its

12 volume of milk into the pool, correct?

13   A.   Depends on their Class I utilization.

14   Q.   Depending on their Class I utilization, they pay

15 that money to the pool, they are already paying more money

16 to their dairy farmers, 100% of those dollars are going to

17 go to conventional milk, correct?

18   A.   I can't answer that. I don't know their situation

19 with their pool draw and so on.

20   Q.   If we're going to consider the special

21 circumstances of DFA's relationship with a cheese

22 manufacturer with plants in Weld and Morgan County for

23 impacting the needs for Class I, shouldn't USDA also

24 consider the special circumstances of an organic plant

25 that cannot receive conventional milk?

26   A.   I'm struggling with the difference between your

27 isolating Aurora and we have other Class I processors that

28 would have the same situation.

1   Q.   Is there significant other organic milk in Class I

2   processors in Colorado?

3   A.   I didn't say organic, no.

4   Q.   So what do you mean when you say you are

5   "struggling"?

6   A.   Because you are talking about, as you know, the

7   USDA doesn't treat organic differently than conventional,

8   so, therefore, the conventional plants in the Denver

9   geography would have the same situation as Aurora.

10   Q.   So let me start by saying, when you say "USDA,"

11   you mean AMS Dairy Programs doesn't treat conventional

12   different from organic, because, of course, there's a

13   different part of AMS that does treat organic different

14   from conventional, correct? The organic part, the

15   National Organic Program?

16   A.   I'm not totally familiar with the policies. You

17   are correct, AMS.

18   Q.   The difference between a Class I operation with

19   conventional milk and an organic operation is that if a

20   conventional operation in Colorado needs additional milk,

21   it can come to DFA and say, "Hey, I need more conventional

22   milk," correct?

23   A.   Correct.

24   Q.   But an organic operation can't do that, can it?

25   It has to go get organic milk, correct?

26   A.   Correct. But it could satisfy additional needs by

27   doing conventional.

28   Q.   It can't -- it can't do that for its organic

1 needs, can it?

2   A.   No.

3   Q.   And it has to segregate -- you know, it would --

4 the entire operation would then have to be reorganized

5 because it has to segregate organic from conventional,

6 correct?

7   A.   That is correct.

8   Q.   And that would impose costs on an organic

9 processor like Aurora in order to do so, correct?

10   A.   Correct.

11   Q.   And are you aware that Aurora receives organic

12 milk from outside Colorado?

13   A.   I don't know any specifics about Aurora. I have

14 heard that, correct.

15   Q.   So when you provide an analysis of the needs for

16 milk for Class I in Colorado, you do not include, assuming

17 it is true, the fact that milk at Aurora is received, for

18 instance, from Texas?

19   A.   No. That was not part of our analysis.

20   Q.   Leaving aside Colorado, if USDA accepts National

21 Milk Producers Federation proposed rationale for Colorado,

22 that is that there's this committed supply to Class III,

23 doesn't that mean that any cooperative in any other market

24 can channel its supply to a manufacturing plant, then

25 create an artificial shortage of milk for Class I and

26 argue the Class I differentials should be raised because

27 of that decision?

28   A.   I can't answer that. I -- you are posing a

1 question that -- that is a hypothetical and isn't reality.

2   Q.   Well, it's not a hypothetical that National Milk

3 Producers Federation is proposing increasing Weld County

4 by $0.85 over the model because you say DFA has a

5 committed supply relationship with the manufacturer, which

6 then increases, in your view, the need to increase the

7 Class I differential, correct?

8   That's not hypothetical.

9   THE COURT: Mr. English, that's not fair. It may

10 be a factor. That is not this witness's explanation.

11   MR. ENGLISH: Well, Your Honor, I -- I take

12 exception to your telling me I can't ask that question.

13   THE COURT: Exception noted.

14 BY MR. ENGLISH:

15   Q.   So let's -- let's now turn to more specific

16 decisions made in proposed testimony and some of your

17 conversations about other areas other than Colorado.

18   Would you agree with me that Salt Lake City is a

19 significantly larger city than Twin Falls, Idaho?

20   A.   Yes, it is. Well, "significant" is subjective.

21 But, yes, it's much larger.

22   Q.   Would you agree with me that the traffic in Twin

23 Falls, Idaho, is less than the traffic in Salt Lake City?

24   A.   Yes.

25   Q.   The model, if you look at Row 2762 in Exhibit 405,

26 proposed a $2.15 differential for Salt Lake City, correct?

27   A.   Repeat the number, I'm sorry?

28   Q.   Row 2762 in -- on Exhibit 405 proposed a $2.15

1 Class I differential for Salt Lake City, correct?

2   A.   On the model, correct.

3   Q.   Okay. And Proposal 19 proposes $2.55, which is a

4 $0.40 increase, correct?

5   THE COURT: $0.40 what?

6   MR. ENGLISH: $0.40 per hundredweight increase.

7 BY MR. ENGLISH:

8   Q.   Correct?

9   A.   Correct.

10   Q.   And I apologize, you are going to have to have

11 Exhibit 301 in front of you.

12   THE COURT: No worries.

13 BY MR. ENGLISH:

14   Q.   So if you look at Row 561 -- I'm sorry -- Row 560,

15 the model would have set Twin Falls, Idaho, at $1.85,

16 correct?

17   A.   Correct. The average would be $1.85.

18   Q.   But your proposal in Column O is $2.55 for Twin

19 Falls, correct?

20   A.   That is correct.

21   Q.   So the model would have set Twin Falls $0.30 less

22 than Salt Lake, but your proposal is to set Salt Lake and

23 Twin Falls at the same level, correct?

24   A.   That is correct.

25   Q.   Does that spread make any -- that non-existent

26 spread in the proposal make any sense given the size of

27 the cities and the proximities to dairies?

28   A.   As we looked at the situation between Idaho and

1 Utah, the milk is moving on a daily basis from Idaho to

2 Utah, and so we felt that there wasn't a need for a slope

3 differential, that the attraction to Utah being $2.55 was

4 sufficient, and so we kept them the same just based on the

5 way milk movement occurs.

6   Q.   But there is a slope today, isn't there?

7   A.   Yes, there is.

8   Q.   So why doesn't the slope difference argument

9 argued about Colorado east apply to the slope difference

10 between Idaho and Salt Lake?

11   A.   We were -- again, we were looking at the way the

12 milk moves currently in the situation now. In Colorado,

13 the milk -- the differentials we're seeking is a $0.10

14 difference between Denver and Greeley, and then a $0.10

15 difference from Greeley to Fort Morgan, which, yes, is the

16 current slope differentials.

17   In Utah and Idaho, based on the way things have

18 changed over the last 20 years, we just felt the slope

19 differential wasn't as necessary.

20   Q.   Even though you testified three minutes ago that

21 milk moves regularly from Idaho to Salt Lake?

22   A.   Right.

23   Q.   Given the fact that neither location is federally

24 regulated, what's the importance of establishing, in Twin

25 Falls, Idaho, a Class I differential at $2.55?

26   A.   The significance is, again, just the slope across

27 the whole region between the Pacific Northwest, through

28 Montana, to Colorado, to South and North Dakota. It was

1 just to kind of keep the slopes in congruency with each

2 other.

3   Q.   And so I come back to my question. Why, then, not

4 maintain the $0.30 existing difference between Twin Falls

5 and Salt Lake and, instead, increase both of them so that

6 they are now at identical price at $2.55 per

7 hundredweight?

8   A.   Again, as Monty from NDA, as he talked about the

9 situation with Washington and Oregon, we felt in talking

10 with him that the slope between that region and Idaho

11 seemed to make more sense to be similar to what Salt

12 Lake's is on the recommendation.

13   Q.   So you indicate that the DFA map region invoices

14 Class I plants in the unregulated areas using the same

15 location differentials as administrated by USDA, correct?

16   A.   That is correct.

17   Q.   Again, if it's not federally regulated, is that

18 the point, that you want USDA, in a non-federally

19 regulated area, to help you establish your price?

20   A.   No. What we are seeking, as USDA since day one

21 has always had differentials across every county in the

22 continental United States, we're not deviating from that.

23 So it does affect them.

24   Q.   Well, you also propose changing the Las Vegas

25 differential for Clark County $0.10 above the model

26 average of $2.90, correct?

27   A.   Correct.

28   Q.   And you said that you do that on the basis of

1 population growth in that city, correct?

2   A.   Correct.

3   Q.   But doesn't the USDSS model take that population

4 growth into account?

5   A.   I honestly don't know the details of the model. I

6 assume so.

7   Q.   You then discuss the differentials in Iron County,

8 where DFA has a Class I plant, and Beaver County, Utah,

9 where I believe DFA has a cheese and condensed milk plant,

10 correct?

11   A.   Correct.

12   Q.   And did you set the differentials for those

13 counties based on the relationship to the differential in

14 Las Vegas?

15   A.   No, it's based on the differential to -- north to

16 Salt Lake, but still that same relationship in relation

17 where we set the differential for Las Vegas.

18   Q.   And in that instance, the model result actually

19 was $2.55 for -- if you look at Row 2755 on Exhibit 405,

20 the model result was $2.55, correct?

21   A.   Correct.

22   Q.   And for the locations where DFA has plants, you

23 are not proposing increasing from the model, correct?

24 Zero increase, correct?

25   A.   Concerning Iron County?

26   Q.   Yes.

27   A.   Correct.

28   Q.   Going back to Salt Lake City. You said on page 19

1   that "the result" -- "the model results do not make sense

2   to us, as they are lower than the University of Wisconsin

3   results for Iron and Beaver Counties."

4   Did you or anybody from National Milk ask

5   Dr. Nicholson or Dr. Stephenson what could have driven

6   those results?

7   A.   I did not. I'm not sure if Ed Gallagher did ask.

8   I don't know.

9   Q.   Do you have any specific reasons for concluding

10   those results do not make sense if you haven't actually

11   studied the results of the model?

12   A.   Again, as we have -- numerous have given testimony

13   concerning the model. It definitely was the starting

14   point. And then as even Dr. Nicholson has testified, that

15   it's not an all-in model, and so we look at regional

16   differences. So that's, obviously, yes, the starting

17   point. In some cases, the model felt to be right on, and

18   in other cases it seemed to need to be tweaked.

19   Q.   So why does National Milk have a desire for flat

20   pricing in Utah and up into Twin Falls, Idaho?

21   A.   Again, as stated, we feel, based on the way the

22   milk moves, that -- that there wasn't a justification for

23   the $0.30 differential anymore.

24   Q.   You also say, in that the same section, that you

25   "rely upon the cost of transporting milk from Salt Lake to

26   Denver as a reason for the increase in the difference

27   between prices," correct?

28   A.   Correct.

1   Q.   Is milk typically produced in Salt Lake shipped to

2   Denver?

3   A.   No, it is not.

4   Q.   Why, then, that -- is that a relevant

5   justification for setting prices between Utah and

6   Colorado?

7   A.   If Colorado was short of milk and it came from

8   Utah, then obviously it would have to be freighted there.

9   Very expensive freight.

10   Q.   Turning to the issue of Grade A versus Grade B

11 milk.

12   Are you aware of any cheese manufacturers in

13 Colorado that accept Grade B milk?

14   A.   No, I'm not.

15   Q.   Does DFA have Grade B members in Colorado?

16   A.   We do not.

17   Q.   Just give me one moment, Your Honor.

18   MR. ENGLISH: Mr. Stout, thank you for your time.

19 That concludes my cross-examination.

20   THE COURT: Thank you, Mr. English.

21   MR. ENGLISH: And I will move the admission of

22 Exhibit 405 at an appropriate time.

23   THE COURT: Understood, 405 and 414.

24   I invite the next cross-examination.

25   Mr. English, are those your exhibits?

26   MR. ENGLISH: Thank you, Your Honor. It is.

27   THE COURT: You're welcome.

28 //

1   CROSS-EXAMINATION

2   BY MR. MILTNER:

3   Q.   Good morning, Mr. Stout.

4   A.   Good morning.

5   Q.   My name is Ryan Miltner. I represent Select Milk

6   Producers.

7   I think you can -- you can thank Mr. Gallagher for

8   taking away several of the questions that I might

9   otherwise have asked as he intervened yesterday for you.

10   A.   Thank you, Mr. Gallagher.

11   Q.   If I could summarize your -- your testimony. It

12 seems to me that there are three -- three issues with the

13 model results in the western region that -- that were of

14 concern, and I want to tell you what I think those are,

15 and let me know if you -- if you agree with me.

16   The first is that in some instances, the increase

17 in the model results over what we currently have was

18 insufficient for certain counties; is that correct?

19   A.   That is correct.

20   Q.   And that adding to that the relationship between

21 the base zone in Kansas City and the counties in Colorado

22 was askew; is that correct?

23   A.   Based on the model, yes.

24   Q.   And then thirdly, that those two issues, coupled

25 with the likely change in Make Allowances, would have an

26 unacceptably detrimental impact to your members in

27 Colorado?

28   A.   To all dairy farmers in Colorado, correct.

1   Q.   Okay. Now, if I look at the changes from the

2   model that were made with respect to Colorado, I'm

3   wondering if, in reviewing the counties outside of the

4   Central Order, if you did that, you found any other

5   instances where there was a relationship between the base

6   zone and further out counties that needed to be rectified?

7   A.   I did not do any analysis outside of my geography.

8   Q.   Did you look at any of the border areas between

9   your geography and other areas?

10   A.   We did look at, yes, neighboring states. Yes.

11   Q.   So did you look at New Mexico?

12   A.   No.

13   Q.   That would border Colorado, correct?

14   A.   I'm sorry. Excuse me?

15   Q.   Mexico does border Colorado, correct?

16   A.   That's correct.

17   Q.   So which neighboring states did you look at?

18   A.   Kansas, Nebraska, South Dakota, North Dakota, and

19   then our geography, of course, as well, with Wyoming and

20   Montana.

21   Q.   That covers a lot of the border states, but you

22   did not look at New Mexico.

23   Any particular reason you did not look at New

24   Mexico?

25   A.   Others in the Southwest region were looking at

26   that, so --

27   Q.   Who in the Southwest region would have been

28   looking at that?

1   A.   John Kang for DFA and others from the industry.

2   Q.   You mentioned "others."

3   Who would those be?

4   A.   Jeff Sims. I don't know all of them but --

5   Q.   I'm looking at page 8 of your written statement,

6   Exhibit 403, and you testified, "It seems that the

7   underlying basis of the University of Wisconsin model as

8   developed in 2000, and refreshed in 2021, is that if there

9   is more than an adequate supply of local milk to meet the

10   needs of the Class I market, then that transcribes that

11   the location differential would not have pressure to be

12   increased."

13   Wouldn't -- wouldn't the existence of a more than

14   adequate local milk supply be an important factor in

15   deciding how what level of differential should be?

16   A.   Yes. Definitely one of the factors, yes.

17   Absolutely.

18   Q.   And yet it seems that a lot of your efforts in

19   changing the model differential ignores that important

20   factor, isn't it?

21   A.   I'm not stressing to ignore it. I'm stressing

22   that there's other factors that play into this. Meaning

23   that if that growth that occurred in Colorado was

24   purposefully and strategically grown to satisfy the needs

25   of a manufacturing, then that wasn't taken into account in

26   terms of the model.

27   Q.   And yet, the model and the differentials are meant

28   to establish a minimum regulated price, correct?

1   A.   Can you restate that, please?

2   Q.   The purpose of the differentials is to help

3 establish a minimum regulated price, correct?

4   A.   Correct.

5   Q.   And so DFA, or any other cooperative, any other

6 seller of milk, can negotiate over-order premiums over the

7 minimums, correct?

8   A.   Yes.

9   Q.   And so the milk that you say is strategically

10 grown, which I hope most co-ops and farmers are trying to

11 strategically locate their operations, if that's

12 strategically placed, there's no guarantee that that milk

13 will remain associated with its current plant into the

14 future, is there?

15   A.   That is correct, there's no guarantee.

16   Q.   And so if you are asking to increase a

17 differential based on a current business relationship,

18 would that not skew a regulated minimum price if the sales

19 transaction changes into the future?

20   A.   You said there's no guarantee, and that is true.

21 But there's a contractual commitment that DFA has to

22 satisfy the needs of the manufacturing entity.

23   Q.   Well, that contract presumably has a termination

24 date, does it not?

25   A.   All contracts do.

26   Q.   We have contracts that are breached or simply

27 modified all the time, don't we?

28   A.   Yes.

1   Q.   I mean, doesn't it come down to a question of

2 whether businesses should respond to regulation or whether

3 business relationships should dictate what regulations

4 look like? That's really one of the questions we're

5 wrestling with, isn't it?

6   A.   I don't know. That's a very generalist question

7 that is difficult to answer.

8   Q.   I mean, you are asking for regulations to be

9 written to be tailored to DFA's business relationships,

10 aren't you?

11   A.   We're asking for consideration for an increase

12 from what the model is stating because of the situation

13 that we have in Colorado that could exist -- anywhere else

14 in the United States, the same thing could happen.

15   Q.   And to be clear, the situation in Colorado is a

16 contract that DFA entered into with a business partner

17 that is obviously very important to DFA, correct?

18   A.   That's correct.

19   Q.   Every cooperative in the country has contracts to

20 supply milk that are equally important to their members,

21 correct?

22   A.   That is correct.

23   MR. MILTNER: Thank you. That's all I have.

24   THE COURT: Who next has cross-examination for

25 this witness before I invite questions from the

26 Agricultural Marketing Service?

27   I see no one. Agricultural Marketing Service,

28 your questions, please.

1   MS. TAYLOR: Thank you, Your Honor.

2   CROSS-EXAMINATION

3   BY MS. TAYLOR:

4   Q.   Good morning.

5   A.   Good morning.

6   Q.   Thanks for returning today.

7   A.   You betcha. Anything for you, Erin.

8   Q.   Believe it or not, I'm not really going to talk

9   about Colorado. I think we have beat that dead horse with

10   every question imaginable, so I would like to talk about a

11   few other things.

12   You were talking with Mr. English on the flat

13   differential you all have proposed between Twin Falls and

14   South Dakota. One of the things you said was, that

15   decision to -- to offer that proposal versus what the

16   model says is because things have changed a lot in the

17   last 20 years.

18   And my first hearing was the Western Order hearing

19   in 2004, so I do remember a bit about what happened, what

20   was going on back 20 years ago.

21   So I was wondering if you could illuminate for the

22   record why you think things are different than what it was

23   like back then?

24   A.   Okay. To a large part, the production in the

25   state of Utah has continued to relatively decline. For

26   the most part, Northern Utah has seen a lot of urban

27   encroachment. So in the Cache Valley area where we've had

28   upwards of a hundred-plus producers has now dwindled down

1 to less than half of that. No, there's not a lot of milk

2 there, but there is some, so that's been a very --

3   Q.   What county is that in as I look at this map?

4   A.   Cache.

5   Q.   Okay.

6   A.   So north -- northeastern.

7   Q.   Okay.

8   A.   So Gossner has a plant up there and --

9   Q.   Okay.

10   A.   -- Schreiber's has a plant, cheese plant, in that

11 area.

12   So a lot of that production that used to be

13 satisfying that Smithfield plant for DFA/Schreiber's over

14 the years, over the last 20 years, has come -- they're --

15 locally, they're in that geography, that county, that --

16 well, in upwards of -- it's called Cache Valley, which is

17 a valley that heads up and touches into Southeastern Idaho

18 as well. But as that production has declined, a lot of

19 that milk is now coming from clear up into Idaho, north of

20 even from Blackfoot and Idaho Falls.

21   South, we have had a lot of production that has

22 continued to move farther away from the market and/or gone

23 out of business.

24   And so Utah is in a very particular -- peculiar

25 situation in which they do -- we are expending a lot of

26 freight cost to get the milk to the Salt Lake Valley. And

27 what has changed is a lot of that milk to meet the needs

28 of Salt Lake is also coming from Magic Valley, from

1   Treasure Valley -- excuse me -- from Twin Falls area,

2   which is Cache County and --

3   Q.   Okay. And so that milk is moving daily you

4   said --

5   A.   Yes.

6   Q.   -- to satisfy that demand?

7   A.   Yes.

8   Q.   But despite that, in the freight cost you just

9   mentioned, you don't think there needs to be -- that

10 doesn't need to be accounted for in the slope that is

11 offered?

12   A.   Well, honestly, Erin, we'd probably like Salt Lake

13 to be higher than the $2.55, but we just felt that that

14 was a comfortable area to not be much higher than the

15 geography around it, so -- and between Salt Lake to -- to

16 Idaho, to the Pacific Northwest, we just felt that region

17 had to be -- that Idaho needed to be somewhere in that

18 $2.55 range. And we honestly would have loved Salt Lake

19 to be higher than $2.55.

20   Q.   What's the distance between Twin Falls and Salt

21 Lake, approximately?

22   A.   It's about 250 --

23   Q.   Okay.

24   A.   -- miles. 200 miles, maybe.

25   Q.   I wanted to talk a little bit, moving up into

26 Idaho, the $2.20 zone. And that's the base differential

27 that's been discussed.

28   Were you involved in the discussions about how the

1   $2.20 was proposed?

2   Because if I remember weeks back now, other

3   National Milk witnesses said, you know, that was the area

4   in the West that said we needed $2.20 to be able to get

5   milk there.

6   So I wanted to just -- you know, we're down to a

7   few National Milk witnesses left -- get a little more

8   information on the record of why that $2.20 as a base is

9   appropriate.

10   A.   And you are talking about the counties up in the

11 thumb --

12   Q.   Yeah.

13   A.   -- coming down?

14   Q.   Uh-huh.

15   A.   So in other words, touching on to Washington.

16   Q.   Exactly.

17   A.   There's really absolutely no milk production up

18 there, nor is there any plants.

19   THE COURT: Where? Just so I'm clear.

20   THE WITNESS: In the counties that she's referring

21 to.

22   THE COURT: But I would like you to say what

23 counties you are talking about.

24   THE WITNESS: Oh.

25   MS. TAYLOR: It would be in the thumb -- well, the

26 thumb is $2.55. But kind of the west side of Idaho, the

27 middle counties along the border.

28   THE WITNESS: Yeah.

1   MS. TAYLOR: Right.

2   THE COURT: Thank you both.

3   THE WITNESS: Sorry.

4   BY MS. TAYLOR:

5   Q.   Uh-huh.

6   A.   So, yes, we just felt where that was located there

7   wasn't -- yes, it certainly could have been $2.55 as well.

8   But kind of the same rationale in some of the counties in

9   Montana as well that we didn't raise them as high for the

10 same reason, there is no production, no milk -- no plants

11 nor milk production in those counties.

12   Q.   Montana is almost all $2.55; am I correct? $2.50?

13 I can't see anything with the lighting here today.

14   A.   Yes.

15   Q. $2.55; is that correct?

16   A. $2.55, correct.

17   Q.   So --

18   A.   I was referring to just -- there's two or three

19 counties I think that are not at $2.55 in Montana.

20   Q.   Okay. Well, I had other questions, too, on

21 Montana.

22   You talked about -- you mentioned, maybe last

23 week, that there's a state order in Montana.

24   Can you describe generally how you understand that

25 to work, if you know?

26   A.   Okay. Right. There's -- there's three plants,

27 one owned by Darigold and two owned by us: Meadow Gold

28 plant in Great Falls and then Billings, and theirs is in

1   Bozeman, so it's kind of a triangle. And that's a pocket

2   where the milk is actually produced. Some milk actually

3   is produced all the way close to the border in the north,

4   in Canada.

5   But the state order basically accounts for all the

6   milk produced within the state. They have a quota program

7   that is designed to kind of help establish and make sure

8   that the production stays within balance of what the

9   plants can sell.

10   Darigold's milk oftentimes is leaving out of state

11 going into Colorado, Utah, and Idaho, in packaged form,

12 sorry, to Costcos.

13   In the two plants that we own, almost is -- it is

14 exclusively being -- packaged products is being sold

15 within the state of Montana.

16   So the order basically announces a quota price and

17 then an excess price, which if they are over their quota,

18 then it's $1.50 less than what the quota price is.

19   Q.   Do they use Federal Order price as a benchmark in

20 that program?

21   A.   They do. Class I is equal to Class I. They only

22 have three classes: Class I, Class II, and Class III. So

23 Class I is unique -- or excuse me -- consistent with

24 Federal Order, but Class II and III is where they change

25 up their manufacturing.

26   Q.   Okay. So again, the base zone, the $2.20 area for

27 Idaho, that's basically -- there's not a lot of milk

28 there. I'm just trying to square that with what we have

1   heard previously where some area out in the West needed

2    $2.20 to get milk moving, but you are saying that's not

3   necessarily relevant to Idaho?

4   A.   Uh-huh. That's correct.

5   Q.   That would be more relevant to, I guess --

6   A.   Other areas.

7   Q.   -- it abuts Washington and Oregon areas of $2.20?

8   I don't have the whole map in front of me.

9   MS. TAYLOR: I think that's it from AMS. Thank

10   you.

11   THE WITNESS: Thank you.

12   THE COURT: Are there any questions prompted by

13   the Agricultural Marketing Service questions and answers?

14   I see none. I would now invite redirect.

15   REDIRECT EXAMINATION

16   BY MS. HANCOCK:

17   Q.   Good morning, Mr. Stout.

18   Nicole Hancock with National Milk.

19   I'd first like to just thank you for making the

20   trip back out here again for this. I appreciate that and

21   all the time you gave us last week. Just a couple of

22   questions.

23   You were asked some questions about whether

24   demands for Class I milk has increased in Colorado or not.

25   I want to shift that a little bit and say,

26   regardless of whether the demand has increased or not,

27   have the costs to dairy farmers who are supplying that

28   Class I milk, have those increased?

1   A.   Yes. They absolutely have.

2   Q.   And that would include -- we have talked about

3   items like feed. Is that an example of some of the costs

4   that are increased, and maybe even disproportionally

5   increasing, in Colorado as compared to some of the

6   surrounding areas?

7   A.   That is correct, yes.

8   Q.   You -- on Friday when you were on the stand, you

9   were asked a question about whether you could just short

10 manufacturing milk that was provided from -- whether you

11 could short manufacturing milk.

12   Do you remember that line of questions?

13 A.   Yes. And I apologize. I was thinking the

14 question that was asked, when I thought he referenced our

15 manufacturing, I interpreted that, that that was our own

16 DFA Fort Morgan plant. And absolutely, yes, we would take

17 milk away from that.

18   But when it comes to the other manufacturing, not

19 just Leprino, any other manufacturing client that we have

20 a contract with, we would not be able to short them. They

21 would have to be -- we would have to deliver the milk.

22 Q.   And when you answered thinking that you were

23 referring to being able to short your own DFA plant,

24 that's part of the balancing that you do as a cooperative;

25 is that right?

26 A.   That's right.

27 Q.   And there's a cost associated with that as well?

28 A.   Absolutely.

1   Q.   And you had some other questions where your

2 testimony regarding the recommendations for a differential

3 proposed by National Milk in the Colorado area was based

4 in part on some of the commercial or contractual

5 relationships in the area. Those questions then evolved

6 into whether DFA is making a recommendation regarding --

7 regarding the price differentials in Colorado just based

8 on the Leprino contract. I just want to be clear about

9 this.

10   Is the differentials that are recommended in

11 Colorado and in those aligning areas, is that based

12 solely on a commercial relationship that DFA has with

13 Leprino?

14   A.   Absolutely not. No.

15   Q.   And --

16   A.   No, there's lots of factors.

17   Q.   Yeah. And those are the factors that you have

18 discussed on Friday and then again in today --

19   A.   Yes.

20   Q.   -- for the items.

21   And you listened to Mr. Gallagher's testimony

22 yesterday?

23   A.   As much as I could when I was flying.

24   Q.   Okay. And the items that he talked about as

25 justifications as well, those are all the reasons why

26 deviations from the model were proposed by National Milk;

27 is that fair?

28   A.   That is correct. Yes.

1   MS. HANCOCK: Your Honor, at this time we would

2   move for the admission of Exhibits 403 and 404.

3   THE COURT: Is there any objection to the

4   admission into evidence of Exhibit 403, also marked

5   NMPF-53?

6   There is none. Exhibit 403 is admitted into

7   evidence.

8   (Thereafter, Exhibit Number 403 was received

9   into evidence.)

10   THE COURT: Is there any objection to the

11 admission into evidence of Exhibit Number 404, also known

12 as NMPF-53A?

13   MS. McMURTRAY: Yes, Your Honor. Michelle

14 McMurtray, Office of the General Counsel, on behalf of the

15 Agricultural Marketing Service.

16   We do object to Exhibit 404, just because

17 Mr. Stout is not privy to the information. He -- he

18 didn't collect the information in the document, and

19 there's nobody to cross-examine on this document.

20   We do know that Mr. Stout's testimony relied on

21 this, and we are fine with the testimony that came in.

22 But we think that admitting the document for the reasons

23 previously stated is not appropriate.

24   THE COURT: Ms. Hancock, your response?

25   MS. HANCOCK: Yes, Your Honor. While I am very

26 sympathetic to the objection that was raised, and under

27 any kind of normal evidentiary standards in a civil

28 proceeding I would say that that's an accurate

1 characterization of what would delineate admissible versus

2 inadmissible evidence. But it's not the standard that we

3 have for purposes of this hearing.

4   In this hearing, this is the source of the

5 information that -- that he used in order to support his

6 testimony that he talks about, and throughout the course

7 of this hearing we have been admitting the source data

8 documents for the weight that they should be given.

9   Now, certainly anybody could put evidence in that

10 suggests this information is inaccurate, but because this

11 was the basis underlying his testimony, throughout the

12 course of this hearing we have done that, and it would be

13 a departure to not allow Exhibit 404 into evidence where

14 we have, throughout the course of the 40-some days

15 already, been allowing that evidence into the record.

16   THE COURT: Anything further from Agricultural

17 Marketing Service or counsel?

18   MS. McMURTRAY: I think -- I certainly understand

19 Ms. Hancock's position. I think that we would just

20 continue to object just because there is nobody that we

21 can ask about the contents or the methodology used in this

22 document.

23   THE COURT: Thank you.

24   I'm going to treat this very similarly to other

25 cautions, and that is, to recognize that the author of

26 this document is not here to be cross-examined.

27   But I agree with Ms. Hancock that the proper way

28 for Mr. Stout to show where he got his information is to

1 give us a copy of the document it came from.

2   And so I believe it should be in the record. And

3 I do accept into evidence, over that objection, and

4 with -- and mindful of the caution that was advised,

5 Exhibit 404, also known as NMPF-53A.

6   (Thereafter, Exhibit Number 404 was received

7   into evidence.)

8   THE COURT: And, Mr. English, you have exhibits?

9   MR. ENGLISH: I do, Your Honor. And when I

10 departed, I forgot 414, and you reminded me.

11   So I have Exhibit 405 from last Friday and

12 Exhibit 414 from today.

13   And I expect I'll hear from Ms. Hancock about 405,

14 but it's similar to the other exhibits which you have

15 admitted with -- there will be a witness who will very

16 briefly at some point just say, "I did author these."

17   THE COURT: I was hoping that would be brief when

18 we get to that. But I'm glad that somebody in your team

19 is keeping track of which ones you will say that about.

20   Exhibit 405, is there any objection to my

21 admitting into evidence Exhibit 405, other than the

22 caution that Mr. English has referenced? It's also marked

23 MIG-60.

24   There is no additional objection. Exhibit 405 is

25 admitted into evidence.

26   (Thereafter, Exhibit Number 405 was received

27   into evidence.)

28   THE COURT: Is there any objection to the

1   admission into evidence of Exhibit 414, also MIG

2   Exhibit 59?

3   There is none other than my concern that the

4   mountains are not depicted, and therefore, I admit into

5   evidence Exhibit 414.

6   (Thereafter, Exhibit Number 414 was received

7   into evidence.)

8   THE COURT: Mr. Stout, we all thank you.

9   THE WITNESS: Thank you, Your Honor.

10   THE COURT: You may step down.

11   Now, I'd like to take a five-minute stretch break,

12 but before we do, I want to confirm with Ms. Hancock who

13 will be the next witness.

14   Will it be Mr. Gallagher?

15   MS. HANCOCK: Yes.

16   THE COURT: Yes. So let's take a five-minute

17 stretch break.

18   Please be back ready to go at 9:15.

19   (Whereupon, a break was taken.)

20   THE COURT: Let's go back on record.

21   We're back on record at 9:17. Please state and

22 spell your name.

23   THE WITNESS: My name is Edward Gallagher,

24 E-D-W-A-R-D, G-A-L-L-A-G-H-E-R.

25   THE COURT: You remain sworn.

26   THE WITNESS: Thank you.

27   THE COURT: And, Mr. Miltner, please identify

28 yourself, and you may proceed.

1   MR. MILTNER: Thank you, Your Honor.

2   My name is Ryan Miltner, and I represent Select

3   Milk Producers.

4   EDWARD GALLAGHER,

5   Having been previously sworn, was examined

6   and testified as follows:

7   CROSS-EXAMINATION (Cont'd)

8   BY MR. MILTNER:

9   Q.   So, Mr. Gallagher --

10   A.   Good morning, Mr. Miltner. How are you today?

11   Q.   I'm well. How are you?

12   A.   Fine. Thank you.

13   Q.   So the risk of being on the stand overnight is

14 that it sometimes gives the attorney the opportunity to

15 come up with a bunch more questions, but other times it

16 allows them to refine their stuff and call out a bunch of

17 stuff. And fortunately, for both of us, it's the latter.

18   You testified, I think it was -- I think it was in

19 response to a question, about option strategies for

20 Class I handlers.

21   Do you recall that statement that you made?

22   A.   Yes. I recall testifying about that.

23   Q.   And you described the use specifically of options

24 as a potential risk management tool for Class I handlers.

25 And my question is hopefully one of clarification.

26   If there were a Class I handler that wanted to

27 hedge their milk price risk, and they wanted to use

28 options to do so, if we had a higher-of Class I mover,

1 they would be required to buy twice as many options as

2 they would if we used a mover that was an equal weight of

3 Class III and Class IV; is that correct?

4   A.   Yes, that's correct.

5   Q.   You also -- and I think this was in response to

6 some questioning -- you referred to livestock feed and the

7 increases in livestock feed as a part of a justification

8 for increasing the Class I differentials, correct?

9   A.   That's correct.

10   Q.   And I believe your response was specific to DFA's

11 exhibit to the Western region that it was specific to?

12   A.   I was, as I recall, responding to

13 cross-examination questions about our proposed changes in

14 the state of Colorado.

15   Q.   So you were speaking specifically to feed costs in

16 Colorado?

17   A.   At that time, yes.

18   Q.   Okay. Did you or the group you have worked with

19 to develop the Class I differentials look at the feed

20 costs in other regions of the country outside of Colorado?

21   A.   We have. So referring back to when I testified on

22 Make Allowances, I referenced information that would have

23 been submitted by the Frazer, LLP, accounting firm, and

24 Nietzke Faupel from your area, that talked about costs of

25 production and costs of feed. And I also -- we entered

26 into as exhibits, and I testified about, USDA data on cost

27 of production and prices of feed.

28   Q.   When you refer to Nietzke Faupel being in my area,

1 that's -- for the purpose of the record, that's the

2 Order 33, the Michigan/Ohio area, correct?

3   A.   Yes.

4   Q.   And Frazer has clients across the country, but

5 more in the Western part of the U.S., correct?

6   A.   That's my understanding.

7   Q.   Now, in previous hearings on formulas there was

8 litigation afterward, and Select was part of that. And

9 one of the issues we raised was whether USDA adequately

10 considered the costs of feed in establishing the formulas

11 and Make Allowances specifically.

12   So that information's been put into the record.

13 You have referenced it with respect now to the Class I

14 differentials.

15   How would you propose USDA take that data into

16 consideration when it makes its findings here?

17   A.   So the Agricultural Marketing Agreement Act

18 specifically states that the Secretary must consider -- I

19 don't know if I have this quoted exactly, but everybody

20 knows what I'm referencing, at USDA anyways -- the costs

21 of livestock feed and --

22   THE COURT: The cost of what?

23   THE WITNESS: I'm sorry, livestock feed. And that

24 the pricing emanating from the Federal Orders have to be

25 high enough to assure an adequate supply of fluid milk.

26   And so it -- it's -- as we -- as they put together

27 each piece of these five topics that we have been hearing

28 in their recommendation and eventual final decisions, they

1 have to sort of put all the pieces together in a way that

2 meets the requirements of the Act.

3   And so as we think about Class I differentials,

4 that becomes part of the determination, is there a milk

5 price being paid to dairy farmers under the Federal Orders

6 to assure an adequate supply of milk?

7   So there -- it's connected in that way, in my

8 opinion.

9 BY MR. MILTNER:

10   Q.   Was the cost of feed and the increases in cost of

11 feed considered when the National Milk committees looked

12 at the model differentials and any adjustments to that for

13 the Southwest order?

14   A.   I don't know the answer to that. I -- I -- I did

15 not participate in discussions on developing the price

16 surface in the Southwest, that I recall hearing

17 conversations about livestock feed prices, but I did not

18 participate in very many meetings for the determination of

19 the price surface for that region.

20   Q.   And were livestock feed prices specifically part

21 of the considerations when the differentials for Weld

22 County, Colorado, and other points in Colorado were

23 established for Proposal 19?

24   A.   Yes.

25   Q.   At the bottom of page 4 of your testimony there's

26 a phrase, and it's been used in several witnesses'

27 statements. I'd like to understand what you intend when

28 you use this phrase, and the phrase is "blend price

1 equity."

2   A.   Could you help me find where --

3   Q.   Yeah, it's at the very bottom of page 4.

4   THE COURT: We're in Exhibit 407?

5   MR. MILTNER: Yes, Your Honor.

6   And the sentence as it's --

7   THE WITNESS: Oh, I see it. Yes, the last

8 sentence on that page?

9 BY MR. MILTNER:

10   Q.   Yeah. And for context, and for the record, it

11 reads, "For Colorado, the divergence from the model's

12 result is modest and is needed to maintain blend price

13 equity relative to current Colorado PPD and blend price

14 levels."

15   A.   So specifically what I mean with blend price

16 equity in that sentence, in this statement, is an

17 equitable value of a blend price, current, compared to

18 what it's estimated to be with our proposed price surface,

19 only taking into account the changes from our proposed

20 price surface and no other proposals that are being heard

21 at this hearing.

22   So equitable -- equitable meaning if the current

23 blend price -- let me back up -- the current PPD. Let me

24 back up into the current PPD, because, obviously, maybe --

25 maybe that would have been a better statement than blend

26 price, current PPD.

27   If the current PPD is $1 right now, that after we

28 overlay our new price surface at the -- the PPD in -- in

1   the areas in Colorado should be at least $1. That would

2   be the equity part I'm speaking to.

3   Q.   You made a statement in response to

4   cross-examination that the milk in Weld County, Colorado,

5   is not fungible.

6   And I wonder if you could expand on that and

7   explain why that, I assume conventional milk, in Weld

8   County is not fungible?

9   A.   As I have explained in, I think, a number of times

10   yesterday relative to cross-examination, and Mr. Stout has

11   covered as well, that we have contractual arrangements

12   with our -- our valued customer Leprino Foods, who has a

13   cheese plant in Greeley, Colorado. And a lot of that milk

14   going to that plant would be produced in Weld County, is

15   my understanding, but regardless it is all of Colorado.

16   And so the contractual arrangements require us to

17   supply the plant. And so we don't get to choose if there

18   is a demand spike at another plant anywhere, that we don't

19   get to choose to take the milk out of Leprino to satisfy

20   that demand.

21   Q.   So you also offered some testimony that attempted

22   to quantify how much milk in the U.S. system is truly

23   surplus or reserve, correct?

24   A.   I did.

25   Q.   And I think the number --

26   A.   Thank you for listening. I appreciate that.

27   Q.   So I think the number you had provided was 2.5%.

28   Did I recall that correctly?

1   A.   Let me double check that. Give me a moment.

2   I believe that's correct. I can --

3   (Court Reporter clarification.)

4   THE WITNESS: Oh, I'm sorry. How is that?

5   Okay. I can't find my note, but I believe it was

6   2.5%.

7   BY MR. MILTNER:

8   Q.   Okay. Well, let's assume it was. And if it's

9   somewhat different, I don't think it's particularly

10   material to --

11   A.   Okay.

12   Q.   -- the questions I want to ask.

13   A.   Okay.

14   Q.   Presumably every cooperative has contracts to

15   supply customers, right?

16   A.   Most likely, yeah. Yes.

17   Q.   And as part of your fiduciary obligations to your

18   owners, to your members, the co-op would strive to achieve

19   the highest return possible for the sales of the members'

20   milk, correct?

21   A.   So I can't speak to how other cooperatives market

22   their milk. Obviously DFA is going to do that for our own

23   farmer-owners.

24   Q.   Okay. And Select would do the same.

25   So --

26   A.   Is that your testimony?

27   Q.   I'm not testifying.

28   A.   Just asking. It sounds like you are.

1   Q.   Well, so in order to achieve that highest

2 return -- or wouldn't one of DFA's goals be to provide

3 milk to plants from the closest source and minimize

4 transportation costs?

5   A.   That would be how we would generally operate our

6 business, yes.

7   Q.   So the Leprino plant in Weld County, is it -- you

8 have an agreement to provide milk to that plant, and your

9 goal is to get the closest milk to that plant for its

10 supply, right?

11   A.   That's correct.

12   Q.   If you didn't have enough milk close in to the

13 plant, you could deliver milk from a farm that was more

14 distant, but it might come at a higher cost, correct?

15   A.   It would come at a higher cost.

16   Q.   And similarly, the milk that's produced in Weld

17 County, even though its closest plant would be the Leprino

18 plant, there's nothing that would prevent that milk from

19 being delivered to a further away Class I plant, but you

20 would incur additional cost, correct?

21   A.   Could you repeat that question?

22   Q.   Sure.

23   Milk in Weld County which would normally be

24 delivered to Leprino as an optimal delivery point would

25 still be an acceptable delivery to a Class I plant further

26 out, correct?

27   A.   If that milk was available to ship to another

28 plant, that would be an acceptable -- that -- that --

1 those would be acceptable loads of milk to deliver

2 elsewhere.

3   Q.   So when you say that the milk in Weld County is

4 not fungible, that's not entirely accurate in that the

5 milk itself is -- can be delivered to any plant and meet

6 the needs of these plants for its manufacturing purpose,

7 correct?

8   A.   I'm not sure about that.

9   Q.   Why?

10   A.   I'm not -- now you are isolating our National Milk

11 marketing system down to one county, and so your question

12 isn't realistic.

13   Q.   Well, you have testified that that milk is not

14 fungible, and my -- my question is, is it truly not

15 fungible or is it merely economically inconvenient to move

16 that milk elsewhere?

17   A.   I'm going to stick with it's not fungible.

18   Q.   How do you define "fungible"?

19   A.   It's available, we need to meet the supply of

20 Leprino and that plant. The demand for that plant exceeds

21 more than half the milk produced in Colorado, and so that

22 Colorado milk supply goes to that plant. We have got a --

23 we have got a National Milk marketing network, and it

24 has -- other plants may need milk, we would have to

25 look -- we'd -- we -- we'd look through our entire milk

26 marketing network to see if we had milk available.

27   Q.   How is that situation different from the situation

28 Land O'Lakes would have for its customers?

1   A.   I don't know. I don't work for Land O'Lakes. I

2   don't know their milk marketing situation.

3   Q.   You believe that DFA's considerations in

4   optimizing milk deliveries to its plants is unique among

5   all co-ops?

6   A.   Yeah, because we have got a National Milk

7   marketing system. We're the largest Class I processor, so

8   we've got challenges that are different than any other

9   cooperative anywhere on the face of the earth.

10   Q.   So it's because you are the largest co-op in the

11 U.S., with the largest manufacturing network in the U.S.,

12 and you are the largest bottler in the U.S., and that

13 makes you uniquely -- that puts you in a unique position

14 to optimize milk deliveries?

15   A.   It -- it -- I didn't say that. I said it creates

16 challenges that are different than any other milk marketer

17 anywhere in the world.

18   Q.   And as a result, the regulations should be

19 tailored to recognize that unique situation?

20   A.   We're not asking for that.

21   MR. MILTNER: Thank you.

22   THE COURT: Other cross-examination of

23 Mr. Gallagher?

24   I see no one. I invite questions from the

25 Agricultural Marketing Service.

26   MS. TAYLOR: Good morning.

27   THE WITNESS: Good morning, Erin. How are you

28 today?

1   MS. TAYLOR: I'm good. And honestly, I don't have

2   any questions to ask.

3   THE WITNESS: Well, thank you.

4   MS. TAYLOR: I don't know -- yeah. We tried

5   really hard, but I think through all your

6   cross-examination, that's covered all my questions. And

7   so I'm not trying to drag this out any longer in total of

8   the hearing.

9   So AMS has no questions.

10   THE WITNESS: Thank you.

11   THE COURT: That works out lovely.

12   Redirect.

13   MS. HANCOCK: Every day brings new opportunities.

14   REDIRECT EXAMINATION

15   BY MS. HANCOCK:

16   Q.   Mr. Gallagher, you had some questions on your

17   cross-examination, and others have as well, and they were

18   posed as, if the model posed a result for Class I

19   differentials, why did you disagree with it?

20   Do you understand that the model proposes any

21   Class I differentials?

22   A.   Yeah, the model doesn't propose anything. It

23   provides a set of output to use as the basis to develop a

24   pricing surface.

25   Q.   So -- and that's based on what Dr. Nicholson said;

26   is that right?

27   A.   That is correct.

28   Q.   And Dr. Stephenson as well?

1   A.   That is correct.

2   Q.   In Colorado, did DFA build a big cheese plant?

3   A.   It did not.

4   Q.   Who built the big cheese plant?

5   A.   Our valued customer, Leprino Foods.

6   Q.   And DFA responded to the needs of that plant in

7   order to service it?

8   A.   We did.

9   Q.   And how did you respond to Leprino building that

10   plant?

11   A.   We worked with our existing farmer-owners in

12   Colorado to work with them to grow their milk production,

13   and we had interactions with dairy farmers outside of the

14   state and encouraged some of those dairy farmers to move

15   or build an operation within the state of Colorado to help

16   supply the Leprino plant.

17   Q.   And you were posed some questions yesterday about,

18   well, you could just terminate that contract, right?

19   Do you remember that?

20   A.   I do remember that malarky.

21   Q.   And you didn't want to answer that question.

22   I'm wondering if you can give me some insights as

23   to why you think it's malarky?

24   A.   We have got a strong long-term relationship for

25   that -- that business. Leprino Foods, the demand for the

26   wonderful product that they produce, is growing to the

27   point that they are in the process of constructing a new

28   cheese plant in Lubbock, Texas. And so they -- they --

1 that plant in Greeley is going to be operating for a long,

2 long time.

3   Q.   And is it your understanding that the Federal

4 Order is designed to do anything to interfere with growth

5 and development of new plants that would service the

6 Class I markets?

7   A.   No. It has -- it has no bearing on the business

8 decisions to build plants or...

9   Q.   You also, yesterday, talked about alignment when

10 you were looking at the model.

11   I'm wondering if you could talk about where those

12 alignments occurred, especially as it pertains to those

13 regional lines between different geographical areas?

14   A.   Yeah. Going back to the testimony and the

15 cross-examination on that topic from yesterday, the

16 regional committees started with sort of a sense of

17 alignment with the anchor cities, and then went into the

18 regional groups to develop the rest of the price surface,

19 and then came back together to specifically make sure

20 those regional boundaries were aligned in an appropriate

21 way.

22   And so there was meetings within -- with -- with

23 between the groups, and then with everybody together, to

24 assure that there would be an appropriate alignment

25 wherever those boundaries came together.

26   Q.   And there are instances where price differentials

27 that are proposed by National Milk are higher in areas

28 where DFA has plants, and also lower in areas where DFA

1 has plants.

2   Can you speak to whether any of the work that you

3 were doing, or that your other task force members were

4 doing, was designed to provide DFA or any other

5 cooperative a competitive advantage over other competitors

6 that are throughout the country?

7   A.   Yeah. That's another line of malarky that I have

8 heard in this hearing. None of the -- none of the

9 cooperatives, none of the people for any of the

10 cooperatives that worked on this project looked to try to

11 do something favorable for a plant that they supply or a

12 plant that they own. We worked to try to figure out what

13 would be the best price surface for the U.S. dairy

14 industry. That's what we came up with.

15   Q.   And -- and we were talking yesterday about that

16 someone on your staff, or somebody within DFA, was helping

17 to maintain the master list of the spreadsheet.

18   Was that a substantive role or just a keeper of a

19 spreadsheet?

20   A.   Yeah. That was just a keeper of the spreadsheet.

21 We provided a service to National Milk. They asked us to

22 help them on that particular aspect because we had a

23 mapping package that made it easy for us to map the

24 counties into various colors and various different ways

25 that facilitated our interactions and discussions. It was

26 easier to see what we had done after we got the maps back

27 and looked at what the colors looked like and see how

28 things matched up. It was -- so it was just a -- it was

1 just a processing function that we did. And then when we

2 got the information, we provided it to National Milk, and

3 they distributed it from there.

4   Q.   And there were a couple of different points in

5 time in which National Milk provided it to the USDA, which

6 is what MIG was able to print off of USDA's website and

7 put in as Exhibits 300 and 301.

8   Is that what you understood?

9   A.   Yeah. Yes. And we -- the National Milk Producers

10 Federation has been very open and upfront along the way,

11 sharing our thoughts on what we wanted to do with the

12 price surface before we even had it finalized, so that the

13 entire industry had a -- had knowledge of what we were

14 thinking about. It was a very open, fair, honest process,

15 and I'm proud that we did it that way.

16   Q.   And you understand that there's legal restrictions

17 that prevent outside individuals from talking about and

18 sharing costs and pricing information unless they fall

19 within some kind of an exemption; is that right?

20   A.   Yes.

21   Q.   And those would -- those were lines that National

22 Milk was careful to honor and respect; is that fair?

23   A.   That is fair, yes.

24   Q.   And I want to talk a bit about Michigan. You were

25 asked some questions about Michigan as it compares to

26 Colorado.

27   Is there a difference between the markets in

28 Michigan and Colorado?

1   A.   Yes, there is. In general, Michigan's milk supply

2   is greater than the demands of milk from milk plants in

3   the state of Michigan, and so on a regular basis, milk

4   from Michigan leaves to -- the state to meet demands in

5   other parts of the United States, principally in Ohio.

6   Q.   And I think Mr. Parks testified yesterday about

7   how Michigan is a reserve supply for other states and --

8   like Ohio, like you mentioned.

9   How does that then differ from Colorado, and maybe

10 Weld County in particular?

11   A.   Yeah. So -- so Colorado and Weld County, Colorado

12 is -- it -- the milk produced in Colorado principally

13 stays to meet the demands in the state of Colorado. And

14 there is -- as Mr. Stout has previously testified to,

15 there's no regular shipments of Colorado milk that leave

16 the state. So that's vastly different than the situation

17 in Michigan.

18   Q.   And when we talk about increasing differentials,

19 is that, in part, to help compensate dairy farmers for the

20 increased cost of supplying milk to the Class I market?

21   A.   Yes, it is.

22   Q.   And other than being able to help -- increasing

23 the differentials, are there other ways that the dairy

24 farmers have control over their markets in order to recoup

25 the additional costs that they have incurred over the last

26 20 years in servicing that market?

27   A.   Very, very little. Very little. There's

28 opportunities to potentially negotiate over-order

1   premiums, but as has been well testified to at this

2   hearing, those are challenging, difficult, no certain

3   outcomes. I think Mr. Parks did a fantastic job sort of

4   describing the challenges with that option. But beyond

5   that, no, they -- they don't.

6   As there -- and as we frequently see, and we have

7   seen for this year, their production costs are

8   significantly higher as a result of all the challenges,

9   and the global economy with inflation, that also impacted

10 the input prices of dairy farms. We have seen the demand

11 for biofuels increase. The price of livestock feed much

12 more than it would have been in the year 2000. And dairy

13 farmers do not have the opportunity to pass on those costs

14 to their buyers of milk as they escalate like they have

15 over the last few years.

16   Q.   And when you described the challenges that dairy

17 farmers have with respect to negotiating over-order

18 premiums, is that -- are you referring to that disparity

19 in bargaining power between the dairy farmers and the

20 handlers?

21   A.   And the retailers and the timing. As Mr. Parks

22 described, at best, it takes a while to be able to have

23 adjustments to over-order premiums. And while that's

24 happening, livestock feed prices escalate on a daily

25 basis.

26   Q.   And I want to contrast the dairy farmer's

27 inability to recoup its costs other than by increasing

28 these -- the prices, contrast that with the handlers.

1   Do the handlers have levers and pulleys that they

2   have control over that will allow them to absorb a price

3   differential increase?

4   A.   More so than dairy farmers do, for sure.

5   Q.   And can you tell me what some of those levers are

6   that they would have control over in order to absorb or

7   pass along those costs?

8   A.   They -- they can make adjustments in their

9   manufacturing processes. They can make changes in the

10   inputs they are using to -- along with their milk to

11   purchase -- or excuse me -- along with their milk to

12   produce the product. And most significantly, they have

13   a -- the ability to pass their higher prices and higher

14   costs on to their customers.

15   Q.   And -- and let's talk about the levers and the

16   pulleys that the ultimate cust- -- that the retail outlets

17   have for absorbing a price increase that could be passed

18   on by the handlers.

19   Do they also have different avenues within which

20   they could absorb or pass along those costs if the price

21   differentials are increased?

22   A.   They certainly do. So they are the ultimate --

23   the ultimate deciders of whether these prices get passed

24   along to consumers or not. Dairy farmers don't have a say

25   in that, and the handlers don't have a say in that.

26   The retailers have different strategies, and then

27   one of those strategies can just be pass the cost

28   increases, price increases on, or not. And there's all

1 kinds of different strategies that are -- are used at

2 retail. You know, no one retailer is the same.

3   And, you know, I just -- they have levers they can

4 pull to cover something that would be like a -- you know,

5 if we increased Class I differentials by $1.50, which is

6 probably about 12 or $0.13 a gallon, they got a lot of

7 levers they can pull on -- on to figure out how to handle

8 that.

9   Q.   Okay. So they could absorb the costs or deduct it

10 out of their own margins as an option; is that right?

11   A.   Yes.

12   Q.   Or they could -- they could take it as a loss

13 leader, as we have heard some people testify, that some

14 retail outlets do as part of an overall shopping draw to

15 get shoppers into their stores?

16   A.   That's correct. To get -- a loss leader to get

17 shoppers into their stores, so that then those shoppers

18 would be there and purchase more higher margin product to

19 earn more of a profit for the retailer.

20   Q.   And yesterday, I think your line of

21 cross-examination questions started off by, you were asked

22 about, aren't you really just a risk -- risk management

23 person.

24   Do you recall something to that effect?

25   A.   I do recall something to that effect.

26   Q.   And you have been designated as a -- and

27 recognized in this proceeding as an expert in Federal Milk

28 Marketing Orders, as well as risk management; is that

1 right?

2   A.   And milk pricing, yes.

3   Q.   Okay. And milk pricing. Thank you.

4   MS. HANCOCK: I have no further questions.

5 Mr. Gallagher, I really appreciate your time.

6   Your Honor, we would move to admit Exhibits 407

7 through 411.

8   THE COURT: Before we get to exhibits, are there

9 questions that are prompted by the redirect?

10   MS. VULIN: Just one. And I -- I would have

11 raised it earlier had I seen.

12   So the subject of your testimony --

13   THE COURT: Stop. Stop for just a minute.

14   MS. VULIN: Yes.

15   THE COURT: You are?

16   MS. VULIN: Ashley Vulin with the Milk Innovation

17 Group.

18   THE COURT: Thank you. You may proceed.

19   RECROSS-EXAMINATION

20 BY MS. VULIN:

21   Q.   First page of your testimony, Exhibit 407,

22 "Subject: Class I and II Differentials." But we didn't

23 hear any discussion of Class II.

24   I'm just curious, was that intentionally omitted?

25 Will we come back to that?

26   A.   I am not here to testify on Class II

27 differentials. I have that as "Subject: Class I and II

28 Differentials" because that's the topic of the Class I

1   differentials as designated by USDA on their website.

2   Q.   You are referring to Topic 5?

3   A.   Topic 5, yeah. That's why I have that there.

4   Q.   Okay.

5   A.   I don't have testimony on Class II differentials.

6   Q.   Thank you. Just wanted to clarify.

7   MS. VULIN: Nothing further.

8   THE WITNESS: Thank you.

9   THE COURT: Are there any other questions of

10 Mr. Gallagher before I turn to the exhibits?

11   I see none.

12   Is there any objection to the admission into

13 evidence of Exhibit 407, also NMPF-54?

14   There is none. Exhibit 407 is admitted into

15 evidence.

16   (Thereafter, Exhibit Number 407 was received

17   into evidence.)

18   THE COURT: Let me get 408.

19   Is there any objection to the admission into

20 evidence of Exhibit 408, which is also NMPF-54A?

21   There is none. Exhibit 408 is admitted into

22 evidence.

23   (Thereafter, Exhibit Number 408 was received

24   into evidence.)

25   THE COURT: Is there any objection to the

26 admission into evidence of Exhibit Number 409, also

27 NMPF-54B, as in boy?

28   There is none. Exhibit 409 is admitted into

1   evidence.

2   (Thereafter, Exhibit Number 409 was received

3   into evidence.)

4   THE COURT: Is there any objection to the

5   admission into evidence of Exhibit Number 410, also

6   NMPF-54C, like cat?

7   There is none. Exhibit 410 is admitted into

8   evidence.

9   (Thereafter, Exhibit Number 410 was received

10   into evidence.)

11   THE COURT: Is there any objection to the

12   admission into evidence of Exhibit Number 411, also

13   NMPF-54D, as in David?

14   There is none. Exhibit 411 is admitted into

15   evidence.

16   (Thereafter, Exhibit Number 411 was received

17   into evidence.)

18   THE COURT: Now, MIG had two exhibits.

19   MS. VULIN: Thank you, Your Honor.

20   MIG-412 and MIG-413, we think those documents

21   would be appropriate to be judicial noticed as official

22   documents of USDA. Or of the Central Marketing Order, I

23   should say.

24   THE COURT: All right. Do you want them admitted

25   into evidence in the normal fashion as well?

26   MS. VULIN: Yes, please.

27   THE COURT: All right. Is there any objection to

28   the admission into evidence of Exhibit Number 412, also

1   MIG-62?

2   There is none -- oh, Ms. Hancock.

3   MS. HANCOCK: Your Honor, I don't have any

4   objection to if you want to take judicial notice of them.

5   I don't believe that they have established the proper

6   foundationary support to admit them in through

7   Mr. Gallagher. They are not his documents. In fact, I

8   think he qualified numerous times that he didn't have any

9   familiarity with the content.

10   So if it is for judicial notice, no objection.

11   But if it's for admissibility purposes, we would object on

12   that basis.

13   THE COURT: All right. Would anyone else like to

14   be heard on that topic?

15   I agree with that. So I do take judicial

16   notice -- oh, excuse me, I don't have that capacity. I

17   take official notice, is the proper thing for an

18   Administrative Judge, take official notice of Exhibit 412,

19   also Exhibit MIG-62. And, of course, it's available for

20   any other witness that might want to testify about it.

21   MS. VULIN: May I respond, Your Honor?

22   THE COURT: Yes.

23   MS. VULIN: So there is a footnote at the bottom

24   that identifies the source of the document. It does come

25   from USDA. And the witness did testify that he was aware

26   of documents of this type, although he had not seen these

27   specific documents before.

28   And I believe that given the testimony that has

1   come in on them, that they would be appropriate for

2   exhibits, and as they have already been marked, to be

3   admitted that way.

4   THE COURT: I thought that we had Mr. Gallagher's

5   testimony from these documents.

6   MS. VULIN: We did. We did. And for that reason,

7   that's why we would move for them to be admitted as

8   exhibits.

9   THE COURT: And it was during your

10 cross-examination?

11   MS. VULIN: Correct, Your Honor.

12   THE COURT: Because I remember being on page 2,

13 trying to keep up.

14   MS. VULIN: And given the testimony that was

15 covered on these documents, we think they should be

16 admitted as official exhibits so that they can be

17 referenced appropriately.

18   THE COURT: Ms. Hancock, I will hear from you

19 again.

20   MS. HANCOCK: Your Honor, they're still marked and

21 they're designated, so they can be referenced. There

22 is -- and, again, I don't have any objection to them, to

23 you taking judicial notice or official notice of them.

24 But I don't believe that they have said that they have

25 satisfied the evidentiary foundation requirements for

26 authenticity and for the substantive nature of the

27 documents sufficient to admit them in as evidence in this

28 record.

1   I don't think that there's any problem with

2   including them in the record as judicial notice or just

3   because they are marked, but that is different than

4   admitting them as official evidence, unless they can bring

5   somebody to lay the proper substantive foundation.

6   He didn't rely on this information. He wasn't

7   familiar with this information. When posed with questions

8   about whether -- what the content of the information could

9   be interpreted to be, he had no information to be able to

10 provide that.

11   So for those reasons, I don't believe that it's a

12 proper admissible document. But, again, I mean, we might

13 just be talking semantics here. I think it's perfectly

14 fine if they want to have judicial notice taken of these

15 documents.

16   MR. HILL: Your Honor, Brian Hill from the USDA.

17   THE COURT: Yes, Mr. Hill.

18   MR. HILL: From the government's position, these

19 are documents that we acknowledge are our documents. So

20 from our perspective, it's either/or. We don't -- we

21 don't have a position either way, whether you take it

22 through official notice or accept it. But we do

23 acknowledge that these documents are authentic government

24 documents.

25   THE COURT: Thank you.

26   MS. VULIN: And one final point, Your Honor. The

27 witness did rely on Exhibit 54B, which is Central

28 Marketing Area -- is a similar price announcement issued

1   by the Central Marketing Area. So documents relied upon

2   and incorporated into this witness's testimony are part

3   and parcel of the same -- within the same vein as the

4   document being admitted by MIG.

5   THE COURT: So I have a question for you,

6   Ms. Vulin. In looking at Exhibit 412, I wasn't aware that

7   Dr. Nicholson was a Market Administrator?

8   MS. VULIN: Different Nicholson -- it's not Chuck

9   Nicholson. This is Donald Nicholson.

10   THE COURT: Okay. Yeah.

11   But this was issued by a USDA Market

12   Administrator, correct?

13   MS. VULIN: Yes, Your Honor. And with Mr. Hill's

14   statement authenticating it, I think we have solved the

15   issue of any objection of authentication of the document.

16   THE COURT: I think so, too. I think these kinds

17   of publications come into evidence even if there are

18   errors in them, because people can bring that up if they

19   have any reason to believe they are not accurate.

20   So I do admit into evidence, over objection,

21   Exhibits 412 and 413.

22   So Exhibit 412 is admitted into evidence. That is

23   MIG-62.

24   (Thereafter, Exhibit Number 412 was received

25   into evidence.)

26   THE COURT: And Exhibit 413 is admitted into

27   evidence. That is MIG-63. Thank you.

28   (Thereafter, Exhibit Number 413 was received

1   into evidence.)

2   MS. VULIN: Thank you, Your Honor.

3   THE COURT: Now it's time for a 15-minute break,

4   but first, Ms. Hancock, would you tell us who our next

5   witness will be?

6   MS. HANCOCK: Your Honor, we are going to finish

7   the cross-examination of Dr. Peter Vitaliano. But given

8   the speed with which we're moving today, it might be

9   helpful if MIG could provide us with their witnesses

10   because we will only have one more.

11   THE COURT: I am amazed that you think we're going

12   to run out of witnesses today.

13   MR. ENGLISH: Your Honor, first of all, the other

14   one is Mr. Sims, and I think that's a very long

15   cross-examination. There's also the question about his

16   direct on part 3.

17   We struggled to get witnesses here for today,

18   learning last week there were other witnesses -- I don't

19   want to go into who -- there are no MIG witnesses today.

20   There are no IDFA witnesses today. It may be we get to

21   4:30 and we don't have a witness.

22   But the reality is, there were witnesses who asked

23   to testify today back in mid-November who, through a

24   series of e-mails, it was suggested to them, you can

25   either come later this week or in January. Not all of

26   them were IDFA witnesses, not all of them were MIG

27   witnesses.

28   So we'll go today. I suspect we're going to get

1   pretty close, if not to 5 o'clock.

2   THE COURT: What day do we have our farmer coming?

3   MS. TAYLOR: Tomorrow.

4   MR. ENGLISH: Tomorrow.

5   THE COURT: Tomorrow.

6   Okay. If Mr. Sims is going to be on the stand, I

7   suspect we have enough until 5:00.

8   Please be back and ready to go at 10:20. We

9   recess at 10:04.

10   (Whereupon, a break was taken.)

11   THE COURT: Let's go back on record.

12   We're back on record at 10:22.

13   Please state and spell your name.

14   THE WITNESS: Peter Vitaliano, V as in Victor,

15 I-T-A-L-I-A-N-O, first name P-E-T-E-R.

16   THE COURT: Thank you. You remain sworn.

17   THE WITNESS: Thank you, Your Honor.

18   PETER VITALIANO,

19   Having been previously sworn, was examined

20   and testified as follows:

21   THE COURT: You're welcome.

22   We are resuming your testimony on what topic?

23   THE WITNESS: On NMPF Proposal 19.

24   THE COURT: Thank you.

25   Ms. Hancock, again, identify yourself before you

26 proceed.

27   MS. HANCOCK: Nicole Hancock on behalf of National

28 Milk.

1   DIRECT EXAMINATION

2   BY MS. HANCOCK:

3   Q.   Dr. Vitaliano, thank you for returning to the

4   stand.

5   Just to recap where we were so our record is

6   complete here. Sometime in early October you had kicked

7   us off on Proposal 19 for National Milk and put in your

8   written testimony in Exhibit 299, and then you had also

9   put in some -- the proposed map as well.

10   At thi time, we interrupted your cross-examination

11 to take on some other witnesses who needed to go, and we

12 are just now making our way back to you to finish your

13 cross-examination.

14   But before we return to cross-examination, there

15 were a couple, four corrections that we need to make in

16 Exhibit 299, and want to update and provide an updated map

17 so that we can be as efficient as possible.

18   Is that what you understood where we left things?

19   A.   Yes.

20   MS. HANCOCK: Your Honor, if the -- I know the

21 witness doesn't need Exhibit 299, but for our record copy,

22 we're going to make four corrections to Exhibit 299, and

23 then we have an additional exhibit that we would like to

24 mark.

25   THE COURT: All right. I'm going to go off record

26 while we do these things, and then we'll memorialize what

27 we have done when we're back on.

28   We'll go off record at 10:24.

1   (An off-the-record discussion took place.)

2   THE COURT: Let's go back on record.

3   We're back on record at 10:26.

4   I have borrowed a record copy of 299, which I

5   promise to give back, and I have marked the new map as

6   Exhibit 415.

7   (Thereafter, Exhibit Number 415 was marked

8   for identification.)

9   THE COURT: And do you want to give me an NMPF

10   number?

11   MS. HANCOCK: That is NMPF Exhibit 109.

12   THE COURT: Tell me again.

13   MS. HANCOCK: 109.

14   THE COURT: Thank you. All right.

15   And, Dr. Vitaliano, do you have in front of you a

16   copy of Exhibit 299 and a copy of Exhibit 415, also known

17   as NMPF-109?

18   THE WITNESS: Yes, I have a paper copy of one; I

19   have a copy on my computer of the other.

20   THE COURT: Excellent.

21   Ms. Hancock, you may proceed.

22   MS. HANCOCK: Thank you, Your Honor.

23   BY MS. HANCOCK:

24   Q.   Dr. Vitaliano, I want to start with the

25   corrections in Exhibit 299 that you would like to make.

26   So Exhibit 299 is your written testimony related

27   to Proposal 19; is that correct?

28   A.   That's correct.

1   Q.   And then attached as an appendix to that testimony

2   is a list of the counties that are -- and the price

3   differentials that are being proposed by National Milk in

4   Proposal 19; is that correct?

5   A.   That's correct. Those are submitted as our

6   proposed regulatory language.

7   Q.   Okay. And you would like to make four corrections

8   as previously testified by Mr. Sims and Dr. Eric Erba?

9   A.   That's correct.

10   Q.   Okay. Where is the first change?

11   A.   The first change is on page 57 of my original

12   statement that was admitted into the record. It's in the

13   state of Ohio, the county of Clark. The original number

14   for that proposed Class I differential for that county was

15    $4; the correct number, the actually new proposed number

16   is $3.70.

17   Q.   And the second change?

18   A.   On page 62, state of Pennsylvania, Allegheny

19   County. Originally testified as $4.40; corrected current,

20   corrected number is $4.20.

21   Q.   And those were both changes that Dr. Eric Erba

22   testified to?

23   A.   Yes.

24   Q.   And what'd the third change?

25   A.   Page 69, state of Texas, Comanche County.

26   Originally testified to $4.35; correct number is $3.85.

27   Q.   And that one is correctly reflected in the

28   testimony on page 69; is that right?

1   A.   Yes. The two Texas changes came first, and I

2   submitted a revised version of my statement,

3   Exhibit NMPF-35, Hearing Exhibit 299. I did submit a

4   corrected copy with those two Texas changes. So if you

5   are going off the website, you will see that two Texas

6   changes are already made.

7   Q.   Okay. And the --

8   A.   The two previous were not.

9   Q.   And the last one, which is the second Texas

10 change, what page is that on?

11   A.   Page 73, Travis County, Texas.

12   Q.   And what should the -- what should the number be?

13   A.   Previously $4.70; the correct number is $4.35.

14   Q.   Okay. And with the two corrections I guess in

15 299, and confirming that the version of Exhibit 299 has

16 the Texas corrected, we have a new map that corrects those

17 counties as well, that's been identified as Exhibit 415;

18 is that correct?

19   A.   Yes.

20   THE COURT: Say "yes" into the mic.

21   THE WITNESS: Yes.

22   THE COURT: Thank you.

23 BY MS. HANCOCK:

24   Q.   And this corrects the map on page 2 of

25 Exhibit 339; is that right?

26   A.   Yes.

27   Q.   Okay. So what is -- has anything on Exhibit 415

28 changed from Exhibit 339, other than updating those four

1   counties?

2   A.   Not to my knowledge.

3   Q.   Okay.

4   MS. HANCOCK: Your Honor, with that we would move

5   for the admission of 415 to correct Exhibit 339.

6   THE COURT: All right. And I'll -- I'll just

7   comment that on my borrowed record copy of 299, I needed

8   do nothing because the changes on the record copy had

9   already been made for the first two corrections, and were

10   already incorporated in this document for the two Texas

11   corrections. So I did not have to have the Agricultural

12   Marketing Service do anything to our record paper copies,

13   they had already taken care of that.

14   Now, with regard to Exhibit 415, also NMPF-109,

15   which corrects Exhibit 339; is that correct?

16   MS. HANCOCK: That's correct.

17   THE COURT: Is there any objection to the

18   admission into evidence of Exhibit 415?

19   There is none. Exhibit 415, also NMPF-109, is

20   admitted into evidence.

21   (Thereafter, Exhibit Number 415 was received

22   into evidence.)

23   MS. HANCOCK: And, Your Honor, with that we would

24   make Dr. Vitaliano available for his continued

25   cross-examination.

26   THE COURT: And was someone in the middle of

27   cross?

28   Ah, Mr. English. Welcome back.

1   CROSS-EXAMINATION

2   BY MR. ENGLISH:

3   Q.   This is Chip English for Milk Innovation Group.

4   Good morning, sir. Welcome back.

5   A.   Good morning, Mr. English.

6   MR. ENGLISH: Yes, Your Honor. It seems that I'm

7   the one who gets interrupted -- well, the witness gets

8   interrupted more than I do, but I seem to be the one who

9   gets to carry on.

10   THE COURT: As well you should.

11   MR. ENGLISH: I don't recall where I actually was

12 at the time. October 3rd is what I have highlighted. So

13 I would like to start with an exhibit.

14   And we carefully checked the record and

15 everything, and we don't believe that what we have marked

16 as Exhibit MIG-44, the original letter submitted by

17 National Milk which had a spreadsheet that we have already

18 submitted as 300, has ever been admitted.

19   So we have single-spaced copies for USDA of

20 MIG-44, the May 1, 2023, letter, from National Milk

21 Producers Federation. And I have got double-spaced copies

22 for the audience.

23   THE COURT: And we'll go off record for just a

24 moment. We're off at 10:34.

25   (An off-the-record discussion took place.)

26   THE COURT: We're back on the record at 10:36.

27   Mr. English, we have marked Exhibit MIG-44 as

28 Exhibit 416.

1   (Thereafter, Exhibit Number 416 was marked

2   for identification.)

3   MR. ENGLISH: Yes, Your Honor. It is National

4   Milk Producers Federation letterhead, dated May 1st, 2023,

5   addressed to Mr. Bruce Summers, Administrator of AMS. It

6   is a 51-page document.

7   Other than the MIG-44 and the obligation to put

8   the page and the footer, we have made no modifications to

9   this document as was submitted to USDA.

10   BY MR. ENGLISH:

11   Q.   Doctor, you recognize this document?

12   A.   I do.

13   Q.   And it was submitted on National Milk Producers

14   Federation's behalf, correct?

15   A.   That is correct.

16   Q.   Thank you.

17   MR. ENGLISH: I'll move admission, Your Honor, of

18   Exhibit 416, and we can talk about it later.

19   THE COURT: Is there any objection to the

20   admission into evidence of 416, also known as MIG-44?

21   There is none. Exhibit 416 is admitted into

22   evidence.

23   (Thereafter, Exhibit Number 416 was received

24   into evidence.)

25   MR. ENGLISH: Thank you, Your Honor.

26   BY MR. ENGLISH:

27   Q.   So, Doctor, with the exception of the discussion

28   you just had with National Milk's counsel Ms. Hancock, are

1   there any other changes or clarifications to your

2   testimony since you testified on October 3rd?

3   A.   No.

4   Q.   So as it happens, I had just left off -- maybe

5   this is why I end up leading off -- I had not yet talked

6   to you about Exhibits 300 and 301 when you were -- when

7   you departed so other witnesses could get on back on

8   October 3rd.

9   A.   So I get to join the 300/301 club?

10   Q.   It's not a very exclusive club. But, yes.

11   So as it turned out, you followed Mr. Sims.

12   Prior to my examination of Mr. Sims back in even

13   earlier October, had you seen these documents before?

14   A.   I had not.

15   Q.   Have you discussed them with anybody other than

16   counsel since October 3rd?

17   A.   No.

18   Q.   So if I asked you questions about, for instance,

19   the volume numbers in Column R, you would not know the

20   answer?

21   A.   Could you repeat the question?

22   Q.   If I asked you a question about Exhibit 300,

23   Column R, this is the apparent volume numbers, you would

24   not know that because you have not seen it before; is that

25   correct?

26   A.   That's correct.

27   Q.   So going back to your statement, page 6 of your

28   testimony, third paragraph, you have the statement, "The

1 tilt or slope of the price surface from reserve supply

2 points to Class I demand points has become steeper, and

3 the reserve supply of milk has generally shifted toward

4 Western states."

5   Correct?

6   A.   What part of that page do you have that on?

7   I see that.

8   Q.   Do you see it?

9   A.   That's correct. That's in my testimony.

10   Q.   Okay. And I know we have heard testimony from

11 others, but since you made this statement in your

12 testimony, why is it, then, that the price has been

13 increased in Western areas, especially west of the

14 Mississippi where the reserve supply is greater?

15   A.   Can you repeat that question, again, please?

16   Q.   Given your statement that "the tilt or slope of

17 the price surface from reserve supply plants to Class I

18 demand points has become steeper and the reserve of supply

19 of milk has generally shifted toward Western states," why

20 then has National Milk proposed increasing prices in the

21 western areas more than Florida -- more than the increases

22 to Florida?

23   A.   My statement was a general characterization of

24 changes for the entire surface, Class I differential

25 surface. It was not designed to be a definitive statement

26 that would supersede or in any way dictate the work of the

27 colored pencil crews.

28   Q.   Nonetheless, it is your statement, correct?

1   A.   That is correct.

2   Q.   Okay. So if we look at page 6, fourth paragraph,

3 "The Southeastern states have become progressively more

4 deficit."

5   Correct?

6   A.   Correct.

7   Q.   So why does National Milk choose the low end, that

8 is to say the May model number for Miami, which would make

9 the slope less than it would otherwise have been had you

10 used the average?

11   A.   Could you repeat that again, about Miami?

12   Q.   Given -- well, given your quotation, "The

13 southeastern states have been progressively more deficit,"

14 why does National Milk, in NMPF 19, choose to use the low

15 end, that is to say the May model number for Miami, which

16 actually reduces the slope to Miami?

17   A.   I believe that's been covered by testimony by some

18 of our experts and our task force. Again, I draw your

19 attention to the fact that of all the differentials in the

20 current differential map, only those in the Southeast have

21 been increased since the Federal Order Reform original

22 differentials were proposed.

23   Therefore, in a sense, those in the Southeast,

24 with Miami being the most extreme, have already -- in a

25 sense, had already been increased and, therefore, the --

26 you know, the new work that we did leading up to

27 Proposal 19, in a sense, the Southeast, particularly the

28 extreme point of Miami, had already received an increase

1 that other sections, particularly outside the Southeast,

2 had not received.

3   So I do not consider that an anomaly at all.

4   Q.   But you understand the model, USDSS model, does

5 not take into consideration the existence of Federal

6 Orders, correct?

7   A.   Not directly, no.

8   Q.   And so a model result for Miami doesn't, by

9 itself, recognize what the current differential is,

10 correct?

11   A.   No. But when you are comparing the model results

12 to the actual current differentials, the effect of the

13 Federal Orders would affect that difference compared to

14 say -- one of the largest increases, as I understand it,

15 for the model was that that area where the 2008

16 Southeastern differential increases were abutted up

17 against the existing surface where there -- there was

18 no -- no change in the areas along that -- you know, that

19 interface where the 2008 differential increases took

20 effect.

21   You will see the results of the model showed some

22 of the largest increases compared to the current

23 differential surface in that area.

24   Q.   So forgive me, I think we're talking past each

25 other.

26   I'm speaking of the fact -- by the way, I have to

27 correct myself -- for Miami, Florida, National Milk does

28 propose using the model average. Nonetheless, there are

1 areas north of Miami where National Milk proposes going

2 above the model average.

3   That proposal, since the model average doesn't

4 take into consideration Federal Orders, that proposal by

5 National Milk to increase differentials north of Miami

6 more than the model but keeping Miami at the model

7 average, by definition, lowers the slope, correct?

8   A.   It would probably tend to lower the slope,

9 particularly in the Southeastern part of the country.

10   Q.   And that part would not be impacted by the fact

11 that the Southeast had adjustments in 2006, correct?

12   A.   I don't think I agree with that.

13   Q.   If the model results for Miami are $7.90, yes, the

14 difference between $7.90 and the current differential

15 would take into consideration the fact that in 2006 there

16 was a change.

17   But where the model results are raised north of

18 Miami and north of the Southeast, that would be completely

19 inapplicable as to the 2006 changes, because the model

20 doesn't take that into consideration, correct?

21   A.   I think we are probably talking past each other.

22 Because to me it is perfectly understandable that the

23 areas north of Miami, particularly in that interface where

24 the -- between where the 2008 increases began to take

25 effect, whereas north of there they did not, there was no

26 such increase. Those are the areas where we would expect

27 some of the largest increases over the current

28 differentials.

1   Q.   Correct. But that's the comparison, that is

2   comparing the proposal, or the average, to the current.

3   I'm speaking about comparing National Milk to the model.

4   Those are different things, aren't they?

5   A.   Okay. You are talking about the colored pencil --

6   Q.   Yes.

7   A.   -- adjustments?

8   Q.   Yes.

9   A.   Okay. Of all of the five proposals that National

10 Milk submitted and that I have testified to, Proposal 19

11 was the one that required the most local knowledge amongst

12 our own members who were actually involved in moving the

13 milk. I was not involved in the colored pencil process of

14 any region and have -- since National Milk is a trade

15 association, we do not move milk.

16   I had no particular expertise to contribute to

17 that process, and so I really -- I would defer your

18 questions to those in the colored pencil crews that

19 actually were involved in those decisions.

20   Q.   Thank you, sir.

21   And this may be a consequence of the fact that you

22 were -- at least, on October 3rd, didn't finish, now we

23 have had all of those, but this is how I wrote my

24 cross-exam, and I'm trying to work through it. All right?

25   A.   We have had a lot of testimony from the individual

26 regions since October 3rd.

27   Q.   All right. I also know we had a fair amount of

28 conversation with others, but I had not gotten to it with

1 you October 3rd, and that is this question about the base

2 $2.20 for the Class I differential and what precisely is

3 it and where did it come from.

4   A.   I think we have had a fair amount of testimony on

5 that. USDA, in putting together the original

6 differentials in Federal Order Reform, explicitly

7 identified a base zone differential and the reasons for

8 that. They chose to make it $1.60. Subsequently,

9 expenses, and that is -- that base zone differential was,

10 like the spatial differentials, had a cost basis to it.

11 Costs have gone up. National Milk considered very

12 carefully what needed to be done with that.

13   The -- Dr. Nicholson and Dr. Stephenson, who was

14 involved at that time, in explaining the model, explained

15 very carefully that the model did not solve for a base

16 zone differential, that was a totally different decision.

17   And as a result of those deliberations, National

18 Milk chose $2.20 as the base zone differential appropriate

19 to going forward. And there's been testimony on that.

20   Q.   But going back to our conversation a moment ago

21 about Miami, the model result for Miami at $7.90 used the

22 existing $1.60 base, correct?

23   A.   It may have computationally, yes.

24   Q.   If you had increased the base by $0.60 in Miami,

25 you would then computationally have increased the $7.90 to

26 8.50, correct?

27   A.   Yes.

28   Q.   But that wasn't done, correct?

1   A.   Repeat that again.

2   Q.   That was not proposed, correct?

3   A.   Repeat the previous question, please.

4   Q.   Previous question was, if computationally the

5 $7.90 done by USDSS included $1.60, leaving a difference

6 of $6.30, if you had added $0.60 to Miami, it would

7 necessarily mean it was 8.50, correct?

8   THE COURT: Are you saying $8.50?

9   MR. ENGLISH: $8.50, yes.

10   THE WITNESS: Yes. The proposed differential for

11 Miami, though, was the $7.90. So, of that, by definition,

12 just arithmetically, part of the -- the base part -- the

13 base zone differential of that one would be $2.20.

14 BY MR. ENGLISH:

15   Q.   So -- but if computationally the model used $1.60,

16 then doesn't that mean if new base zone for Miami base is

17 $2.20, you have lowered the result from the model by $0.60

18 for Miami?

19   A.   In terms of the -- the implied locational

20 differential, that's probably appropriate. Again, the

21 Southeastern group decided that a -- a total differential

22 of Miami of $7.90 was the appropriate number, and they --

23 that's the group that needs to explain that and testify to

24 that.

25   Q.   Your testimony includes discussion about Grade A,

26 Grade B milk, correct?

27   A.   That's correct.

28   Q.   No one disagrees that, say, for the 1970s to the

1   present, the percentage of milk that is Grade A in this

2   country has only gotten larger, correct?

3   A.   That's correct. It's gone maybe from 97% to 99%.

4   Q.   Well, in the 1970s it wasn't 97%.

5   A.   Oh, okay. '70s.

6   Q.   But you agree it's gone to 99%, correct?

7   A.   Yes. There's very little Grade B milk left.

8   Q.   And everyone seems to agree, if you include all

9   milk, whether it's Federal Order milk or not, that Class I

10 utilization would be around 18%, correct?

11   A.   Yes. Fluid milk in terms of percentage of all

12 milk produced in this country is about 18%. I make

13 those -- I make those calculations myself. Not all of

14 them, but I do that calculation along -- and many other

15 people have made the same calculations, and I agree with

16 those that are made by the others.

17   Q.   There has been some conversation about the risk of

18 reversion to Grade B.

19   Are you aware of any actual reversion to Grade B

20 from Grade A?

21   A.   I'm not aware of any that have taken place. But,

22 again, I do not follow developments out in the countryside

23 very much of that -- of that sort.

24   Q.   And the definition of producer milk under Federal

25 Orders includes Grade A milk, correct? It has to be

26 Grade A milk to be producer milk, correct?

27   A.   Grade A milk is -- my understanding is included in

28 the definition of producer milk, yes.

1   Q.   So that is to say Grade B milk cannot be producer

2   milk, correct?

3   A.   I believe if -- if the -- if producers' milk is a

4   definition of milk that is eligible basically for pooling

5   in the Federal Order system, then it would exclude Grade B

6   milk, yes.

7   Q.   So, in effect, in order to qualify in the pool as

8   Class III or IV milk, if -- that -- all milk must be, by

9   definition, Grade A, correct?

10   A.   Yes.

11   Q.   Okay. National Milk, you and others, have

12   mentioned the cost to comply under the Pasteurized Milk

13   Ordinance, correct?

14   A.   Correct.

15   Q.   And since 2000, the Food and Drug Administration

16   and the state conference, that is known as the National

17   Conference of Interstate Milk Shippers, has expanded the

18   definition of what constitutes a Grade A product, correct?

19   A.   Yes.

20   Q.   And a number of those products that are now

21   defined as Grade A products are products that are not

22   Class I products under the Federal Orders, correct?

23   A.   Yes. We have staff in the regulatory area of --

24   on National Milk Producers Federation staff that are

25   experts in regulatory affairs. They are the ones who

26   participate actively in the NCIMS. So I'm not an expert

27   in that, but I do look at the PMO from time to time, and

28   I'm aware that there are non-fluid products that are

1 Grade A.

2   Q.   Turning to page 5 of your testimony, you state --

3 no, I didn't put down the paragraph because, of course, I

4 thought I would do this the same day you testified -- but

5 on page 5 there is a statement, "National Milk" -- "NMPF

6 recognizes and supports USDA's longstanding policy of

7 maintaining federally-regulated prices as minimum prices

8 and allowing market forces to fine tune market prices. As

9 costs increase and the capacity for over-order prices to

10 keep up with these costs wane, pricing equity between

11 competing processing plants is threatened."

12   At what point does National Milk acknowledge that

13 the market forces should operate?

14   A.   How would you define the point at which forces

15 should operate?

16   Q.   Well --

17   A.   What do you mean by "point"?

18   Q.   Well, let me ask you what you mean by the

19 statement that you -- that "National Milk has recognized

20 and supported USDA's longstanding policy of maintaining

21 federally-regulated prices as minimum prices in allowing

22 market forces to fine tune market prices"?

23   What does that statement mean to you?

24   A.   I think the context of that paragraph is primarily

25 to highlight the erosion of over-order premiums which are

26 the mechanism by which market forces should operate above

27 minimum prices that have been encountering increasing

28 difficulty in doing so.

1   Q.   At what point in time did minimum prices and

2 over-order premiums continue to work so that allowing

3 market forces were okay?

4   A.   Repeat that again.

5   Q.   That was a -- let me strike that question.

6   I guess the ultimate question I'm trying to ask

7 is, at what point are minimum prices high enough that

8 market forces can fine tune the prices?

9   A.   At what point are prices high enough?

10   Q.   Minimum prices.

11   A.   Minimum prices.

12   THE COURT: State it again, Mr. English, please.

13 BY MR. ENGLISH:

14   Q.   At what point -- as an economist, at what point

15 are minimum prices high enough to permit market forces to

16 fine tune the prices?

17   A.   I guess I would understand the question, at what

18 point would they be not too high to prevent that.

19 Basically if the -- if the prices were not in excess of

20 the costs of supplying -- supplying the milk, then market

21 forces could -- could fine tune those prices.

22   Q.   Is it always cost or is it also a demand function?

23   A.   Well, we -- I tend to think of -- of Class I

24 differentials as being necessary to ensure an adequate

25 supply of milk for processing, and that's primarily a cost

26 function. Obviously demand is behind that, because if

27 there is not demand for the products, then there would not

28 be need for as much milk to be supplied to the processing

1 plants.

2   But the fundamental function of Class I

3 differentials, as I see it, is to ensure an adequate

4 supply, which is a cost-related issue, for processing.

5   Q.   But, sir, isn't that precisely the problem, if

6 Class I utilization, as an absolute level and a percentage

7 of the total market, continues to go down, at what point

8 is National Milk proposing that the minimum prices be

9 established at or above the market?

10   A.   I don't agree that National Milk is proposing to

11 establish prices at or above the market. Proposing to

12 establish prices in relation to the increased costs of

13 supplying the market.

14   Q.   Given the length of this hearing, it must have

15 occurred to you that at least MIG's members' objections on

16 the Class I differentials have two parts: Part one is

17 this issue of alignment, and part two is why are we

18 raising Class I prices on the one segment of the industry

19 that is flailing around.

20   Do you agree that you have heard that kind of

21 discussion from our cross-examination?

22   A.   I am aware that fluid milk consumption is

23 declining due to a number of factors, of which price is

24 perhaps a very minor one. I know that's been in

25 contention.

26   I'm also aware, generally, of the purpose of the

27 Federal Order program.

28   I'm having difficulty, as an economist who deals

1 with regulatory issues, to see what direct link the

2 objectives and procedures of the Federal Order program,

3 what relationship those things, regulatory matters have to

4 the business of effecting the demand for Class I fluid

5 milk.

6   I'm aware that the procedures of the Federal Order

7 program, particularly the Class I pricing, have to do with

8 ensuring a supply of milk for processing to meet whatever

9 demand is there. I'm not aware that there is a regulatory

10 link between those prices and -- and affecting demand.

11   Apart from the discussion of how much prices --

12 those prices affect demand, the question of elasticities,

13 I do feel that the prices should not be raised above the

14 level they need to ensure an adequate supply of milk for

15 processing, because that would be disruptive. That

16 would -- that would affect the consumption of milk to some

17 extent -- that's a matter of debate -- unnecessarily.

18   But the question that we are looking at in

19 Proposal 19 is what is the level of Class I differentials

20 that is needed to effectuate the purposes of the order,

21 not to exceed the level of prices that is needed to

22 effectuate the basic purposes of the order. That's where

23 the debate is.

24   Q.   Isn't there an implied policy within this, if

25 we're trying to make sure that there is an adequate supply

26 of milk for processing, and be in the public interest,

27 that we want to, as much as possible, continue to

28 encourage Class I sales?

1   A.   My understanding of what is affecting fluid milk

2   is a wide variety of circumstances, lifestyle

3   circumstances, changes in consumer behavior, of which the

4   price of fluid milk as affected by Class I differentials,

5   the Class I prices, is a very small part of that long-term

6   change.

7   And to focus on the Class I, the role of Class I

8   prices on that change in fluid milk to the exclusion of

9   all the other macro forces that are affecting and causing

10   a decline in Class I consumption, is basically to -- to

11   almost misrepresent the long-term fundamental changes that

12   are occurring in how consumers consume milk.

13   I think the shorthand that I have seen is

14   consumers are increasingly eating their milk, not drinking

15   it.

16   Q.   Precisely.

17   That's to say that, as Dr. Capps said, that for

18   instance, yogurt is now a substitute for fluid milk,

19   correct?

20   A.   That's probably a closer substitute.

21   But -- but the very fact that, in a large sense,

22   people are consuming more and more cheese and less and

23   less fluid milk is also a switch. Not necessarily a

24   direct one. Nobody's claiming that cheese is a -- is a --

25   is a substitute in the sense that yogurt might be for

26   fluid milk. But it is basically where consumers'

27   consumption of dairy, in the broadest sense, are changing.

28   Q.   So we may disagree on the -- you know, whether

1 it's Dr. Capps or other testimony on the degree, but you

2 yourself said, the price has, in your opinion, a very

3 small impact.

4   Why would we do anything at all, given declining

5 Class I sales, to allow even -- and I quote -- a very

6 small impact to further erode Class I sales?

7   A.   If avoiding a very small price impact would result

8 basically in the current situation where dairy farmers are

9 subsidizing the cost of supplying -- supplying milk for

10 Class I processing, that's a big -- that's a big ask for

11 America's dairy farmers.

12   Q.   Isn't the so-called subsidy because Class I

13 processors already pay a higher price that is then blended

14 out in the pool?

15   And blending it out in the pool means, the Class I

16 handlers have paid for the milk, and yet, they still then,

17 for the producers who have to ship it, the producers are

18 saying, wait, I haven't gotten all that money. Isn't that

19 the problem?

20   A.   I don't really understand your characterization of

21 this as a "problem." If you can --

22   Q.   How does increasing Class I differentials, when

23 it's pooled among producers who do not incur the costs of

24 shipping to Class I, whether the balancing costs, whether

25 it's the so-called Grade A costs, whether it's the

26 so-called incentive to pool it away costs, or whether it's

27 the cost of haul costs, how does a higher Class I

28 differential that is pooled out in the Order 30 market at

1   6% move one additional drop of milk to a Class I plant in

2   compensation of those dairy farmers?

3   A.   Well, if you are asking me a question specifically

4   about Order 30, that's very different than asking me that

5   same question about Order 6.

6   Q.   And yet, National Milk is proposing, in parts of

7   Order 30, to increase the proposed Class I differential

8   above the model, whereas in Miami, which is Order 6, you

9   are not, correct?

10   A.   That's correct. But that is a question you need

11   to direct to the colored pencil crew witnesses that are

12   dealing with Order 30.

13   Q.   And we have done that. Thank you.

14   I know we're going to hear from Mr. Brown

15   tomorrow. To the extent your package proposals, which MIG

16   opposes, Proposals 1, 13, and 19 are adopted, has National

17   Milk Producers Federation done an analysis of how much all

18   three of those proposals will increase the Class I prices

19   relative to manufacturing prices?

20   A.   Dr. Brown will testify to that in his -- in his

21   testimony tomorrow. He has done an analysis separately of

22   each of the five proposals National Milk has brought to

23   this hearing, and all five together.

24   Q.   Well, my understanding of his testimony was that

25   he was looking at the ultimate impact on revenue to dairy

26   farmers, not on the impact of those proposals on Class I

27   prices.

28   Am I wrong?

1   A.   His results -- you will have to wait for his

2 testimony tomorrow. But his results do show the impact on

3 the various class prices, yes.

4   Q.   I confess I don't see that, but then you are

5 right, I get to ask it tomorrow.

6   And as you say, he'll testify tomorrow, and so you

7 certainly have reviewed his testimony that is presubmitted

8 as NMPF-60, correct?

9   A.   I haven't seen his -- I don't know the number of

10 his presubmitted testimony. But, yes, I have seen his

11 testimony.

12   Q.   Do you recognize that he concludes that the impact

13 of all NMPF proposals, that is to say on page 22 of his

14 statement, would be to reduce the Class III and IV

15 price -- III and Class IV baselines for every year from

16 2023 to 2032?

17   A.   Yes.

18   Q.   And that happens while increasing just the Class I

19 mover value in the out years of 2027 to 2032, correct?

20   A.   That is correct.

21   Q.   In fact, the Class IV consistently goes down from

22 around between $0.74 a hundredweight to $0.83 a

23 hundredweight, correct?

24   A.   Yes. But I would recommend you direct your

25 questions to Dr. Brown who will testify directly on those

26 numbers. I'm not here to testify on his behalf.

27   Q.   I understand that. But I'm trying to get to

28 questions for you, and so I am trying to set a predicate.

1   Has National Milk Producers Federation done -- for

2   itself, done an analysis of the impact of the adoption of

3   the proposals on additional supplies of Class IV milk that

4   would -- may result from the adoption of your proposals?

5   A.   How would you define additional Class IV milk?

6   Milk diverted from --

7   Q.   Well, the baseline, from the baseline, milk that

8   is going into Class IV rather than higher classes.

9   A.   We have not analyzed -- we have not come up with a

10   quantitative analysis of that, no. You have -- you may

11   ask that question to Dr. Brown, but --

12   Q.   Has National Milk Producers Federation done any

13   analysis of the impacts of adoption of all its packaged

14   proposals on the United States obligations under the World

15   Trade Organization?

16   A.   No. But I have been familiar with those

17   obligations. I'm not aware that there's any -- any issue

18   with those obligations. And in particular, the obligation

19   under the WTO relating to the Federal Order program are

20   pretty minimal.

21   Q.   But at some point, increasing Class I prices

22   relative to manufactured prices, however minimal, the

23   United States may face further objections under the WTO,

24   correct?

25   A.   I don't agree with that. I don't -- I don't

26   understand what the basis of those objections would be.

27   The WTO commitments the United States has made is

28   for market access, export assistance or subsidies, and

1   domestic support. And I have studied those particular

2   modalities and commitments, and I don't see how Federal

3   Orders would fall afoul of that.

4   Q.   You don't believe at some level the increases in

5   the Class I differentials that are proposed, especially

6   under NMPF 19 that deviate from the economic model that

7   might then result in additional Class IV, could be viewed

8   as a subsidy by our trade partners?

9   A.   An export subsidy or domestic subsidy?

10   Q.   Domestic subsidy.

11   A.   The domestic subsidy, the baseline in the WTO for

12 our domestic subsidization is very large and was addressed

13 very significantly by changing the nature of our Dairy

14 Price Support Program, which no longer is in operation.

15 So I do not see how the United States is doing anything

16 under the Federal Orders that would -- that would, you

17 know, cause any issues with our domestic support

18 obligations.

19   Q.   On page 7 you say that Dr. Brown's analysis,

20 quote, "will show that these proposals will have a

21 modestly positive impact on the average price of milk

22 received by dairy farmers, which will dissipate fairly

23 rapidly."

24   Correct?

25   A.   That's correct. That's how I would characterize

26 the numbers I have seen in his analysis.

27   Q.   If it's going to "dissipate fairly rapidly," why

28 are we here?

1   A.   Excuse me?

2   Q.   If the results of the package by National Milk

3 will only have a modest effect temporarily and will

4 dissipate rapidly, then why are we here?

5   A.   We are here to correct a number of -- update a

6 number of features of the Federal Order program that have

7 been, you know, allowed to progressively deviate from the

8 structure of the U.S. -- the dynamic U.S. dairy industry,

9 as I have explained in my testimonies, that have led

10 increasingly to disorderly marketing.

11   We have not approached this hearing, and have

12 similarly informed our members, the purpose of this is not

13 to raise milk prices in any substantial way, because the

14 mechanisms of the Federal Order program that we're

15 addressing in our proposals do not, A, affect the cost of

16 producing milk; and B, do not affect the supply of milk.

17 And without either of those two features, you are not

18 going to effect the equilibrium price of fluid milk --

19 of -- of producer milk.

20   Dr. Brown's analysis more than demonstrates that.

21 That's what we have understood is the purpose of all of

22 these things. That's not why we are here, to raise the

23 price of milk by some appreciable amount.

24   Q.   And yet, with markets with very low levels of

25 Class I utilization, that is precisely what is proposed by

26 National Milk by increasing above the model averages, for

27 instance, as we heard today Colorado, as we heard last

28 week in Arizona, as we heard last week in the Pacific

1   Northwest, as we heard last week in Order 30, significant

2   increases above the model averages where there are low

3   levels of Class I utilization that cannot and will not

4   return significant dollars to dairy farmers, correct?

5   A.   Your use of Order 30 -- my understanding is

6   Order 30 is going to experience a -- probably a reduction

7   in prices, milk prices, because so much of that milk is

8   effect- -- is Class III, which is going to go down, as you

9   can -- you are going to see in Dr. Brown's results, due to

10 the increase in Make Allowances.

11   And whether or not that is offset in that

12 particular order by, you know, changes in the Class I

13 differentials, I don't know the answer to that. I have

14 not looked at those numbers.

15   Q.   It's not just a Class I differential, I mean,

16 continuum.

17   Isn't the obligation of a Class I processor

18 altered by the actual pool obligation that a Class I

19 processor has that may, in fact, be much higher than the

20 differential?

21   A.   From what sources?

22   Q.   Well, in markets with low utilization and

23 voluntary market participation, isn't it the case that the

24 pool obligation for a Class I handler is not only

25 unpredictable, but also can vary and be significantly

26 higher than the actual Class I differential?

27   A.   I'm not aware of -- I can't answer that question.

28 I don't -- I don't know the answer to that question.

1   Q.   Shouldn't that matter? If a Class I handler has

2   to account to its dairy farmers for the uniform price and

3   then make a pool payment based upon the difference between

4   the Class I and the blend, and the blend is low enough,

5   shouldn't National Milk take into consideration the

6   impacts on Class I of that additional amount having to be

7   paid into the pool?

8   A.   I -- I'm sorry. I just don't know how to answer

9   that question.

10   My understanding is that Class I handlers

11 basically are obligated to the pool for -- you know, for

12 the difference between their Class I price and the blend

13 price.

14   Q.   And you don't understand that that can mean, under

15 economic circumstances, that they end up paying for the

16 total volume of their milk something greater than the

17 Class I price?

18   A.   Okay. Yes, it can. But that would be under a

19 circumstance in which fair amount of milk to be pooled is

20 my understanding.

21   Q.   And how has National Milk taken into consideration

22 the impacts of that kind of situation on the health of the

23 Class I market?

24   A.   National Milk's proposals on the Class I

25 differentials have been with respect to the cost of

26 supplying milk to the Class I market. We have not

27 directly tailored our recommendations for other than that

28 purpose.

1   We have not -- our general feeling is that the

2   impact of price changes on fluid milk consumption is

3   relatively minor. I know that's a point of contention

4   here. But our focus has been on what is the purpose, the

5   objective of the Federal Orders, to assure orderly

6   marketing and assure there's an adequate supply of milk

7   being supplied to Class I processors.

8   And everything I have understood so far is that

9   with the current Class I differentials, dairy farmers are

10   being -- basically subsidizing the provision of Class I of

11   milk for Class I processors, in many cases, at a higher

12   cost than if they ship their milk to nearby -- nearby

13   cheese plants.

14   MR. ENGLISH: I have no further questions. Thank

15   you for your time.

16   THE COURT: Is there other cross-examination of

17   Dr. Vitaliano before I invite the Agricultural Marketing

18   Service questions?

19   I see none. The Agricultural Marketing Service is

20   invited.

21   CROSS-EXAMINATION

22   BY MS. TAYLOR:

23   Q.   Good morning.

24   A.   Good morning, Ms. Taylor.

25   Q.   I'm going to try not to ask too many questions,

26   because I think with all the witnesses between October and

27   now probably have answered most everything. Let's see.

28   I want to turn to page 5. And Mr. English did ask

1 you a few questions on this. In that middle paragraph

2 starting with NMPF, you talk about the structural changes

3 in the industry, and the next sentence goes through what

4 you say those are: Larger fluid milk plants, higher cost

5 of hauling, et cetera.

6   And I just wondered if you could -- we have heard

7 other witnesses talk about it, but if you could expand on

8 why you think those things were not adequately covered by

9 the model.

10   A.   Covered by the what?

11   Q.   Accounted for in the model.

12   A.   Well, the model obviously encompassed a number of

13 those things. But as Dr. Nicholson testified, it cannot

14 necessarily account for everything. And those are things

15 that, again, largely were, but I think we have heard

16 plenty of testimony subsequent to my first part of this

17 testimony, as to exactly those types of things that

18 occurred in -- in individual markets that were not part of

19 the model, those -- those -- those things beyond the power

20 of the model to really understand.

21   The model had, Dr. Nicholson said, 80,000

22 constraints on it, but even that was not enough to cover

23 all of these specific factors that were taken into

24 account, in some cases, different factors in different

25 regions.

26   Q.   If I turn to page 6, in the middle paragraph

27 beginning "the updated Class I differentials," you say, as

28 proposed, your analysis reflects less than the full cost

1 of moving milk, and thereby maintain the Department's

2 longstanding principle of minimum prices.

3   I guess my question is, how -- how do you know

4 that?

5 A.   That was a statement, quite frankly, that I took

6 from the people who were involved in -- already involved

7 in doing the colored pencil work.

8 Q.   So that was just --

9 A.   I cannot verify that directly.

10 Q.   Okay. On the bottom of 8, page 8, and this is

11 where you had talked about CPIs and a greater sensitivity

12 to the price of producer milk. You say, "The closer

13 connection between farm and retail prices for dairy stems

14 from the fact that the cost of raw milk has averaged about

15 31% of the retail value of products since 2002."

16   And I just wanted to know, how did you get the 31%

17 estimate?

18 A.   That's an analysis that I do, that I did not

19 specifically spell out in here.

20 Q.   Can you describe that then? What you looked at?

21 A.   Yes. USDA, I guess it was the Economic Research

22 Service, used to publish monthly estimates of the percent

23 of retail price of a whole bunch of different agricultural

24 products, including dairy, as well as I think it was dairy

25 in the aggregate, used to publish number -- what

26 percentage of retail price is due to the farm price, and

27 there was the farmer share of the food dollar. And I

28 found those very useful.

1   But USDA discontinued them. I think there were

2   maybe some questions about the methodology from time to

3   time. ERS gets a little nervous about its methodology and

4   will change things. But I found that useful enough that I

5   basically, you know, through -- going back through past

6   data, came up with sort of their formula for calculating

7   that. And I continued -- which basically took the

8   all-milk price and made calculations from changes in the

9   CPIs. So I basically continued making those calculations

10 based on the ERS methodology that they no longer reported.

11   And that was my number from averaging -- averaging

12 those annual numbers, which I actually compute them

13 monthly, averaging them since 2002. That's kind of what

14 we call the dairy farmers' share of the retail food

15 dollars, is what I have seen that referred to as.

16 Q.   So you base that off an annual average of the

17 all-milk price and changes in the CPI over time?

18 A.   Yeah. In other words, I maintained that same

19 relationship from, you know, past periods when -- when,

20 you know, ERS last reported those. I sort of calculated

21 how -- how they were comparing -- basically comparing or

22 converting the retail price to a -- of all dairy products,

23 to a per hundredweight of milk value, which could then be

24 directly compared to the all-milk price.

25   And I calculate those monthly, because they

26 have -- again, with the CPIs and the all-milk price, those

27 are monthly reported, so I basically compute that, up- --

28 keep that old ERS methodology, update it on my own

1   monthly, and then aggregate them annually, and in this

2   case, aggregated since 2002.

3   Q.   Okay. And then on your CPI chart that's above in

4   the middle of that page, page 8, seems like the

5   variability, if I just look at the trend lines, there's

6   lower variability in your all items in all food series --

7   A.   Yes.

8   Q.   -- when I compare them to dairy.

9   So I was just wondering if you could talk about

10 why you think that is?

11   A.   Why the dairy CPI and the fluid milk line --

12   Q.   Is more variable.

13   A.   -- are more variable?

14   Precisely because they are driven more fully by a

15 single rather volatile factor, and that is -- that is

16 basically the price of raw milk. It does translate into

17 retail prices with a lag. It does translate into price --

18 you will notice on the right side where dairy had -- which

19 had had been trending lower and lower compared to the

20 all-milk -- or excuse me -- the all items and the all food

21 and beverages. That was during a period in which the

22 price of milk was -- you know, was not -- was trending

23 below the general rate of inflation.

24   During 2000- -- between 2021 and 2022, there was a

25 period of rapid milk price inflation that was passed on to

26 retail. We saw those in the retail CPI numbers. And when

27 the price of milk went -- sort of reverted back down to

28 more normal levels, we saw that those CPIs turned around

1   and actually were dropping. And those are not the

2   year-over-year rates, those are the actual consumer price

3   indices, which is an index version of actual retail

4   prices.

5   So what that graph says is particularly for all

6   dairy and -- and fluid milk is that the retail price in

7   nominal terms started dropping fairly quickly after the

8   price of milk to dairy farmers started dropping again.

9   So, again, the very -- the relative variability or

10 volatility of the dairy lines does -- does relate more

11 directly, as I pointed out there, to the price of raw

12 milk. And you will see that probably for any agricultural

13 product, say, such as eggs, although I don't have the

14 numbers, for which the retail price is a -- for which the

15 farm price is a relatively large percentage of the retail

16 price. And that -- that is different from

17 highly-processed food products for which the price of the

18 raw agricultural commodity is a pretty small part.

19   Q.   And might that also -- I'm curious your opinion --

20 also relate to the fact that since the peak in 2022, the

21 curve for dairy has flattened, it seems the curve for all

22 items and all food beverages continue to increase?

23   A.   Yes. And I remarked on that in my -- the text of

24 my testimony. That -- and, again, my conclusion is that

25 overall inflation, which is the all items line, it

26 generally goes up, it rarely goes down for any significant

27 period of time. You can look at that chart, and you can

28 see a few -- a few very small percentage of the months

1   displayed there, there is a reduction in overall

2   inflation. But generally the rate is upward. And that

3   the aggregate of all food and beverages is such a broad

4   category that it almost mirrors total inflation -- not

5   exactly, as you can see -- but it is also subject to the

6   same forces that tend to move it up and very rarely down.

7   And in particular, it is difficult to look at that

8   green line and determine and discern any significant

9   impact in the changes of general farm income and farm

10 prices.

11   MS. TAYLOR: I think that's it for AMS. Thank

12 you.

13   THE COURT: Are there any other questions before I

14 invite redirect?

15   There are none.

16   MS. HANCOCK: Your Honor, we have no further

17 questions, just to thank Dr. Vitaliano for his patience in

18 getting back on the stand.

19   THE COURT: All right. Let's turn to exhibits.

20   MS. HANCOCK: I think you have admitted them all.

21   THE COURT: Okay, then, good. We still have about

22 20 minutes before lunch. I would like to take a

23 five-minute stretch break, but I would like to confirm

24 that our next witness will, in fact, be Jeff Sims?

25   MS. HANCOCK: Yes, Your Honor.

26   MR. ENGLISH: I think that's right. I just -- we

27 have only had, I think, one stretch break and one

28 15-minute break.

1   I'm just wondering, and I'm not wedded to this at

2   all, but I'm wondering for Mr. Sims and my benefit,

3   whether we take a 15-minute break now and go to 12:45 or

4   something? That might work out better. But I'm not

5   wedded to anything like that, and it may make a difference

6   because of the catering, so maybe we can't do that.

7   THE COURT: All right. Just a moment we will get

8   confirmation of the caterer's schedule.

9   Ms. Hancock?

10   MS. HANCOCK: I don't actually -- we only have a

11   few minutes left in Mr. Sims' time, and so I don't believe

12   that his direct is going to be that long, so I don't know

13   that we need to go as far as 12:45. But I would prefer to

14   just get him on, and we can take our break, get him on,

15   and take our lunch.

16   THE COURT: All right. Let's go off record just a

17   moment.

18   (An off-the-record discussion took place.)

19   THE COURT: Let's go back on record.

20   All right. We're back on record at 11:42.

21   I apparently have not admitted into evidence

22   Exhibit 299. There's no harm if I admit it in more than

23   once.

24   I hereby ask if there's any objection to my

25   admitting into evidence Exhibit 299, which is also

26   NMPF-35? 35.

27   There is none. I admit into evidence

28   Exhibit Number 299.

1   (Thereafter, Exhibit Number 299 was received

2   into evidence.)

3   THE COURT: Now, I know that I admitted into

4   evidence Exhibit 416.

5   Did I admit into evidence Exhibit 415? I think I

6   did today.

7   All right. So now all the exhibits are in.

8   Mr. Sims will be our next witness, but lunch is

9   here, so I'd ask that you come back from lunch at 12:45.

10 We now go off record at 11:43.

11   (Whereupon, the lunch recess was taken.)

12

13

14   ---o0o---

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1   TUESDAY, DECEMBER 5, 2023 - - AFTERNOON SESSION

2   THE COURT: Let's go back on record.

3   We're back on record. It's 12:50, a bit late. I

4   apologize for that.

5   And we have not yet had this witness begin his

6   testimony on this, or we did?

7   MS. HANCOCK: We did, Your Honor. He introduced

8   Class I -- or I'm sorry -- well, Class I differentials,

9   Proposal 19 as a high-level overview, but then he has a

10   subset that is just his region, and that's what's left.

11   THE COURT: Very good. All right. Then,

12   Ms. Hancock, if you will introduce yourself and guide us

13   as to how we will proceed.

14   MS. HANCOCK: Thank you, Your Honor. Nicole

15   Hancock with National Milk.

16   Welcome back to the stand, Mr. Sims.

17   THE WITNESS: Thank you.

18   THE COURT: Would you state and spell your name?

19   THE WITNESS: Jeffrey Sims, J-E-F-F-R-E-Y,

20   S-I-M-S.

21   THE COURT: You remain sworn.

22   JEFFREY SIMS,

23   Having been previously sworn, was examined

24   and testified as follows:

25   DIRECT EXAMINATION (Cont'd)

26   BY MS. HANCOCK:

27   Q.   Mr. Sims, you previously provided, and I believe

28   it was admitted, Exhibit 310, which is your written

1 testimony that combines three different parts; is that

2 accurate?

3   A.   Correct.

4   Q.   And we have already talked about parts 1 and 2,

5 and now you are prepared to talk about part 3?

6   A.   Correct.

7   Q.   And that pertains to just the Southeast and

8 Southwest region as it pertains to Class I price

9 differential proposals from National Milk.

10   A.   Yes.

11   Q.   Okay. If you could provide us with your testimony

12 regarding that Southeast/Southwest region, and by that I

13 mean your summary of that Exhibit 310.

14   A.   Do we -- do we -- would we like to make a couple

15 of substantive corrections before I delve into that?

16   Q.   We can do that first. I was going the other way,

17 but we can do that first, if you want.

18   You have some corrections that you would like to

19 make on page 33 of Exhibit 310?

20   A.   Yes. One correction on page 33.

21   Q.   What would that be?

22   A.   That is the very last paragraph, what technically

23 is the fourth line from the bottom, the line starting with

24 the words "and finally," the word there "Don," D-O-N,

25 should be D-O-N-A, that's Dona Anna County, D-O-N-A,

26 A-N-N-A.

27   Q.   I just mentioned that part 3 is what you are

28 covering. That begins on page 25.

1   So this is a change that falls in that part 3; is

2   that right?

3   A.   Yes.

4   Q.   Okay. And then you also have a change that you

5   would like to make on page 44?

6   A.   Correct.

7   Q.   And what are those changes that you would like to

8   make?

9   A.   In the last long paragraph there with the -- that

10   begins with the word "today's," each time the word seven,

11   S-E-V-E-N, appears, that needs to be changed to ten,

12   T-E-N. That appears in the second line of that paragraph,

13   change S-E-V-E-N to T-E-N; in the seventh line of that

14   paragraph near the end, also S-E-V-E-N needs to be changed

15   to T-E-N; and then in the twelfth line, which is

16   technically also the fifth line from the bottom, near the

17   first of that line, that word seven, S-E-V-E-N, needs to

18   be changed to T-E-N. All three places.

19   Q.   Okay. Thank you for that.

20   Now are you ready to give us your summary or

21   executive summary about your Southeast/Southwest

22   testimony?

23   A.   Yes. This will be a brief executive summary of

24   the work of the Southeast/Southwest Regional Class I price

25   committee, or subcommittee as some people might call it,

26   particularly regarding Orders 5, 6, 7, and 126.

27   The Southeast/Southwest regional committee

28   followed a traditional method of establishing a Class I

1   differential surface. The Southeast/Southwest regional

2   committee used the USDSS model results as a guide,

3   adjusting the model-suggested differentials as needed for

4   the local market particulars.

5   Certainly, the major local issue for the

6   Southeast/Southwest regional committee was the milk

7   deficit condition in the Orders 5, 6, 7 and Eastern Texas

8   portions of those four marketing areas. The mileage milk

9   moves to supply Class I in this area are massive. The

10 milk production has left the Southeast and moved within

11 Texas away from the population. Overall, the

12 Southeast/Southwest regional committee's proposed

13 differentials follow the USDSS model suggestion quite

14 closely.

15   The largest adjustments to the model results were

16 at plants, or groups of plants, in order to provide proper

17 price alignment between plants. The changes were

18 generally conservative, knowing that we had to make -- be

19 aware of price issues and adjustments in other regions

20 that would impact the overall price surface.

21   And this is major issues, the Class I -- the

22 shortage of milk available for Class I certainly in this

23 area, the overriding issue that we had to deal with as a

24 regional committee.

25   Q.   Thank you, Mr. Sims.

26   MS. HANCOCK: And with that, we would make him

27 available for cross-examination.

28   THE COURT: Very fine. I'm going to need the

1   record copy of the exhibit. I didn't bring mine with me.

2   THE WITNESS: It is number 310.

3   THE COURT: Thank you very much. I'm fine so far,

4   and I -- I did not want to ask for it while corrections

5   were being made to the record copy. Thank you.

6   MS. HANCOCK: I don't know if -- if there's -- I

7   guess I'll let others, if they need to refer to other

8   exhibits. But he had a grouping originally of exhibits.

9   You might need those as well.

10   THE COURT: All right. Thanks so much.

11   All right. We remain on record -- oh, let's go

12 back on record.

13   We're back on record at 12:57.

14   Who will begin?

15   CROSS-EXAMINATION

16 BY MR. ENGLISH:

17   Q.   Good afternoon, Mr. Sims. My name is Chip English

18 with the Milk Innovation Group.

19   So I did divide up the cross-exam, and I am fairly

20 confident -- but, again, it's been a couple months -- that

21 I am not going to duplicate anything.

22   Nonetheless, your parts 1 and 2 were the big

23 picture, so now let's talk about the Southeast. We heard

24 testimony in October from Mr. Covington that you gave him

25 input on Florida. I think you were in the room when he

26 testified.

27   Do you recall his saying that?

28   A.   I may have been in the room. I -- I -- would you

1 repeat the question? I think -- you faded off at the end

2 there.

3   Q.   In October, Mr. Covington said that you gave him

4 input on Florida.

5   Do you recall that?

6   A.   I did give him input, and if he said that, it was

7 true.

8   Q.   What was the input you gave him on Florida?

9   A.   We discussed the prices that we would use or input

10 into our proposal.

11   Q.   And did you discuss the reason why Miami, Florida,

12 was going to stay at the University of Wisconsin model at

13 $7.90?

14   A.   That's the average --

15   Q.   Yes.

16   A.   -- of the USDSS model results for May and October.

17 And, yes, that's the number we picked at Miami.

18   Q.   And you were here earlier today when Dr. Vitaliano

19 testified that, at least in his view, that $7.90 would

20 then include the $2.20 base, correct?

21   A.   The $7.90 was run off a model version that started

22 at $1.60.

23   Q.   But then I asked him questions about where was the

24 $0.60, and he seemed to indicate that he thought that the

25 $0.60 was built into that; is that correct?

26   A.   As I just testified, the model run we worked off

27 of had 1.60 as the minimum level.

28   One thing that is important to remember with

1 regard to Orders 5, 6, and 7 is that there was another

2 proceeding, a hearing earlier this year, and a Final

3 Decision, which was just released late last week, which

4 will install increases in transportation credit

5 assessments, the transportation credit balancing fund

6 assessments particularly, in Orders 5 and 7, and

7 installing new distributing plant delivery credit in all

8 three orders, Orders 5, 6, and 7.

9   So there are additional Class I monies that the

10 order provides for the attraction of milk to those

11 marketing areas, which are not included in the specific

12 Class I differentials.

13 Q.   So I was going to get there later, but if we're

14 going to go there now, that's fine. I -- I think USDA

15 might have questions as well.

16   But how and in what way were those changes

17 incorporated into your thinking for the Southeast?

18 A.   They were not directly, but we did realize that we

19 had -- we believed had made a reasonable case for the

20 inclusion of those increases in those two different

21 transportation credit assessment plans. Thus, that led us

22 to take up a modest conservative approach with regard to

23 Florida and to follow the model.

24 Q.   Now, the hearing had not yet been held when you

25 had the model run, correct?

26 A.   That's correct.

27 Q.   And the hearing, in fact, was in progress on the

28 day that March numbers were generated in Exhibit 300,

1 correct?

2   A.   I don't -- I can't testify as to the overlap of

3 any dates. But obviously, if the hearing was begun in

4 March, we had begun working on these provisions well in

5 advance of March so that we could get our proposal in.

6 And so we had some -- we had -- we were cautiously

7 optimistic that we could make a proper case for the

8 increase in those Class I transportation credit

9 assessments and dairy distributing plant delivery credits

10 for Orders 5, 6, and 7.

11   Q.   So I think a few moments ago you said it didn't

12 directly impact.

13   How did it indirectly impact your thinking in the

14 Southeast?

15   A.   That theoretically we could have gone a little

16 higher in Florida. We could have gone a little higher

17 anywhere. But those -- the potential of those new Class I

18 dollars for moving milk around the Southeast provided us

19 opportunity to -- to actually follow the model.

20   Q.   And what about North Carolina, where we have

21 testimony that notwithstanding your desire for more money

22 for transportation credits, National Milk proposes

23 deviating from the model by lowering the prices, say, in

24 the Research Triangle area?

25   A.   We did not lower the differentials, the

26 differentials increased.

27   Q.   I'm sorry, I apologize. I apologize. Thank you.

28   You lowered them from the model, correct?

1   A.   We elected to use prices less than the average of

2 the model results for the two months.

3   Q.   Do you know if you used the May or used something

4 lower than the May?

5   A.   I don't recall whether we used the lower of.

6 We -- we looked at the data, looked at the model results.

7 That area is a little bit different than some of the rest

8 of the Southeast. The hearing record in the Orders 5, 6,

9 7 proceeding provides substantial information that there

10 is a -- a higher level -- a higher quantity of in-area

11 milk production in Order 5, most of which is east of the

12 Appalachian Mountains.

13   Therefore, we determined that because of two or

14 three things, that higher level of production in, say,

15 North Carolina and Virginia, and the several plants, the

16 robust plants -- robust number of plants in that area,

17 that we could do some stair-stepping, you can do a

18 little -- save a little money on balancing because there's

19 still several plants there, that led us to -- and plus the

20 nearness of the reserve supply in, say, Maryland and

21 Pennsylvania to that Virginia and Carolina area, that led

22 us to the conclusion that the model results were modestly

23 higher then they needed to be for our proposal.

24   Q.   Now, you had the model results before you asked

25 USDA for the hearing, correct?

26   A.   Yes. As I said, though, we were well into our

27 development process on that hearing proposal. Obviously,

28 if the hearing was held in March, we didn't come up with

1   our proposal on the first day of March or the last day of

2   February. We were well into the development process, and

3   we felt we had a good case.

4   Q.   Did you tell USDA in that hearing about the need

5   for transportation credits that, oh, look, in this one

6   particular part of area 5, we don't need milk as much?

7   A.   Beg your pardon? Please repeat that question.

8   Q.   In the Southeast hearing, given you had the model

9   results and you were thinking about what you were going to

10   do, did you tell USDA, oh, look, we have these model

11   results, we're going to go lower, we don't need

12   transportation credits at the same level in that part of

13   Order 5 that we need them elsewhere?

14   A.   We did not go lower. We increased the

15   differentials in Proposal Number 19.

16   Q.   To the extent that you, for instance, in Durham,

17   North Carolina, propose $0.20 lower than the model, which,

18   yes, is higher than the current, did you disclose to USDA

19   that there were certain situations within Order 5 that

20   merited an increase but not as high as other parts?

21   A.   We did not have that conversation with USDA.

22   Q.   Did you get input from Mr. Covington with respect

23   to the non-Florida Southeast?

24   A.   Mr. Covington was a member of the

25   Southeast/Southwest regional price committee.

26   Q.   And what input did you get from him with respect

27   to, say, Alabama or Georgia, if you recall?

28   A.   Virtually every member of the Southeast/Southwest

1   committee gave input on all four if you -- orders. One

2   member felt like they weren't qualified to make any kind

3   of recommendation regarding Order 126, but the whole

4   committee worked collaboratively to find a reasonable

5   price surface across that entire region, with the

6   exception, again, of Area 126 where one of our members

7   didn't feel qualified to participate in that particular

8   marketing area.

9   Q.   I think Mr. Hoeger suggested that he may have

10 given you input on the Southeast; is that true?

11   A.   Mr. Hoeger was a member of the committee, so

12 obviously he gave -- he didn't give me input. He shared

13 his views with the broader committee.

14   Q.   What was the input that he gave you with respect

15 to the Southeast?

16   A.   That -- that the -- generally, that the agreement

17 that the slope needed to increase because it was very

18 difficult to attract milk for -- for any use to the

19 Southeast, much less Class I, and that we needed to

20 increase the slope, follow the model where it was

21 appropriate, adjust it where it needed adjusting.

22   Our general idea was to follow the model unless

23 there was a good reason not to. Also, to apply and try to

24 maintain current price relationships unless there was a

25 compelling reason not to.

26   Q.   If the slope needed to increase, why not go even

27 higher in Miami than you did?

28   A.   As I said, we had a very -- we felt very

1 confident, very good about our case that would apply an

2 extra $0.85 -- or 80 to $0.85 -- onto the Class I, the

3 effective Class I cost to handlers in the Florida market,

4 including Miami. It would be hard to not recognize that,

5 at least in our thinking.

6   Q.   Did you give Mr. Hoeger input on Order 32?

7   A.   I beg your pardon?

8   Q.   Did you give Mr. Hoeger input, in turn, on what he

9 was doing in Order 32?

10   A.   If it was, it was very, very little.

11   Q.   And who did give you input on Order 126?

12   A.   The regional committee was -- had representatives

13 from five cooperatives: Dairy Farmers of America, Lone

14 Star Milk Producers, Maryland and Virginia Milk Producers

15 Cooperative Association, Prairie Farms Dairy, and

16 Southeast Milk.

17   Q.   And was it Southeast Milk who didn't feel

18 qualified to comment on Order 126?

19   A.   No.

20   Q.   Which one was it?

21   A.   Maryland and Virginia chose not to comment on

22 Order 126.

23   Q.   So turning to the Southeast and anchor cities,

24 were you involved in the determination of what would be

25 the anchor cities?

26   A.   Did you say determination?

27   Q.   Yeah, determination of which cities would be

28 anchor cities.

1   A.   I was.

2   Q.   So looking at your area, it appears Winchester,

3 Kentucky; Nashville, Tennessee; Asheville, North Carolina;

4 and Amarillo, Texas, were anchor cities; is that correct?

5   A.   Yes.

6   Q.   Are those supply points or distributing plant

7 locations?

8   A.   Those are distributing plant locations. All of

9 them pool distributing plants.

10   Q.   In 2006, when the cooperatives sought and obtained

11 an increase in the Class I differentials, did you use

12 distributing plant locations or supply points as the

13 basis?

14   A.   Number one, that hearing was held in 2007.

15   Q.   I apologize, 2007.

16   A.   It was not implemented until 2008. We used a

17 combination of supply points, typically supply points

18 outside the marketing areas, but then we used distributing

19 plant points inside.

20   Q.   And so why didn't you use supply point areas

21 outside in this instance?

22   A.   I'm -- I'm -- I find that question curious,

23 Mr. English. At that hearing, it was in Tampa as I

24 recall, you asked me some very specific questions about --

25 at that time, about why we didn't use a model like the

26 USDSS model. So now you are asking me why we didn't do

27 something that you intimated at that time that we should

28 have done. I'm a little curious.

1   Q.   Well, actually, no, sir. First of all, I'm asking

2   the questions, so you can be curious. But I don't believe

3   there's any inconsistency because I'm asking about how you

4   deviated from the model.

5   A.   Oh, I'm sorry. Didn't sound like that to me.

6   Q.   Well, the model didn't provide anchor cities, did

7   it?

8   A.   It did not.

9   Q.   So the idea of anchor cities was yours, right?

10   A.   The idea of anchor cities was that, when we

11 divvied up the work among the regional committees, we

12 needed some demand points along the -- what I will

13 casually refer to borders of the regional committee, so

14 that each regional committee would at least have something

15 to start with in terms of its regional work.

16   Q.   But you, a moment ago, thought that somehow I was

17 maybe somewhat inconsistent because I wasn't looking at

18 the model.

19   I'm actually looking at the model. And so now I'm

20 asking you why, in deviating from the model now, are you

21 deviating from no model in 2007, the concept of using both

22 distributing plants and supply points?

23   A.   Well, the model considers supply points and demand

24 points.

25   Q.   What were the principle core concepts for

26 selecting an anchor city?

27   A.   As I indicated, there were cities along the

28 regional borders that we set tentative Class I

1   differentials, and I emphasize "tentative." These were

2   not -- well, if I had a different word, I would have used

3   it now in afterthought instead of anchor. They were not

4   anchored in the sense that they could not be adjusted,

5   simply they were set to aid the development of the

6   intra-regional Class I price surfaces. It gave us each a

7   place to start as we worked toward the middle, if you

8   will, of our respective regional areas.

9   Q.   And so what regional area was Amarillo adjacent

10 to?

11   A.   It would have been adjacent to the Western -- or

12 to the -- generally the Kansas portion of Order 32.

13   Q.   And yesterday, and today, and last week, there was

14 some extensive discussion about what was done in that

15 area.

16   Did -- did you get input from them as to what

17 Amarillo should be set at based upon what they were

18 looking to do for Colorado and Kansas?

19   A.   I don't recall any conversations that said we need

20 to set Amarillo based on anything outside of that. Our

21 decision on Amarillo was purely based on the relationship

22 with Lubbock.

23   Q.   And how did Asheville meet the criteria of being

24 an anchor city?

25   A.   It was kind of a -- it was a bit of the corner

26 where -- nearby where, say, Order 33 dips down into West

27 Virginia.

28   Q.   Now, did you change -- for the anchor city in

1 Asheville, make it something other than zero from the

2 model? You altered it from the model?

3   A.   Did we --

4   Q.   Did you propose Asheville as being the model

5 average?

6   A.   No.

7   Q.   What did you propose Asheville to be relative to

8 the model average?

9   A. $0.30 less per hundredweight.

10   Q.   And yet it was adjacent to Order 33, and Order 3

11 has an anchor city in Charleston, West Virginia, correct?

12   A.   Correct.

13   Q.   And for Charleston, West Virginia, National Milk

14 says it should stay at the model average, correct?

15   A.   I think I -- yes. I believe that's correct.

16   Q.   And did you know that when you recommended setting

17 Asheville as an anchor city at $0.30 less than the model

18 average?

19   A.   I don't recall knowing what the Charleston

20 recommendation was at that time -- the Charleston, West

21 Virginia, recommendation.

22   Q.   There's a proprietary plant located in Charleston,

23 West Virginia, correct?

24   A.   I believe so, yes.

25   Q.   What is the justification for saying, we're going

26 to use the model average for Charleston, West Virginia,

27 but to the south and east for sales that might come out of

28 that plant, you are going to go $0.30 lower in Asheville?

1   A.   As we described in the testimony, and as I

2   mentioned a moment ago, the cost to supply the Carolinas

3   and Virginia, we felt the model overstated. There is some

4   balancing opportunities in between the plants, there is

5   some milk production left in Virginia and North Carolina.

6   Again, a quantity inside the marketing area which exceeds

7   certainly Order 7 is a proportion of the supply. We just

8   simply felt that the model actually generated slightly

9   higher results than -- than was necessary, so we adjusted

10   those.

11   Q.   You were here earlier today when Dr. Vitaliano

12   testified about a correction to Clark County, Ohio,

13   correct?

14   A.   Yes.

15   Q.   And that was to reduce the value in Clark County,

16   Ohio, correct?

17   A.   I don't know the genesis of that correction.

18   Q.   So do you know whether Charleston, West Virginia,

19   has the privilege of being set at the model average, but

20   both to the north, and west, and south, and east, National

21   Milk selected numbers that were lower than the model

22   average?

23   A.   Well, Charleston, West Virginia, is on the west

24   side of the Appalachian Mountains, an area which is

25   particularly substantially more difficult to supply than

26   the east side of the Appalachians.

27   Q.   Do you know whether that plant has a local milk

28   supply?

1   A.   I do not know for sure.

2   Q.   Since the existence of the local milk supply for

3   those plants in North Carolina made a difference for

4   National Milk in setting Asheville, if they testified that

5   they had a local milk supply, should USDA take that

6   consideration in their pricing?

7   A.   Number one, I didn't say that the milk supply in

8   Virginia and North Carolina is sufficient to supply all

9   the plants in those two states. They are -- the quantity

10   of milk produced inside Virginia and North Carolina

11   compared to its use is higher locally than, say, Order 7.

12   There is still substantial milk that must move from, say,

13   the Middle Atlantic area down to the Virginia and Carolina

14   plants.

15   I don't know what the circumstance is at

16   Charleston, West Virginia. Where its supply is, I'm --

17   I'm not familiar with that.

18   Q.   Tell me about the decision-making process for

19   National Milk in proposing to increase Amarillo from the

20   model results of an average of $2.25 to $3, which is $0.75

21   per hundredweight?

22   A.   Yes. That -- I can explain it, I hope, in a way

23   that is understandable.

24   Currently across the Order 126 marketing area, the

25   differential structure works like this: There is a

26   differential for the Texas Panhandle, which applies today

27   to both Amarillo and Lubbock of $2.40 per hundredweight.

28   The differential in Dallas, Texas, or the

1   Dallas-Fort Worth Metroplex, is $3 per hundredweight.

2   That's the order base zone. Then there is a differential

3   of $3.60 per hundredweight that is applicable on the Gulf

4   Coast, particularly Houston and Conroe.

5   So if you look at the relationship of those three

6   areas, the Panhandle at $2.40, to Dallas at $3, to Houston

7   at $3.60, there are equal steps of $0.60 coming from the

8   Panhandle where most of the milk and the reserve supply

9   is, there are equal $0.60 steps, $0.60 to

10 Dallas-Fort Worth from the Panhandle, $0.60 more to

11 Houston/Conroe.

12   The committee looked at that and said that equal

13 step process is a good idea, and we should preserve that,

14 but the slope needs to increase.

15   So we knew what the differential we had provided,

16 or at least tentatively established on the Order 7, Gulf

17 Coast, and set -- or the Houston differential at $5, a

18 number which aligns well with the $5.70 at Lafayette,

19 Baton Rouge, and Hammond, Louisiana.

20   Anyway, we also noticed when we looked at the --

21 at the alignment of prices, there is a natural $4 per

22 hundredweight zone that basically starts all the way in

23 New York and weaves its way from the Northeast to the

24 Southwest, and extending on its line, makes it to Dallas.

25   We said, okay, that makes good sense. That aligns

26 also nicely with the plants -- the prices we have

27 established, or we tentatively established in Arkansas and

28 Southwest Missouri.

1   So at that point, we said, okay, $4 in Dallas

2   makes sense, or Dallas-Fort Worth Metroplex. And so if

3   we're going to maintain those equal steps from the

4   Panhandle to Dallas, Dallas to Houston, the Panhandle

5   price should be $1 less than the Dallas price. So, okay,

6      $3. So we -- basically the $3 comes pretty close to the

7   number the model suggests for Lubbock.

8   Then the question was simply, should Lubbock and

9   Amarillo have the same price as they do today? And the

10   answer was yes. And the data suggests that, absolutely,

11   both Lubbock and Amarillo sit in the heavy production

12   portion of Texas.

13   Both of those distributing plants have more than

14   sufficient milk right around them, in counties either --

15   the county that the -- of -- I think Lubbock has actually

16   a little bit of milk in it, but the neighboring counties

17   have sufficient supply for that plant.

18   Amarillo I don't believe has -- or -- which is

19   Potter County, I don't believe has any milk production,

20   but it sits right on top of another local supply.

21   So the local supply procurement cost for those two

22   plants in Amarillo and Lubbock are very little. They --

23   they have got milk right on top of them. And both of

24   those plants kind of share that Panhandle area as

25   distribution points.

26   And so our decision was that it makes good sense

27   to establish both of those plants at the same price, the

28   same differential, and that did mean varying from the

1   model. And -- but the price alignment between the

2   Panhandle and the Dallas Metroplex and the Panhandle in

3   Houston, and within the Panhandle between those two

4   plants, were the overriding considerations for

5   establishing $3 as the differential in the Panhandle.

6   Q.   I'm sorry, what county is Lubbock in?

7   A.   Lubbock.

8   Q.   It's in Lubbock County.

9   A.   Lubbock is in Lubbock County.

10   Q.   For instance, Houston is in Harris County,

11   correct?

12   A.   Houston is in Harris County, correct.

13   Q.   There happens to be a Houston County --

14   A.   There is a Houston County that is not Houston.

15   Q.   But the model, notwithstanding what you just said

16   about Lubbock and Amarillo, the model did provide for a

17   $0.50 difference between Lubbock and Amarillo, correct?

18   A.   Yes. Let me -- before I say "yes," let me verify

19   that.

20   What number did you say for a difference?

21   Q. $0.50.

22   A.   Actually, I believe it's 60, if you use the model

23   averages.

24   Which I think now would be a good time to point

25   out, we ran the model for two months, and in virtually

26   every case, the May solution and the October solution were

27   different. That says to me that differentials are going

28   to follow in some range around those numbers, not always

1 at the average, not always at the bottom, not always at

2 the top, maybe above the top, below the bottom. But that

3 in itself suggests that the model results are imprecise

4 and require some adjustment.

5   Q.   So just to be clear, when you did the $0.60

6 difference, was that Hereford County?

7   A.   My notes here say that the average of the model

8 runs of the third model run for Amarillo is two and a

9 quarter -- 2.25, excuse me -- $2.25 per hundredweight, and

10 the average for Lubbock was $2.85. And I believe that is

11 a $0.60 difference.

12   MR. ENGLISH: Can I have another exhibit marked,

13 Your Honor?

14   THE COURT: Yes. Let's go off record while we do

15 that.

16   We go off record at 1:29.

17   (An off-the-record discussion took place.)

18   THE COURT: Let's go back on record.

19   We're back on record at 1:38.

20   Mr. English, we have marked as Exhibit 417,

21 MIG-38; we have marked as Exhibit 418, MIG-41; and we have

22 marked as Exhibit 419, MIG-42.

23   MR. ENGLISH: Thank you, Your Honor.

24   (Thereafter, Exhibit Numbers 417, 418, and

25   419 were marked for identification.)

26   MR. ENGLISH: And so for the record, Exhibit 417,

27 also known as MIG-38, is, for this particular testimony,

28 the selected Arkansas, Kansas, Missouri, Oklahoma, and

1   Texas county comparison with the same legend as we have

2   had for every other document, and with the same

3   information with, of course, the reference to the pool

4   distributing and supply plants and county locations comes

5   from Federal Milk Order data and will be testified about

6   by Ms. Keefe. And then to the right, of course,

7   Proposal 19 are calculations that are described in the

8   legend. So that is what Exhibit 417 is.

9   Exhibit 418 is a state map of Texas with counties

10 and a number of cities listed. Texas is a big state.

11 They have a lot of counties. And I thought it would be

12 more useful than the conversation I have been having with

13 Mr. Sims to locate some of those areas.

14   And, finally, Exhibit 419 is titled "Pounds of

15 Milk Marketed from Each County of Texas by Selected Texas

16 Producers for 2023" -- should be selected "Texas

17 Counties."

18   THE COURT: What part should say "selected" --

19 instead of "producers" it should say "counties"?

20   MR. ENGLISH: I'm sorry. "Pounds of Milk Marketed

21 for Each County of Texas by Selected Texas Producers for

22 2023." That's correct as it is.

23   THE COURT: Okay.

24   MR. ENGLISH: And it is data, as you can see in

25 the header at the very bottom, derived from the Southwest

26 Milk Marketing Administrator, DallasMA.com, Order

27 Statistics. This is the specific website reference. In

28 order to print the very same document, you'd have to, you

1 know, hit print on the website to get these, and so this

2 has production data.

3   And, again, the source of the information is, in

4 this instance, the Southwest Milk Market Administrator.

5   THE COURT: How do I know that?

6   MR. ENGLISH: The website, Your Honor, is

7 https://www.DallasMA.com.

8   And DallasMA is what they must use because

9 that's -- the MA is for Market Administrator, I believe,

10 and the Market Administrator's office for that order is in

11 Dallas.

12   THE COURT: Thank you very much.

13   MR. ENGLISH: Carrollton, Texas.

14   THE COURT: Good. You may proceed.

15 BY MR. ENGLISH:

16   Q.   You could have achieved the same result as

17 encouraging milk to move to Dallas and Houston with the

18 model results, could you not?

19   A.   The relationship between Lubbock, the average of

20 the May and October results was $2.85. Lubbock represents

21 kind of the bottom end, or the south end of that Panhandle

22 area.

23   The model for -- depends on whether you pick

24 Fort Worth or Dallas. The model results actually were

25 different for the model for -- for Fort Worth and Dallas

26 if you looked at the average. So at 2.85 versus 3.75, to

27 all the way to Dallas, that is less than the $1 difference

28 that we propose.

1   Q.   But if you look at the county of Deaf Smith to the

2   west of Amarillo, that's where the milk production really

3   is in the Panhandle, correct?

4   A.   Deaf Smith is one of the predominant milk

5   production counties, yes.

6   Q.   Is the milk moving from there or from Lubbock or

7   both?

8   A.   Depends on the day.

9   Q.   But if it needs to move from Deaf Smith, wouldn't

10   the model results have provided you more of a slope to

11   Dallas and Fort Worth?

12   A.   It would, but it would not have aligned the prices

13   between Lubbock and Amarillo, as we indicated makes sense.

14   Q.   Why is the model wrong in establishing that $0.60

15   difference between Lubbock and Amarillo?

16   A.   I don't think it's wrong. I think that it -- it

17   provides a general picture of how prices should flow from

18   reserve supply areas to demand areas -- a general picture.

19   And then there are overriding concerns based on local

20   issues which make adjustments to those general suggested,

21   if you will, values necessary.

22   Q.   Now, we have heard some testimony earlier today

23   from Mr. Gallagher, that in addition to the cheese plants

24   in Colorado, that there's a cheese plant being built in

25   Lubbock, correct?

26   A.   Yes.

27   Q.   And did you disclose to University of Wisconsin

28   that that plant was being built?

1   A.   I do not recall whether that was on the plant add

2   list, if you will.

3   Q.   Now, if Mr. Gallagher is to be believed, doesn't

4   that cheese plant being built in Lubbock mean that there

5   will be more demand for milk in and around Lubbock?

6   A.   The inclusion of the opening of any new plant

7   generates demand, yes.

8   Q.   And if the model took that into consideration,

9   won't that volume in and around Lubbock not be as

10   available to Class I using the same rationale as

11   Mr. Gallagher used with respect to Weld County?

12   A.   I think we need to pause and think about this just

13   a second. The basic threat, in my opinion -- and I will

14   say this is my opinion -- to supplies for Class I are that

15   it is easier and more convenient and less costly to supply

16   cheese plants than it is Class I plants. The cheese

17   plants typically run every day. They take a similar

18   amount of milk every day. The only reason they don't run

19   is if their equipment fails. They are located near the

20   milk, generally. They are shorter hauls. They are easier

21   to balance because they don't require a lot of balancing.

22   The Class I plants are a long way from the milk.

23   They vary their receipts daily, even within the day. The

24   thing that the order program is going to have to address

25   is if we're going to -- if we're going to track milk to

26   Class I, the competing use of milk is Class III.

27   Q.   The plant -- there's a proprietary fluid milk

28   operation known as Plains Creamery located in Amarillo,

1 correct?

2   A.   Yes.

3   Q.   Milk doesn't have to move very far to Amarillo,

4 does it?

5   A.   There's -- there is sufficient milk nearby

6 Amarillo to supply that plant, yes.

7   Q.   Doesn't the model address that and suggest that

8 the value, then, for Amarillo should be indeed lower than

9 Lubbock?

10   A.   The model's suggestion doesn't take into account

11 the fact that both Amarillo and Lubbock sit directly on

12 top of local supplies. Those plants have, for a very long

13 time, had the same Class I price -- or the same Class I

14 differential, if you will. They both serve customers in

15 that Panhandle area. They compete for sales in the same

16 area. Lubbock milk comes back up to Amarillo. Amarillo

17 milk is sold in Lubbock. And they both compete for

18 customers in between and left and right, from the

19 horizontal -- excuse me -- the vertical line between

20 Amarillo and Lubbock.

21   Consequently, because of that historic

22 relationship, that submarket, if you will, of

23 Amarillo/Lubbock, the Southeast/Southwest committee felt

24 like, believes, and still believes, and believe we're

25 correct, that those plants should continue to have the

26 same Class I differential.

27   Q.   One way to have the same Class I differential is

28 you could have raised Amarillo up and taken Lubbock down,

1 correct?

2   A.   There are an infinite number of mathematical

3 combinations, so I guess I'll agree.

4   Q.   So if you had done that, then you could still

5 achieve a difference between Lubbock and Dallas that would

6 be identical to a difference between Amarillo and Dallas,

7 correct?

8   A.   It still requires going up from $2.85 to $3.

9 We -- again, there was the overriding additional --

10 additional constraint, or additional belief, or additional

11 desire, to maintain equal steps from the Panhandle to the

12 Dallas-Fort Worth Metroplex, and from the

13 Dallas-Fort Worth Metroplex to the two counties on the

14 Gulf Coast, or near the Gulf Coast, Houston and I believe

15 the other county, or Harris County and the county that

16 Conway sits in -- that Conroe sits in.

17   Q.   And I do -- so I don't want to go back and revisit

18 the testimony of part 1 and 2, which was also addressed by

19 IDFA.

20   But you went out of your way to talk about the

21 difficulty of getting milk from Amarillo and Lubbock to

22 Dallas. If both of them were even lower than what you

23 have, wouldn't you increase the incentive for the milk to

24 move to Dallas?

25   A.   If we had lowered the -- or if we had established

26 a differential at less than 3, that would have been a

27 steeper slope for Dallas had we maintained 4 at Dallas.

28 Once you change the Panhandle, that doesn't mean that you

1 end up with the necessarily $4 at Dallas.

2   Other factors and other price alignment issues

3 could -- could impact where we came out at Dallas. You

4 can't move one place without considering its impact on

5 others. This is an iterative process.

6   Q.   And yet, the model does that as well, does it not?

7   A.   I beg your pardon?

8   Q.   The model also is an iterative process and finds a

9 way to move milk, correct?

10   A.   It finds the absolute perfect solution for moving

11 milk looking backwards into time.

12   Q.   Didn't the model, for moving milk from the

13 Panhandle to Dallas, provide a $0.40 better solution than

14 what you have done? That is to say, your model, your

15 results are a $1 difference and the model difference would

16 be $1.40?

17   A.   A dollar what?

18   Q. $1.40.

19   A.   To Dallas or Fort Worth?

20   Q.   To Dallas.

21   A.   But, I believe that it would be $1.50 -- $3.75 per

22 the model is $2.75. But, again, it ignores the other

23 implications of having a separate price at Amarillo and

24 Lubbock.

25   Q.   I don't mean to be circular, or I think maybe you

26 are being circular, what about the model is -- needs to be

27 corrected with respect to the fact that the model suggests

28 that Amarillo should be less than Lubbock?

1   A.   The -- the model provides a solution which doesn't

2   take into account those local factors, those local

3   competitive circumstances, that the human element does.

4   Q.   And what precisely is the human factor considering

5   why Lubbock and Amarillo should be identical rather than

6   reflecting the model difference?

7   A.   The -- I think I have described that. They both

8   sit -- they both have, in essence, equal local supply

9   costs. They both sit on top of the next door supply.

10 They both compete for sales in the same area. They have,

11 for a very long time, had the same price. Those are the

12 overriding factors we -- we applied.

13 Q.   All right. So let's compare the map, 418, to the

14 Market Administrator's information, which is 419. And

15 let's just -- that's for convenience purposes for here,

16 for the month of October, since that's the most recent

17 one.

18   The Amarillo milk sits near Deaf Smith, correct?

19   THE COURT: Amarillo milk sits?

20 BY MR. ENGLISH:

21 Q.   Amarillo milk, Amarillo plant sits near the county

22 of Deaf Smith, correct?

23 A.   Yes.

24 Q.   Which had 102 million pounds of milk in October of

25 2023, correct?

26 A.   According to this tabular summary, yes.

27 Q.   In addition, the plant at Amarillo sits south by

28 two counties of Moore County, correct?

1   A.   Yes. Actually, Amarillo is in Potter County,

2 so --

3   Q.   Yes. One county. Okay.

4   A.   Technically that's one county away.

5   Q.   Looked like it was on the border.

6   A.   It's very close. But if you look at the -- if

7 you -- when you go to Amarillo, you are in Potter County.

8   Q.   Okay. So we have Moore County with 201.8 billion

9 pounds in October, correct?

10   A.   Yes. Almost 201.9.

11   Q.   What's the milk that's close to Lubbock?

12   A.   Our -- excuse me. Hale, I believe, is a

13 substantial milk production county, H-A-L-E.

14   Q.   Hale?

15   A.   It is almost 50 million pounds.

16   Q.   50 million pounds. Deaf Smith is 102 million.

17 Okay.

18   A.   Right.

19   Q.   Okay.

20   A.   Lamb County, I believe, is a pretty substantial

21 milk producing county, almost 180 pounds. L-A-M-B, Lamb.

22   Q.   L-A-M-B. Okay.

23   Nonetheless, also less than Deaf Smith, correct?

24   A.   Yes. But -- a little bit less than Deaf Smith.

25 That's D-E-A-F, S-M-I-T-H.

26   Q.   But significantly less than Moore at

27 201.8 million, correct?

28   A.   Which is less. They are all less than Moore.

1   Q.   Lamb -- Lamb is half of what is available just

2 north of Amarillo in Moore County, correct?

3   A.   Moore County exceeds all three of the other

4 counties you have identified.

5   Q.   Is there milk also to the west of the state line

6 in New Mexico?

7   A.   Yes.

8   Q.   Is that closer to Amarillo or to Lubbock?

9   A.   I don't think there's a substantial amount of

10 difference. I don't know the mileages absolutely, but --

11 that milk probably is closer to Lubbock.

12   Q.   Now, as testified to earlier today, but also it's

13 been in the record for a while, but Dr. Vitaliano

14 testified --

15   THE COURT: You are kind of talking to yourself.

16   MR. ENGLISH: Sorry.

17   THE COURT: So slow down and --

18   MR. ENGLISH: I thought I was still speaking

19 slowly, but apparently not. All right. I will do what I

20 can to move my voice up, and maybe if I take a quick

21 second to have some water.

22 BY MR. ENGLISH:

23   Q.   So if we look at Row 2678, the next to the last

24 row on Exhibit 417, the difference between Proposal 19 and

25 University of Wisconsin average as a percentage is 33%,

26 correct?

27   A.   That's what the table says, yes.

28   Q.   And for Deaf Smith, Row 2549, up to -- its 28%,

1 correct?

2   A.   Yes.

3   Q.   So now Comanche, as we heard earlier today, but

4 it's been in the record for a while, there was a change

5 from what you had determined to what is now the number,

6 and so it is now $3.85, correct?

7   A.   Yes. It always was that. I can't -- I cannot

8 explain how the -- those two counties were listed

9 incorrectly in the -- one of those submissions, but it's

10 not like we made a late change at Comanche and whatever

11 county, Travis County. They have been that for a long

12 time. There was just some error that got into the

13 spreadsheet, and I have no idea how.

14   Q.   So what is the explanation for Comanche County

15 only going up 5% from the model versus these areas in the

16 Panhandle with lots of milk?

17   A.   We felt $3.85 was a reasonable relationship with

18 Dallas-Fort Worth at $4. It was about the relationship

19 between those two prices, not their relative change versus

20 a plant in the Panhandle.

21   Q.   So nonetheless, going to Dallas, you moved up

22 Dallas $0.25 from the average.

23   The model actually had Dallas at 3.75, correct?

24   A.   Yes.

25   Q.   Which wasn't that far off from $4, was it?

26   A.   And I think we could make the case that $4 isn't

27 that far off 3.75.

28   Q.   But, again, the model would, vis-a-vis Amarillo

1 as, you know -- give you $1.50 difference?

2   A.   I'm sorry?

3   Q.   If you look at line 2547, Dallas --

4   A.   Yes.

5   Q.   -- the model average is 3.75.

6   A.   Yes.

7   Q.   If you look down to 278 where Plains, Amarillo is,

8 it's 2.25, or $1.50 difference.

9   A.   Yes.

10   Q.   You have actually narrowed that difference by

11 $0.50, correct?

12   A.   We have -- we have increased the difference

13 between the Panhandle from $0.60 to $1.

14   Q.   But you have decreased it vis-a-vis the model,

15 correct?

16   A.   Yeah. That presumes that the model number is, for

17 lack of a better term, "gospel," and it is not. It is a

18 suggestion. It's a starting spot. There's a range of

19 numbers around that average or the high or the low that

20 would all be reasonable.

21   Q.   Going back to your exhibit that was then discussed

22 by IDFA, nonetheless, that $1.50 difference would solve

23 that problem of getting milk from Amarillo to Dallas

24 better, correct?

25   A. $1.50 per hundredweight is greater than $1 and --

26 $1 per hundredweight. But that $0.50 would create a

27 substantial problem between Amarillo and Lubbock.

28   Q.   Even though cheese plant is about to be built in

1   Lubbock and take up milk?

2   A.   The -- our proposal is that the price in Amarillo

3   and the price at Lubbock, as they are today, should be the

4   same differential.

5   Q.   I think you did mention to me maybe 20 or

6   30 minutes ago that one of your considerations was current

7   alignment, correct?

8   A.   That is one of the many considerations, yes.

9   Q.   Isn't one of the consequences of 25 years between

10   the last time we did Class I differentials and now that

11   milk production has moved, population has changed, hauling

12   rates have gone up.

13   How does that match up with the idea that you can

14   maintain alignment between current differentials?

15   A.   Sir, a state as big as Texas, where the distance

16   from the Panhandle to Dallas is roughly 400 miles, that

17   provides lots of room to make some adjustments

18   intra-plant, or between plants, particularly in the

19   Panhandle where there's only two.

20   Q.   Did you hear some examination, I think it was last

21   week, that it, in essence, takes one penny a hundredweight

22   to move milk each mile -- each mile?

23   A.   That's about right.

24   Q.   And how many miles did you say it is between the

25   Panhandle and Dallas?

26   A.   Roughly 400.

27   Q.   So that would suggest that a $4 difference is

28   necessary between Amarillo and Dallas?

1   A.   If you went purely on the cost of moving milk from

2   the Panhandle to Dallas, that would generate a roughly $4

3   difference.

4   Q.   Now, we have never done that, correct?

5   A.   Not to my knowledge.

6   Q.   In fact, in 2007, in the Southeast, you discussed,

7   and USDA accepted, a -- sort of an 80%?

8   A.   I think I recall that, yes. Of course, the

9   transportation credits are then further adjusted by the

10   difference in the differentials. So you -- you -- the

11   transportation credits don't net you the full cost of

12   hauling.

13   Q.   I was referring to the Class I differential

14   portion of the 2007 hearing.

15   A.   Oh, I see.

16   Q.   Didn't that also apply at 80%?

17   A.   I don't recall that specifically.

18   MR. ENGLISH: I'll come back to that after the

19   break, Your Honor.

20   BY MR. ENGLISH:

21   Q.   To what extent did paragraph 75 in the order, the

22   location adjustment for producers, come into play with the

23   price that was proposed by National Milk for Potter

24   County, Amarillo?

25   A.   The -- the draw out of the pool, if you will, the

26   producer price surface, would be relative in Potter County

27   as the same to Lubbock as it is today. The same.

28   Q.   But it would certainly be higher than the model

1 provided, correct?

2   A.   It would.

3   Q.   Do you know, have you discussed with the

4 University of Wisconsin, whether that kind of price change

5 imposed on the model would alter the model's results?

6   A.   I'm sorry, what kind of change imposed on the

7 model?

8   Q.   If you said, you know, to University of Wisconsin,

9 "We disagree with your result in Amarillo, and we want you

10 to input into Amarillo this number," do you know whether

11 that would have an impact on the results of the model?

12   A.   I suspect it would, but I can't speculate as to

13 what that impact on the model would be. We certainly

14 never asked the University of Wisconsin people to force a

15 number on a spot, and would not have.

16   Q.   But you don't know whether that was done, for

17 instance, over wide swaths of the West, whether that would

18 impact how the model would attempt to move milk?

19   A.   My understanding from a very long time ago back in

20 graduate school when I learned a little bit about linear

21 programming, if you force a constraint on the model, the

22 model result will probably be different depending on

23 whether that constraint is significant. So adding

24 significant number of constraints to a model will change

25 the output.

26   Q.   So I specifically held off back in October a

27 conversation because you said, "Please talk about that in

28 part 3." And that is a conversation with you about the

1 distance between farms and plant issues and how they are

2 involved in the model. So I just want to set that as a

3 predicate, that I started to ask you some questions

4 regarding parts 1 and 2, and you said, "Those questions

5 would be better asked after I testify about part 3."

6   I'm just giving you some reference point. Okay?

7 A.   That's not burned in my memory, but I will --

8 sure. Let's go.

9 Q.   Well, I burned it into my paper.

10 A.   Good enough.

11 Q.   In your testimony, the written testimony that you

12 summarized today, you reference the increasing distance

13 between farms and plants.

14   But doesn't the model account for that?

15 A.   I believe the model provides, actually assigns

16 production by county. So to that -- to the -- whether

17 that -- if that is correctly assigned in the model, then,

18 yes, there would be some reflection of the distance

19 between farms, or the changed difference between milk

20 production centers and demand centers. Yes.

21 Q.   To the extent in the Southeast or in the Southwest

22 you are making modifications, does it matter that some

23 plants have been built close to the milk supply? That is

24 to say, the milk doesn't have to move as far to the plant,

25 and the plant is bearing the cost of moving it to the

26 consumption center; should that matter?

27 A.   I'm sorry, that compound question lost me in the

28 middle.

1   Q.   Well, let me ask you a specific question about a

2   specific operation to try to clarify.

3   Shamrock Foods built a plant in Virginia, correct?

4   A.   Yes.

5   Q.   Since Federal Order Reform, correct?

6   A.   Yes.

7   Q.   And it built that plant close to the milk supply,

8   correct?

9   A.   That Northern Virginia area does have, continues

10 to have, some milk supply, yes.

11 Q.   Okay. Just to be clear, you call that Northern

12 Virginia. I consider Northern Virginia to be Arlington

13 and Fairfax.

14   Shamrock did not build its plant in what is called

15 Northern Virginia for those of us who live in D.C.,

16 correct?

17 A.   I don't know what you call Northern Virginia, but

18 I will say this, it's in -- it's north of Richmond

19 somewhere. How's that?

20 Q.   It's also west of the Richmond, correct?

21 A.   I would think that is pretty true, yes.

22 Q.   I consider that --

23 A.   Somewhere toward the Shenandoah Valley, right?

24 Q.   I guarantee you, that's not Northern Virginia,

25 but...

26   So that plant was built close to the milk supply,

27 correct?

28 A.   It was built close to a milk supply.

1   Q.   And it is then carrying the costs of -- or at

2 least more of the costs for moving the milk from where

3 it's produced to where it is consumed, correct?

4   A.   In that unusual example, that would be correct.

5   Q.   Other than Shamrock, when you look at the world in

6 2023 versus 2000, and when you think about what your work

7 you did and what the model did, it wasn't that plants

8 other than maybe Shamrock moved, it was that farms moved

9 farther from plants, correct?

10   A.   Farms moved farther from Class I plants.

11   Q.   Okay. And to the extent milk moved farther from

12 Class I plants, doesn't the model pick up the need to move

13 that milk to those fluid plants?

14   A.   It should, yes.

15   Q.   When you use the term alignment for purposes of

16 your modifications, what is your definition of alignment?

17   A.   Number one, that the resulting Class I price

18 surface provides incentives to move milk toward areas of

19 need; that if we can, that we respect the relationship of

20 plants -- particularly plants within a -- a metro area

21 that before our work had a common Class I differential, to

22 respect those Class I differentials within plants -- or

23 within cities, excuse me, or metro areas so that you don't

24 disrupt the competitive relationship between those plants;

25 and that between plants and other plants, that there is a

26 reasonable and reasoned price surface that results from

27 the process.

28   Q.   What role does an efficient market play, if any?

1   THE COURT: What was the last word?

2   BY MR. ENGLISH:

3   Q.   What role does an efficient market play, if any?

4   A.   What role does an efficient market play? I'm not

5   quite sure I know how to answer that.

6   The location of the plants is pretty much fixed,

7   particularly Class I plants. They don't tend to get up

8   and walk around.

9   Farms can, and farms have moved farther away from

10 the cities. That's the problem that we're solving for.

11   Q.   I apologize for my imprecise question.

12   In determining how to address alignment changes

13 from the model, does the concept of an efficient market

14 play a role in those modifications?

15   A.   There's many levels of efficiency. There is

16 efficiency of farm-to-market movements. There's

17 efficiency of competition between plants. There's

18 efficiency of distribution of Class I product. There are

19 any number of levels of efficiency.

20   Q.   Which of those would apply to the question of the

21 modifications that you have proposed making, for instance,

22 in Texas?

23   A.   The --

24   THE COURT: I'm sorry, what were your last three

25 words?

26   MR. ENGLISH: In Texas. In Texas.

27   THE COURT: Thank you.

28   THE WITNESS: The major modification we made in

1   Texas is the Amarillo-to-Lubbock relationship, and that

2   one would be based on two of those three, certainly: The

3   relationship of those plants from a competitive

4   standpoint, and the fact that they distribute and compete

5   for sales in a micro market that is theirs more or less

6   alone. So those are the efficiencies that we would

7   considered in that point.

8   And, quite frankly, since they both sit up on top

9   of their own respective farm milk supplies, those

10   efficiencies are there already. And the -- and since they

11   both would have a common or very similar local procurement

12   cost, there's a -- there's a recognition of efficiency.

13   BY MR. ENGLISH:

14   Q.   Did you ever go back to the University of

15   Wisconsin and say, "We don't understand or we don't agree

16   with what you have done with Lubbock and Amarillo. Can

17   you explain it?"

18   A.   We did not. I did not. How's that?

19   Q.   Do you know if anybody else ever did?

20   A.   I have no -- I can only speak for myself. I do

21   not know that anybody else did, but I can only say that I

22   did not.

23   Q.   But you were the one in charge of Texas, correct?

24   A.   I don't know if the "in charge" is the right term.

25   But I coordinated the Southeast/Southwest committee, yes.

26   MR. ENGLISH: Let's have another exhibit marked,

27   please.

28   THE COURT: Yes. I know it's a little early for a

1   break, but I would like one. So it's about 2:20, so let's

2   take 15 minutes. Please be back and ready to go at 2:35.

3   We go off record now at 2:20.

4   (Whereupon, a break was taken.)

5   THE COURT: Let's go back on record.

6   We're back on record at 2:35.

7   Mr. English, you have been marking and

8   distributing documents. What would you like to talk

9   about?

10   MR. ENGLISH: So I believe we're up to

11 Exhibit 420 -- no jokes, please -- and that's -- this

12 would be MIG-Exhibit 43, which is now a more focused map

13 with highways of Dallas-Fort Worth, but also having marked

14 Sulphur Springs and Stephenville.

15   THE COURT: Sulphur Springs and Stephenville are

16 called out on the map. So I guess I would ask that to be

17 marked as Exhibit 420.

18   THE COURT: Very good. And it's been done.

19   (Thereafter, Exhibit Number 420 was marked

20   for identification.)

21   THE COURT: And let's see, I'll need a copy.

22   And does the witness have a copy?

23   MR. ENGLISH: I gave the witness a copy. I have

24 been instructed by USDA not to give you copies because

25 they are going to give you the officially marked copy.

26   THE COURT: I know, they are going to put a

27 sticker on it.

28   MR. ENGLISH: I was doing what I was instructed to

1 do -- requested to do.

2   THE COURT: Very good. I'm looking at

3 Exhibit 420, 4-2-0, MIG-Exhibit 43, 4-3.

4   All right. And do you want to talk about any

5 other document at this time, Mr. English?

6   MR. ENGLISH: Yes, Your Honor. In addition, I

7 handed out limited copies for official notice purposes of

8 Federal Register Volume 73 from Friday, February 29th,

9 2008, starting on page 11,194. I provided also the

10 witness a copy and Your Honor a copy.

11   And this is the proposed rule and tentative

12 partial decision of the United States Department of

13 Agriculture made in 2008 with respect to the proceeding,

14 that Mr. Sims correctly corrected me on, occurred in 2007.

15   MR. HILL: Could you repeat that Federal Register

16 cite, please?

17   MR. ENGLISH: Of course. It is 73 Federal

18 Register, 11,194, et seq, February 29, 2008.

19   MR. HILL: Thank you.

20   MR. ENGLISH: And I'll be asking for official

21 notice of this document, Your Honor, but let me go to a

22 specific page to provide the context. And that would be

23 page 11,205, the third column.

24   And I'm backtracking for a moment. I was

25 struggling during my direct to find this, and I said I

26 would find it during the break. And so this goes back to

27 this question I asked Mr. Sims about an 80% cost of

28 hauling factor.

1   And if you look, Mr. Sims, in the third column of

2   page 11,205, the next to the last paragraph, and I would

3   direct you to the language that says, "The Class I price

4   adjustment at every county and parish location relies upon

5   a mileage rate factor implemented in December 2006. This

6   factor, representing approximately 80% of the cost of

7   hauling milk" --

8   THE COURT: "Of hauling bulk milk?"

9   MR. ENGLISH: "Of hauling bulk milk" -- thank you,

10   Your Honor -- "is further reduced by 80%."

11   BY MR. ENGLISH:

12   Q.   Do you see that?

13   A.   I do.

14   Q.   Does that refresh your recollection of whether the

15   80% factor was applied to the hauling rate at that time?

16   A.   Yeah. But I think we are misinterpreting what

17   that means. It says that when -- when we developed the

18   Class I price surface at that time, we used the mileage

19   rate factor, which refers to the transportation credit

20   mileage rate factor, which was established in 2006.

21   Mileage rate factors, under Federal Milk Orders,

22   are particular- -- maybe I should say that differently.

23   The mileage rate factor under Orders 5 and 7 is

24   deliberatively -- deliberately, excuse me -- deliberately

25   conservative in terms of its cost of haul.

26   And so it says we used 80% of a hauling rate

27   factor, which was already conservative, and then it

28   reduced it another 80% again, I believe is what this says.

1   So you are looking at 64% of an already conservative price

2   hauling cost.

3   Q.   So let me -- let me get to that second part,

4   because I puzzled over that second part quite a while.

5   But the first part is, if you look in the previous

6   column, that is not a discussion about the transportation

7   credits, this is a discussion about the Class I prices and

8   Class I price surface, correct?

9   A.   Yes, sir, I understand that. But if you look at

10   the paragraph, it says that, "The adjustment of every

11   county and parish location relies on a mileage rate factor

12   implemented in December 2006." That is the mileage --

13   there is only one mileage rate factor in those two orders,

14   and that refers to the transportation credit mileage rate

15   factor. So -- and there was an amendment in December 2006

16   which updated the mileage rate factor.

17   So it's 80% of a conservative mileage rate factor,

18   reduced further by 80%.

19   Q.   I'm not going to get into a grammatical argument

20   or discussion because we'll be here all day on what that

21   means.

22   But whether it's 80% or 64%, nonetheless, this

23   resulted from your own testimony, correct?

24   A.   It did.

25   Q.   Okay. So whether it was 80% or 64%, the idea was

26   you don't compensate for 100% of the haul, correct?

27   A.   That's true.

28   Q.   Thank you. That's the only thing I was trying to

1   do there.

2   MR. ENGLISH: I still think it would be useful to

3   take official notice of this, Your Honor. I mostly used

4   it as a mechanism for the two of us to have a conversation

5   that we had 15 years ago. So -- and I don't think it

6   hurts to take official notice. It's not burdening the

7   record as an exhibit.

8   So I would ask for official notice to be taken of

9   this entire decision, not just the page referenced,

10 because somebody else may want to refer to a different

11 page number.

12   I believe we have taken official notice of other

13 previous decisions of the Department.

14   THE COURT: Yes. I'm very happy to take official

15 notice of this portion of the Federal Register. I want to

16 make sure that people can find it from what we have put on

17 the record.

18   Were you able to find it, Mr. Hill, with the cite

19 that Mr. English provided?

20   MR. HILL: I was.

21   THE COURT: All right. Good.

22   Is there any objection to my taking official

23 notice of Volume 73 of the Federal Register, beginning on

24 page 1194 (sic), but particularly with the third column of

25 page 11,205?

26   There is none. I do take official notice of this

27 document, found at 73 Federal Register beginning at page

28 1194 (sic).

1   MR. ENGLISH: Thank you, Your Honor.

2   BY MR. ENGLISH:

3   Q.   So, again, Moore is a -- so you know what I'm

4   going to do, Mr. Sims, I now want to talk about the Dallas

5   and Fort Worth areas. All right?

6   A.   Okay.

7   Q.   And I believe you said that this week was some

8   kind of anniversary for your involvement in Federal

9   Orders; is that correct?

10   A.   Today, 40 years ago, was my first day of

11   employment with the Market Administrator's Office in

12   Atlanta, Georgia.

13   (Applause from the room.)

14   THE WITNESS: Less impressive than it sounds.

15   BY MR. ENGLISH:

16   Q.   When was the first time you were involved with

17   Order 126, which back in those days was known as the Texas

18   order, correct?

19   A.   It was what?

20   Q.   The Texas order. Before it was the Southwest

21   order.

22   A.   I believe it was, yes. My -- my involvement in

23   the -- in Order 126 probably dates back, in some respects,

24   to roughly 2002. Although at that time -- well, I'm

25   just -- I was going to qualify it, but the -- my

26   involvement at that time would have provided me some

27   knowledge of the way milk moved and the location of milk

28   supplies, predominantly the location of milk supplies in

1   the Texas area along about then.

2   Q.   About when?

3   A.   2002.

4   Q.   Okay. Have you gone back and studied, given this

5   testimony, or talked to others about the history of the

6   Texas order going back into the mid-1980s?

7   A.   No.

8   Q.   Were you involved when you -- when -- when were

9   you last involved at the Market Administrator's office?

10   A.   When I was last an employee?

11   Q.   Yes, an employee.

12   A.   1996.

13   Q.   Yeah. Good caveat.

14   And were you still at -- in Atlanta, Georgia --

15   A.   No, I was in Louisville, Kentucky from 1991

16   through 1996.

17   THE COURT: Gentlemen, do not gallop.

18   MR. ENGLISH: Oh, sorry. I thought I wasn't, but

19   it must be the after-lunch effect.

20   BY MR. ENGLISH:

21   Q.   Do you know that there were a series of

22   hearings -- have you -- did you know that there was a

23   series of hearings dating back in the 1970s through 1995,

24   with respect to questions raised in those hearings as to

25   the proper level location adjustments in Texas?

26   A.   I am aware that there were hearings. That would

27   probably represent the totality of my knowledge, simply

28   the awareness that those hearings were occurring or did

1 occur.

2   Q.   In preparing for this hearing or preparing for

3 your involvement in -- as -- in your role as coordinator,

4 especially of Texas, did you discuss, you know, the

5 history of where Texas milk supply, you know, has been and

6 where it has moved to?

7   A.   I specifically consulted the Market

8 Administrator's for Order 126 website. They have what I

9 can only describe as an extremely useful tool that

10 provides milk production information in Texas and New

11 Mexico by their designated regions, all the way back to

12 2000. So I looked at that a great deal. And you can look

13 at it by month and by -- by region of Texas.

14   Q.   Given your other involvement -- involvements, are

15 you aware that, at least at some recent time, recent time

16 being during our careers, that the milk supply for Dallas

17 largely came from Sulphur Springs?

18   A.   There was a time when Sulphur Springs would have

19 been an important supply for the Dallas market, but that

20 was a pretty long time ago.

21   Q.   Thanks so much. Dating me.

22   And are you aware -- so what county is Sulphur

23 Springs in?

24   A.   Sulphur Springs, I believe, is in Hopkins.

25   Q.   Yes.

26   A.   There's three or four counties right around

27 Hopkins County, which form what we, in the industry, I

28 would say colloquially, refer to as the Sulphur Springs

1 milk shed.

2   Q.   And are you aware that the milk for Fort Worth

3 came from Stephenville?

4   A.   That would make sense. And Stephenville is in

5 Erath County.

6   Q.   And Sulphur Springs to Dallas is fairly

7 equidistant as from Stephenville to Fort Worth, correct?

8   A.   That would be about right, yes.

9   Q.   Now, is it fair to say that that milk supply in

10 Hopkins County has gone down?

11   A.   The milk supply in what I -- and I think most

12 industry people would refer to as the Sulphur Springs milk

13 shed, has experienced milk production declines that

14 actually look a lot more like the Southeast than -- than

15 many other places in Texas. That production is probably

16 well less than half of what it was couple of decades ago.

17   Q.   And to the extent there is still milk production,

18 it's moving east?

19   A.   Some of it moves east. Some of it moves south.

20 Some of it stays in that general area for -- there's a

21 plant, pool distributing plant in -- in Sulphur Springs.

22 There also is one in Tyler. And so some of that milk

23 production stays right there. Some of it moves south to

24 the Houston/Conroe complex. Some of it might move east to

25 Order 7.

26   Q.   But it's not moving to Dallas anymore, correct?

27   A.   It generally would not. It would be an unusual

28 case for it to go back to Dallas.

1   Q.   And similarly, what about milk supply in Erath

2   County, commonly known as Stephenville, where does that --

3   has that milk gone down as well?

4   A.   Some.

5   Q.   Does that milk generally move south now rather

6   than into Fort Worth?

7   A.   Correct. It generally goes towards the plants

8   at -- I would say Austin, but that plant is closed. No.

9   Yes. Yes. San Antonio, Houston/Conroe, might

10 occasionally go to El Paso, but I can't say that for sure.

11   Q.   And I'm trying not to belabor the record with too

12 many things.

13   You agree that -- that milk from Erath would go to

14 San Antonio, correct?

15   A.   Generally, yes. That would be a natural

16 destination for some of that milk, yes.

17   Q.   And it wouldn't surprise you if USDA made a

18 finding of that back in 1991, correct?

19   A.   I'm sorry. Please repeat that. You are starting

20 to speed up. I'm from the south. I hear slow.

21   Q.   As we now know, I'm from Northern Virginia. And

22 so our court reporter thanks you, and apparently I was

23 doing better this morning, but I'll try to slow down.

24   THE COURT: I don't know if the court reporter

25 caught that. But you lowered your chin, and I didn't

26 catch it at all.

27   So while I have got you stopped, would you please

28 spell Stephenville for me.

1   THE WITNESS: Yes. S-T-E-P-H-E-N-V-I-L-L-E.

2   THE COURT: And the speed with which you speak is

3   only half the problem. The other problem is not waiting

4   until the other's voice dies down. Both of you are

5   guilty.

6   MR. ENGLISH: I doubt he's guilty of speaking too

7   quickly.

8   BY MR. ENGLISH:

9   Q.   So when milk moved from Stephenville to Fort Worth

10   and Sulphur Springs to Dallas, back when milk was still

11   available, it made sense that the two locations would have

12   the same Class I differential value, correct?

13   A.   Which two locations, Stephenville --

14   Q.   Fort Worth and Dallas.

15   A.   Still makes sense for them to have the same

16   differential, but that would have made sense then, too.

17   Q.   Well, let's get to what it does now.

18   Let's first agree that given looking at current

19   situations, it made sense then. We can agree on that.

20   All right?

21   A.   I can agree with that.

22   Q.   Okay. Now, you do say, on page 32, when you

23   discuss Dallas and Fort Worth, you say, "In a world,

24   driven purely by logic and science, a differing Class I

25   differential in these two cities might work. In

26   practicality, no way."

27   Correct?

28   A.   That's -- that sounds like me. Yes.

1   Q.   Well, speaking about practicality and looking at

2   the map, whether the milk for those locations comes from

3   Amarillo or Lubbock, it has to pass north of and east of

4   Fort Worth to get to Dallas, doesn't it?

5   A.   Generally, yes.

6   Q.   Would you agree that the trip from the Panhandle

7   is 25 miles farther to Dallas than Fort Worth?

8   A.   That's about right, yes.

9   Q.   And would you agree that those 25 miles, we have

10 heard things about traffic? You know, even on Sunday

11 morning, which I checked this week, will take you like

12 35 minutes longer than going to Fort Worth to Dallas?

13   A.   There is substantial traffic in the

14 Dallas-Fort Worth Metroplex.

15   Q.   So given those practicalities and the idea that it

16 costs $0.01 per hundredweight to move one mile, therefore,

17 there's 25 miles extra distance to go to Dallas, why

18 doesn't the model make sense for the results in Fort Worth

19 to Dallas?

20   A.   This is another case where historical relationship

21 of plants within a city cluster or a plant cluster should

22 continue to have the same Class I differential as exists

23 currently.

24   Again, that Dallas-Fort Worth Metroplex is a

25 substantial demand point. There are, I believe, four pool

26 distributing plants in and around Fort Worth and Dallas.

27 They should -- in our opinion, it's simply most practical,

28 most realistic, most efficient, most deserving, that those

1 plants could and should continue to have the same Class I

2 differential despite the fact that there is a certain --

3 there is, obviously, a slightly higher cost for milk going

4 from the Panhandle, past Fort Worth, to Dallas.

5   Q.   There are three Class I plants in the

6 Dallas-Fort Worth Metropolitan area, correct?

7   A.   I believe it's four.

8   Q.   What are the four?

9   A.   There is -- you said the Dallas-Fort Worth Metro

10 area, right?

11   Q.   Yes. Yes.

12   A.   I believe Kroger Company operates a plant in

13 Fort Worth. It might be listed on the Market

14 Administrator list as Vandervoort's. I think there are

15 two plants -- three plants in -- in the -- on the Dallas

16 side, two of which are -- I believe they are owned by

17 Dairy Farmers of America, and one is owned, operated by

18 Hiland on the Dallas side. I believe there are three

19 plants on the Dallas side.

20   Q.   Okay. So a proprietary operation in Fort Worth

21 and cooperatives in Dallas -- cooperative-owned plants in

22 Dallas?

23   A.   Yes.

24   Q.   Are you also aware that there is some organic

25 utilization in Dallas?

26   A.   I wouldn't be surprised by that, but I have no

27 personal knowledge.

28   Q.   Turning now to Georgia, and you -- I believe you

1 gave your testimony, and I cross-examined you, and I wrote

2 this cross-examination before there was another

3 announcement that there is going to be a Walmart facility

4 built in Georgia, correct?

5   A.   Yes.

6   Q.   Do you know if that Walmart facility was

7 provide -- whether the possible existence of that Walmart

8 facility was provided to the model?

9   A.   I certainly had no knowledge of that potential,

10 and I don't know that anybody else did. I can say with

11 some certainty that that -- the potentiality of that plant

12 was not in the model.

13   Q.   Have you -- given the nature of that public

14 announcement, has National Milk considered what impacts

15 that would have on the proposal?

16   A.   I'm sorry?

17   Q.   Have you considered what impacts the announcement

18 of that plant would have on NMPF 19?

19   A.   We have not modified our proposal.

20   Q.   Do you think USDA should consider that plant that

21 is not yet opened?

22   A.   Yes.

23   Q.   Are plants in Atlanta located closer to the milk

24 shed than a plant in Spartanburg?

25   A.   No.

26   Q.   Where is the milk supply for the Atlanta plants?

27   A.   There's not much. There if -- if -- there is a

28 supply of milk in South Georgia, which is quite distant

1 and has to come up against the grain to get to Atlanta.

2 There is still some milk supply in the counties to the

3 east a little ways from -- from the Atlanta Metro area.

4 What is the name of that town over there? It escapes me

5 at the moment, but there's not a lot left.

6   So Spartanburg is close enough to North Carolina

7 to have a nearer supply than -- than Atlanta does.

8   Q.   And so Spartanburg, the model Row 2325, if you

9 want to -- I thought you had it electronically. Do you

10 have it electronically or not? Or do you have a

11 different --

12   A.   Which -- which, I'm sorry?

13   Q.   Spartanburg, South Carolina. I'm looking to

14 discuss the --

15   A.   Perhaps you could tell me what exhibit you are

16 looking at.

17   Q.   I'm going to look at 301 again, which I thought --

18   A.   I do not have a copy of that, but I do have some

19 of this information. How's that?

20   Q.   I may have made an assumption that you had a copy

21 electronically.

22   A.   I do not.

23   THE COURT: I'm sorry, here it is.

24   THE WITNESS: Thank you so much, Your Honor.

25   Your -- where, again, are we looking?

26 BY MR. ENGLISH:

27   Q.   Spartanburg, which is Row 2325.

28   A.   Yes.

1   Q.   The model average was $6.00, correct?

2   A.   Yes.

3   Q.   And the proposal is for $5.60, correct?

4   A.   Yes.

5   Q.   So it's not just North Carolina that has a

6   reduction. You are also proposing a reduction for

7   Spartanburg, South Carolina, correct?

8   Over the model. Over the model. Not a reduction

9   in the overall. I saw where you were going, and I

10 apologize. But comparing the model to the proposal, you

11 are proposing a decrease of $0.40, correct?

12   A.   Our proposal at Spartanburg is less than the

13 average generated by the two monthly model runs.

14   Q.   Since you went out of your way to say that, if you

15 look back at Column F, that's also lower than the May at

16 $5.80, correct?

17   A.   It is.

18   Q.   And do you recall whether -- whether the model

19 also provided for $6.00 for Atlanta?

20   A.   I do recall that.

21   Q.   And you reduced that by $0.05 for Atlanta?

22   A.   Our proposal is $5.95 per hundredweight for the

23 two plants in -- in and around the Atlanta Metro area,

24 which is, I agree, $0.05 less than the model average.

25   Q.   Who owns those plants in Atlanta?

26   A.   One is owned by Kroger Company; the other is owned

27 by Publix Supermarkets.

28   Q.   And who owns the plant in Spartanburg?

1   A.   I believe that's a Dairy Farmers of America plant.

2   Q.   Were you here for my conversation with Mr. John

3 last week?

4   A.   I was not. No. I -- yes, I was. I'm sorry, yes,

5 I was here for that.

6   Q.   What role did you have with respect to the

7 decisions made for pricing of the Kroger plant in

8 Lynchburg and the Maryland plant in Newport News?

9   A.   We collaborated across that area and arrived at a

10 price surface we felt was realistic given the nearness of

11 the local supply and the nearness of the supplemental

12 supply. And that kind of segmented part of Order 5. It's

13 that portion east of the Appalachians.

14   Q.   Isn't Lynchburg closer to the milk supply than

15 Newport News?

16   A.   It would be, yes.

17   Q.   Other than existing price alignment, what

18 justification is there for modifications to the model that

19 lowered Lynchburg by $0.05, but lowered Maryland and

20 Virginia's plant by $0.55 to reduce the difference between

21 the two on the model by $0.50?

22   A.   Again, that area continues to have some milk

23 supply, unlike many parts of the Southeast, and it's

24 closer to the supplemental supply. We felt like the model

25 had overpriced that -- that area for that reason, that it

26 was -- that -- that the availability of the supplemental

27 supply, the availability -- the relative better

28 availability of local supply justified a lower price

1 than -- in that area, than the model generated.

2   Q.   What is the closest volume of milk to Newport

3 News?

4   A.   Beg your pardon?

5   Q.   What is the closest volume of milk on a farm to

6 Newport News?

7   A.   Probably would be milk on the western side of

8 Virginia.

9   Q.   Which is closer to Lynchburg, correct?

10   A.   Yes.

11   Q.   Was Mr. Kang involved in your conversations in

12 your red pencil crew?

13   A.   Some.

14   Q.   So it's my understanding that he's not going to be

15 testifying, correct?

16   A.   I believe so. He was relatively late to the

17 process.

18   Q.   That's fine. If I asked you questions about the

19 discussion that he would have had in his testimony, with

20 respect to milk moving from West Texas and Kansas, would

21 you have information on that?

22   A.   I can see, if you will -- if you want to talk

23 about it, fine. I'm -- I'll see if I can agree or

24 disagree.

25   Q.   Where does milk from West Kansas move for fluid

26 milk use?

27   A.   Some of it goes to Order 7. Some of it goes to

28 the east side of Texas. And I don't -- I don't know where

1   it all goes. But I can say that some moves to points in

2   the western side of Order 7. Some of it moves to points

3   on the east side of Order 126. May occasionally -- in

4   fact, I'm sure it goes sometimes to the Dallas-Fort Worth

5   area. May actually come down and supply Amarillo and

6   Lubbock. I can't say for sure, but it would depend on the

7   day. But it might move to those areas.

8   Q.   But what is the purpose of setting the Class I

9   differential say, in Wichita, Sedgwick, Kansas, at 3.85,

10   $0.90 higher than the model, and 31%, if you are trying to

11   move milk east?

12   A.   We were not involved in the Wichita/Kansas price.

13   Q.   In that case, thank you, Mr. Sims.

14   MR. ENGLISH: I have no further questions. I

15   guess I move admission, Your Honor, subject to

16   Ms. Hancock's concerns about 417 -- 417, 418, 419, and

17   420.

18   THE COURT: Ms. Hancock, do you want to go on

19   record with regard to your reservations about Exhibit 417?

20   MS. HANCOCK: Your Honor, it incorporates my prior

21   comments. My reservation with the document is that the

22   witness didn't put the document together, can't

23   independently verify it. We're not objecting to its

24   admission as long as we're noting that for the record.

25   THE COURT: Thank you.

26   Is there any other comment or objection to the

27   admission into evidence of Exhibit 417, also MIG-38?

28   There is none. Exhibit 417 is admitted into

1   evidence.

2   (Thereafter, Exhibit Number 417 was received

3   into evidence.)

4   THE COURT: Is there any objection to the

5   admission into evidence of Exhibit 418, also MIG-41?

6   There is none. Exhibit 418 is admitted into

7   evidence.

8   (Thereafter, Exhibit Number 418 was received

9   into evidence.)

10   THE COURT: Is there any objection to the

11   admission into evidence of Exhibit Number 419?

12   There is none. Exhibit 419 is admitted into

13   evidence.

14   (Thereafter, Exhibit Number 419 was received

15   into evidence.)

16   THE COURT: Is there any objection to the

17   admission into evidence of Exhibit Number 420?

18   There is none. Exhibit 420 is admitted into

19   evidence.

20   (Thereafter, Exhibit Number 420 was received

21   into evidence.)

22   MR. ENGLISH: Thank you, Your Honor. If I had

23   just a couple minutes, I'll clean up all of the things I

24   have put over here, if that's okay.

25   THE COURT: In other words, you would like a

26   little break before the next cross-examiner?

27   MR. ENGLISH: I think it would make it easier for

28   the next cross-examiner to work if I got rid of all my

1 stuff.

2   THE COURT: Yeah, but your documents are gone, and

3 you have those nice chairs there.

4   MR. ENGLISH: I'm going to move the chairs. I

5 don't anybody else wants to use them, and I'm crowded,

6 too.

7   THE COURT: All right. Let's take a five-minute

8 stretch break. Be back and ready to go at 3:20.

9   (Whereupon, a break was taken.)

10   THE COURT: Let's go back on record.

11   We're back on record at 3:20.

12   CROSS-EXAMINATION

13 BY MR. MILTNER:

14   Q.   Good afternoon, Mr. Sims.

15   A.   Good afternoon, Mr. Miltner.

16   Q.   For the record, I'm Ryan Miltner. I represent

17 Select Milk Producers.

18   So I read through Section 3 of your testimony,

19 which you summarized for us earlier this afternoon. And

20 it seems to me that there was a commonality of approach in

21 the work your group did to set differentials, or proposed

22 differentials I should say, for Orders 5, 7, 6, and 126,

23 and the approach that Mr. Gallagher explained either

24 yesterday or earlier today for the Central Order.

25   Would you agree?

26   A.   I think so, yes.

27   Q.   And, specifically, I think in both instances, if I

28 understand correctly, there was a starting point further

1 to the east. I think Mr. Gallagher spoke to St. Louis,

2 and then in his case, worked backward to Kansas City, and

3 eventually all the way to Colorado.

4   Does that sound familiar to you?

5   A.   I wouldn't disagree with that. I was not involved

6 with that, but that sounds -- I think that encapsulates

7 Mr. Gallagher's description, yes.

8   Q.   And the work that your group did -- and it's --

9 again, it's in the written testimony that you -- I don't

10 think you talked about it a lot while you were on the

11 stand, but taking a point in Order 7, and you mentioned

12 Hammond, Louisiana, and a few points like that, as a kind

13 of starting point for you working back westward into

14 Houston, Dallas, and then eventually the western part of

15 that territory; is that correct?

16   A.   That's a fair characterization.

17   Q.   And so in both instances, am I correct that you --

18 whatever that starting point furthest to the east was,

19 that your working group, after some e-mails and

20 consultations, established a proposed differential for

21 that starting point; is that right?

22   A.   In the case that you just described, I would

23 wouldn't say it was Hammond, Louisiana, which is the most

24 eastern plant on that Louisiana Gulf Coast complex. We

25 basically worked through those three plants simultaneously

26 because we felt like they needed to have a common

27 differential.

28   So I -- if you would indulge me and say that we

1   used that complex as our basing point, that did inform our

2   decision regarding Houston and then points north and west.

3   Q.   And when you say informed your decision on

4   Houston, I think later in your testimony you talk about

5   using that complex of plants to settle on a $5

6   differential for Houston.

7   A.   I disagree with the "settle on."

8   Q.   Okay.

9   A.   Because every place is -- this is an iterative

10 process, and you have to weigh any number of factors. But

11 to say that we were comfortable with the relationship

12 between the Southern Louisiana Class I plants and our

13 proposal for the Houston/Conroe area is a fair statement.

14   Q.   Is it also correct that the Houston differential

15 was arrived at after the complex of plants' differential

16 was proposed for those areas?

17   A.   I think that's fair, yes.

18   Q.   Okay. And then you describe, both in your

19 question-and-answer exchange with Mr. English, as well as

20 in your written statement, that once a number was proposed

21 for Houston, that was used to propose a differential for

22 Dallas, and then further back into the Panhandle of Texas,

23 correct?

24   A.   Yes.

25   Q.   And that you also described the working group's

26 desire to maintain proportionality in those steps along

27 the chain?

28   A.   Yes.

1   Q.   Okay. Great. So I have a good grasp on that

2   then. Thank you.

3   You described some of the cooperatives were -- all

4   of the cooperatives that were in your working group. Did

5   you, prior to the submission of National Milk's proposals,

6   consult with any other cooperatives about the

7   differentials surface?

8   A.   I did not.

9   Q.   Do you know if others on your committee or

10 National Milk reached out to any cooperatives?

11   A.   I do not. I do not know.

12   Q.   Okay. So I have a list of all of the cooperatives

13 that are listed as handlers on Orders 5, 6, 7, and 126. I

14 think it's two dozen or so. I don't want to belabor it

15 and ask you about each of them because you said you didn't

16 reach out to any of them.

17   But there's 20 other milk marketing entities which

18 have a history of milk sales and sometimes manufacturing

19 operations in those four orders, but -- but they were not

20 consulted?

21   A.   They were not consulted by me.

22   Q.   Okay. Not consulted by you.

23   And you were -- am I correct that you had either

24 testified to this, or someone else may have -- may have

25 crowned you, you were kind of the coordinator of the --

26 devising the differentials and putting the map together?

27   A.   Yes.

28   Q.   Okay.

1   A.   Coordinator is probably as good a word as you can

2   use.

3   Q.   As the coordinator, would you have expected to

4   have been aware if someone else had reached out to someone

5   outside of your working group to provide input?

6   A.   I don't know about "expect," but I am not aware

7   that anyone else reached out. But they may have.

8   Q.   Within your working group, the business knowledge

9   and local knowledge and competitive relationships played a

10   very important role in setting the differentials, did they

11   not?

12   A.   There were any number of factors that we used to

13   determine our proposal. Local knowledge. It was

14   certainly key the -- among our ability to develop a

15   reasoned and reasonable Class I price surface.

16   Q.   What about business relationships between

17   cooperatives and their customers?

18   A.   I don't recall any discussion about cooperatives

19   and their customers. No, we do -- we didn't really talk

20   about that much. We kind of went plant to plant to plant,

21   what's the right relationship to the next plant over.

22   Q.   So Mr. Gallagher testified about the importance of

23   his cooperatives' relationship with a large customer,

24   valuable customer, Leprino Foods, in Colorado.

25   Within your working group, there were no such

26   considerations discussed?

27   A.   Not that I recall. It was -- this was, what does

28   it take to get milk to a place? What's -- what does it

1   look like, north, south, east, west to the next place

2   over? And how do you define a Class I differential?

3   Q.   There's been a term that's been used throughout

4   testimony of several witnesses of "blend price equity."

5   Was blend price equity a consideration of your

6   working group in setting proposing differentials?

7   A.   I don't recall us ever discussing anything like

8   the phrase "blend price equity." We -- we -- I think we

9   all intuitively know that the -- I hope we all intuitively

10   know -- that the Class I price surface also defines the

11   producer price surface for the revenue for delivery to a

12   plant. It's in the back of your mind. I guess you think

13   about blend price relationships that way.

14   But we did not define -- we -- in the Southeast

15   and the eastern part of Texas, the overwhelming problem is

16   getting the milk there.

17   Q.   Did you hear Mr. Gallagher's response when I asked

18   him for his definition of "blend price equity"?

19   A.   I did hear.

20   Q.   Okay. And my recollection and notes are that

21   blend price equity was maintaining a producer's price

22   differential that is similar to that which is currently

23   realized.

24   Is that your recollection as well?

25   A.   I won't argue with that, but I don't recall the

26   quote verbatim.

27   Q.   I don't have it verbatim either, for the record.

28   Was maintaining producer price differentials at a

1 level similar to what is currently experienced a goal of

2 your working group?

3   A.   We never discussed the -- as a group, what --the

4 impact on PPDs. I -- I will tell you this: I can

5 calculate them in my head, and probably thought about them

6 myself. But this wasn't a point of discussion

7 particularly amongst the group, remembering that three of

8 the four orders don't have PPDs.

9   Q.   They do have a blend price equivalent, though?

10   A.   They do have a blend price, but not a PPD.

11   Q.   And so let's talk about Order 126, which does have

12 a PPD, correct?

13   A.   Yes.

14   Q.   Although you said you may have been calculating

15 those in your head, they were never discussed by the

16 working group?

17   A.   I wouldn't say never. We may have gone back later

18 on and made sure that -- in fact, I believe we did. We

19 just kind of informally took a quick look and made sure

20 that these location values didn't have an unintended

21 consequence of increasing the general incentive to depool.

22   And I believe that our general consensus, kind of

23 just doing the work in our head, I never did it on paper,

24 I did it in my head, and so we -- our relationship between

25 the base zone and the place where most of the depooling

26 happens would actually decrease the likelihood of

27 depooling.

28   Q.   So in the instance of Dallas County, Texas, and

1 Chavez or Curry County, New Mexico --

2   A.   Yes.

3   Q.   -- the New Mexico counties are $2.10 zone right

4 now, and Dallas is at $3, correct?

5   A.   Correct.

6   Q.   So there's $0.90 there?

7   A.   Yes.

8   Q.   The proposal would be $4 in Dallas County, $2.70

9 in the New Mexico counties?

10   A.   Yes.

11   Q.   So moving that spread from $0.90 to $1.30, you are

12 satisfied that that will not increase substantially the

13 incidents of depooling?

14   A.   I'd have to say that I don't think I personally

15 looked through -- looked at those -- depooling at those

16 plant -- those manufacturing plants. I was thinking

17 about -- quite frankly, I was thinking about the

18 Panhandle. I would have to think through the question

19 at -- at those Eastern New Mexico plants.

20   Q.   The Panhandle would include -- would you include

21 Lubbock County in the Panhandle?

22   A.   Yes, I would.

23   Q.   Bailey County? Muleshoe.

24   A.   Muleshoe? Yes. There's no plant in Muleshoe,

25 though.

26   Q.   But there are farms?

27   A.   There are farms.

28   Q.   Lamb County --

1 A. Yes.

2 Q. -- Littlefield?

3   Potter County, Amarillo?

4 A. Yes.

5 Q. So those are all $3 zones, right --

6 A. Correct.

7 Q. -- proposed?

8   So $0.30 difference than New Mexico --

9 A. Yes.

10 Q. -- Eastern New Mexico?

11 A. Yes.

12 Q. Okay. Was there anybody else in your working

13 group that perhaps focused more on New Mexico?

14 A. I don't recall there being, no.

15 Q. So --

16 A. But individually, they may have done the math.

17 But I did not, honestly, do that piece of math in my head

18 for those New Mexico plants.

19 Q. New Mexico is the ninth largest dairy state in the

20 country, right?

21 A. That sounds right.

22 Q. And the largest cheddar cheese plant in perhaps

23 the world, certainly North America, is in New Mexico?

24 A. Correct. That's -- I understand that it is one of

25 the largest, yes.

26 Q. And a substantial mozzarella or Italian cheese

27 plant in Roswell?

28 A. Correct.

1   Q.   And to your recollection, you don't know if

2 anybody on your working group specifically thought about

3 the differentials in depooling in New Mexico?

4   A.   We did not have that conversation, that I recall.

5 Again, we did have a quick, in-our-head,

6 how-many-does-the-blend-go-up kind of question, and does

7 that generate any likely depooling.

8   When -- when we were having that kind of informal

9 conversation, I was thinking Panhandle. The other people

10 may have been thinking Panhandle and Eastern New Mexico.

11 I just said, I don't think we have a problem. And I was

12 thinking about the Panhandle.

13   They -- the other individual that was in that

14 conversation may have been thinking about Eastern New

15 Mexico. I was not.

16   Q.   Now, Lubbock County, Bailey County, Lamb County,

17 in Texas, they are currently a $2.40 zone, correct?

18   A.   Yes.

19   Q.   So there's a $0.30 difference currently between

20 Eastern New Mexico and the neighboring Panhandle of Texas,

21 correct?

22   A.   Yes.

23   Q.   Have you -- have you given any thought to where

24 milk production has grown in the past 15 years in that

25 part of the country, whether it's been growing in New

26 Mexico or growing in the Panhandle?

27   A.   The growth has been in the Panhandle. The New

28 Mexico production is actually been backing up of late.

1   Q.   New Mexico, I think at one point, was the highest

2   as the fifth or sixth largest dairy state in the country?

3   A.   I don't recall that statistic, but I do -- that

4   there is no doubt that milk production in New Mexico has

5   fallen lately.

6   Q.   Do you think that any part of that might be

7   attributable to the fact that it is more economically

8   advantageous to locate a farm in the Panhandle because of

9   that difference in differential?

10   A.   I don't know -- I can't say with certaintude that

11   that $0.30 difference in price would spur all the growth

12   in the -- in the Texas Panhandle and would cause the

13   decline in New Mexico. But it is $0.30 difference today.

14   Q.   And I did not try to suggest that it was spurring

15   all of the growth but --

16   A.   Could it have had some factor? Yes.

17   Q.   We talked earlier about the commonality of the

18   approach for the Central Order and Order 126 in helping to

19   establish the values in Proposal 19. There's also some

20   other commonalities. I want to see if you agree with me.

21   So up in Weld County, Colorado, there's a

22   substantial cheese manufacturer, correct?

23   A.   Yes.

24   Q.   And the same would be on the -- kind of the

25   western edge of Order 126 where you have a large cheddar

26   manufacturer, correct?

27   A.   The western edge of 126?

28   Q.   Yes.

1   A.   Cheese, there's only one cheese manufacturer in

2   what I would call the western edge of 126.

3   Q.   Say the western portion of 126.

4   A.   Southwest Cheese -- there are several cheese

5   plants in what I would consider the western part of 126.

6   Q.   Southwest Cheese is a pretty large plant, is it

7   not?

8   A.   And that one is located in New Mexico.

9   Q.   As a matter of fact, almost due south of Weld

10 County, Colorado, correct?

11   A.   I'd have to think about that geography, but put it

12 this way, you go up the center part of New Mexico, loop

13 around on I-25 and up to Denver. So, sure.

14   Q.   Now, when National Milk was -- after it had gone

15 through the process of starting in the east with the

16 differential and working its way back west, there was a

17 modification made to the Weld County, Colorado,

18 differential to account for the large cheese plant there

19 and a long-term milk supply agreement, correct?

20   A.   That seems to be the history, yes.

21   Q.   If you did the same to the south for Order 126,

22 you end up either in the Panhandle or Eastern New Mexico

23 where the milk supplies a larger cheese plant with a

24 similarly committed milk supply.

25   Why did you choose not to adjust the differentials

26 there in the same way that they were changed for Weld

27 County?

28   A.   They -- I -- I was not involved in the

1 quote/unquote Weld County question. The relationship

2 between the Panhandle and New Mexico, the Texas Panhandle,

3 at least, and New Mexico, the Dallas-Fort Worth price and

4 the New Mexico price, was to -- when milk needed to move

5 from New Mexico to the Class I destinations on the east

6 side of Texas, that there would be an additional

7 relationship which would encourage that milk to move. It

8 does not move very often and -- but if it did need to,

9 that there would be the additional incentive to encourage

10 it to move.

11   Q.   How often do you -- in your experience, does an

12 appreciable volume of milk move from New Mexico to the

13 Eastern Texas plants?

14   A.   Not very often. But if it did, it needs an

15 incentive to do so.

16   Q.   So those -- are those spot sales then, almost?

17   A.   How much milk moves out of New Mexico into the

18 Metroplex and Houston and -- and San Antonio, I don't

19 know. But it -- I do know that it's a fairly rare

20 occurrence.

21   Q.   If milk is so short that it has to move that far,

22 6 to 700 miles, correct?

23   A.   Yes.

24   Q.   Is that Class I plant going to be paying the class

25 price or are they going to be paying a substantial premium

26 to meet their needs?

27   A.   I would -- I would not agree with the term

28 "substantial." The Class I plant probably pays the same

1 premium no matter where the milk comes from.

2   Q.   Then isn't that a failure of the cooperative in

3 managing its milk supply?

4   A.   Failure?

5   Q.   Yes.

6   A.   No.

7   Q.   If they are obligated to move milk 700 miles at a

8 long-term contracted price and pass that through to their

9 members, that's not a failure of the cooperative to do its

10 job right?

11   A.   It is -- it's a concern. That's one of the

12 reasons we're here, to up the differentials and increase

13 the incentive to move milk from the reserve supply areas

14 to the demand areas, to correct some of that problem.

15   Q.   On page 24 of your statement, you don't need to

16 turn to it, I don't think, but you cite that

17 "collaboration" was your watch word within your working

18 group?

19   A.   Yes.

20   Q.   Was collaboration also an important watch word

21 among the various committees working on different zones of

22 the country?

23   A.   I presume. We worked independently, and there's

24 no directive as to how to work together. We -- from what

25 I understand of the various committees, it seemed they

26 worked very much together.

27   Q.   I think you are answering -- I perhaps asked the

28 question imprecisely.

1   Collaboration among the working groups within

2   intra-group collaboration, but how about inter-group

3   collaboration?

4   A.   Once -- once each group developed its full,

5   fleshed out proposal, the -- what I think -- if I get my

6   Latin right, the intra-region price surface, we

7   collaborated or we -- we would put down, I guess, side by

8   side or next to each other, however you want to put it,

9   the next region over, to make sure that there was

10 appropriate alignment between areas as to -- that was

11 mostly where the concern was, is did the regions line up,

12 and at the end of the day, did we have a reasoned and

13 reasonable Class I price surface --

14   (Court Reporter clarification.)

15   THE WITNESS: I'm sorry. I sat back.

16   The answer is that the regional committees, once

17 they completed their intra-area work, would compare notes

18 with the neighboring committee to make sure that there was

19 alignment across the borders between those regions. And

20 at the end of the day, to make sure that when all the

21 regions, all the puzzle pieces, if you will, fit together,

22 that it made a reasonable and reasoned Class I price

23 surface. And that is what we did.

24 BY MR. MILTNER:

25   Q.   Was there collaboration inter-group,

26 between-the-group collaboration, on the methodologies used

27 to make discrete county adjustments?

28   A.   We allowed every -- each of the regional

1 committees to use their local knowledge and apply that as

2 appropriate for their area.

3   Q.   Do you have an opinion as to whether the slope

4 between Colorado and Kansas City is sufficient to move

5 milk from Colorado to Kansas City?

6   A.   I don't know that. I haven't memorized either of

7 the Kansas City nor the Colorado differentials.

8   Q.   Jackson County, Missouri, is $0.15 higher than

9 Weld County, Colorado, in Proposal 19.

10   A.   Okay.

11   Q.   Do you have an opinion now?

12   A.   That is not enough to move -- not enough slope to

13 move milk. But there's not enough slope anywhere in the

14 country to actually move the milk on the differentials.

15 You can encourage the milk to move, but no place in the

16 country do we have point-to-point differential differences

17 that are sufficient to, on their own, move the milk.

18   Q.   That would include New Mexico to Dallas or points

19 further east?

20   A.   It would.

21   Q.   So if that's the case, why not increase Eastern

22 New Mexico the same way that Weld County, Colorado, was

23 increased to ensure or decrease the likelihood of

24 depooling of milk?

25   A.   Like I said, I thought -- I didn't think through

26 that, but I can see how it is a consideration.

27   MR. MILTNER: Thank you very much, Mr. Sims.

28   THE COURT: Who next has questions for Mr. Sims

1   before I invite the Agricultural Marketing Service

2   questions?

3   No one. Agricultural Marketing Service, you may

4   proceed.

5   CROSS-EXAMINATION

6   BY MS. TAYLOR:

7   Q.   Good afternoon.

8   A.   Good afternoon.

9   Q.   I was shocked that I get a turn today.

10   A.   No comment.

11   Q.   That doesn't make you laugh?

12   A.   No comment.

13   Q.   Little levity. All right.

14   So for part 3 in the beginning portion, you

15   described the considerations that your working group

16   members had when developing the recommended differentials.

17   Among them you talk about and describe the desire to

18   maintain current cross-city pricing relationships when

19   possible.

20   I was wondering if you could just first elaborate

21   on the importance that you all felt there was in

22   maintaining these price relationships.

23   A.   Yes. It just simply makes sense that when you

24   have plants spread across metropolitan areas that are --

25   that abut -- or that are -- that we almost consider a

26   single market, that those plants continue as they

27   currently have, or if they deserve to have -- to have

28   commonality of pricing. It's simply orderly that you

1 don't have little nickel differences across a short

2 period, a short distance. That's disorderly, and it

3 doesn't change the way the milk moves. It just simply

4 makes more sense to provide a -- across plants

5 particularly -- and I think Dallas and Fort Worth are the

6 perfect example, that it simply doesn't make any sense to

7 have a separate price in Fort Worth than in Dallas. It

8 just is kind of unnecessary. It's an unnecessary

9 complication to the system.

10   Q.   And so to drill down a little bit more, did you

11 look at -- did you look at it in the -- in the kind of

12 like the sales side, where those plants compete for sales?

13   A.   That would have been one element perhaps. Also

14 the commonality of supply, the three plants across the

15 Louisiana coast, the supply to those plants was, by far,

16 the overriding factor in what -- in deciding that those

17 plants should have the same price.

18   Q.   So you looked at things for both the supply side

19 and the demand side and -- but you didn't necessarily give

20 precedent that one always weighed over the other?

21   A.   It just -- that's right. Each situation is unto

22 itself, that you would evaluate what the most important

23 element of those decision-making pieces are depending on

24 the certain circumstances. There is no silver bullet that

25 works every place.

26   Q.   And so you have -- your anchor city for the

27 Southwest was Amarillo, correct?

28   A.   Yes.

1   Q.   And then you had some anchor cities for the kind

2   of like -- the Southeast area kind of going toward, I

3   think, the Central and the Mideast Area?

4   A.   Yes.

5   Q.   Did you have an anchor city between the Southeast

6   and the Southwest that you looked at?

7   A.   I guess you could say that we -- that the

8   iterative process, the stepwise process that we used,

9   created certain cities where you would key off of for the

10 next one. And so the relationship with the nearest plants

11 in between Order 126 and the western side of Order 7

12 certainly would be the Houston plants, or the

13 Houston/Conroe plants, and the Louisiana Gulf Coast plants

14 moving east and west generally. Also, the plants to the

15 east of Dallas, the Sulphur Springs and Tyler plants, and

16 their relationship, basically with the -- with Little

17 Rock, and then Little Rock's relationship with Fort Smith,

18 Fayetteville, Springfield, et cetera.

19   So it's kind of, in some respects, although we

20 didn't really say it this way, the way the Mideast kind of

21 did their city pairs, you know, it's a stepwise process.

22   Q.   Okay. So you had a set of anchor cities, but then

23 some secondary ones you looked at after.

24   A.   That's a fair way to put it. Anchor cities on the

25 borders, and then secondary anchor cities intra-market.

26   Q.   So if I look at the bottom of 25, I think from

27 what I read from there, you thought the model results --

28 and please tell me if I'm not grasping this correctly --

1   were appropriate in what it came out for the averages for

2   Winchester, Kentucky, and Nashville, Tennessee?

3   A.   Yes.

4   Q.   Okay. And then working from there, you made

5   adjustments to the other cities.

6   I'm wondering why you thought those two were

7   appropriate, but not whatever came out for the other two

8   anchor cities?

9   A.   In the Southeast, there's -- the overriding

10 question is, what does it cost to get milk to where it's

11 got to be? And it all comes from a very long way away,

12 because there simply isn't very much inside the market

13 areas, with the notable exception, and it's obviously a

14 relative thing, the Virginia and the North Carolina area.

15   But for Nashville, if you think about it, the --

16 the supplemental supplies for the Southeast, or the

17 primary supplemental supplies, are located in four or five

18 places. For the western side of Order 7, the milk is

19 going to come out of Texas Panhandle or Southwest

20 Missouri -- or Southwest Kansas, excuse me.

21   Once you rotate -- and that is probably true for

22 all the plants on the -- in the Arkansas/Western Tennessee

23 complex.

24   The plants in the central portion of Order 7, they

25 have a bit of a choice. They can receive -- they can get

26 some of their supplemental supply from the west, like

27 Nashville. I would consider Nashville to be in the center

28 portion of Order 7 for this purpose. But Nashville can

1   also get supplemental supplies from the north.

2   So you have to balance out where -- where is the

3   most efficient source of supplemental supply depending on

4   the day, and you have to kind of look at both of them in

5   tandem.

6   And then for, say, Atlanta keying off of

7   Nashville. Atlanta is hard to get to, to be honest.

8   Atlanta is a little too far east to come from the west

9   over there. It's just hard to get your trucks over there

10 and turn them. In fact, you can't. So that adds extra

11 cost. That milk coming from the north, say from Order 33,

12 has to go right past Nashville and right past Athens,

13 Tennessee, on its way to Atlanta. So it needs a higher

14 price to attract that supply on south from Nashville, or

15 say Athens, Tennessee.

16   The plants on the northern tier of Order 7, say,

17 Holland and Winchester. Winchester is terribly hard to

18 supply. The supply is going to come out of Northern

19 Indiana or Ohio. Holland is probably out of Indiana,

20 what's not supplied locally.

21   So all those things you have to kind of weigh in

22 the Southeast. It's not straightforward, the plant -- the

23 milk's going to come from here on this day. And so it's a

24 stepwise process, comparing point to point to point in

25 terms of what the location of the local supplies are, if

26 there are any, and the location of the supplemental

27 supplies.

28   Q.   Which I gather from what you just said is --

1 changes --

2   A.   Every day.

3   Q.   -- on a daily basis?

4   A.   Every day.

5   Q.   Unlike maybe other situations we have heard where

6 for a certain demand point the reserve supplies typically

7 come from this one area?

8   A.   Yes. If you think about it, the reserve supply

9 for the eastern side of Texas in Order 7, or certainly

10 through the middle part of Order 7, they are -- it all

11 comes from one or two places, the Texas Panhandle or

12 Southwest Kansas. There is -- again, there is some

13 options once you get to the middle part of Order 7. But

14 once you get east of the Appalachians onto the coast, you

15 prac- -- you can get to Asheville, North Carolina, with

16 milk from the west, but it's a real stretch. So most of

17 that supplemental milk supply comes from the north, in the

18 Middle Atlantic area.

19   Q.   Turning to page 26, you talk about Miami, and you

20 say the model result "was reasonable in light of the

21 distance to South Florida from reserve supplies."

22   So that's why you kept the $7.90?

23   A.   Yes.

24   Q.   Could you expand on where the reserve supplies

25 come for that region?

26   A.   Most of the reserve supply for Florida, the first

27 reserve supply is South Georgia. And then when -- if that

28 runs out, then it's -- then Florida's competing with the

1 rest of Order 7 for supplies largely to the north.

2 Probably Order 33 would be my guess.

3   Q.   And it's the working group's opinion that $7.90

4 was adequate to get milk down there.

5   A.   It's as adequate as it is to get it anywhere.

6 How's that?

7   Any of the differentials are insufficient, but not

8 any worse for Miami than anywhere else.

9   Q.   I'm going to try not to be repetitive, so bear

10 with me.

11   I know you talked a bit with Mr. English on the

12 Southwest transportation credits -- Southwestern area, all

13 three orders transporta- --

14   A.   Southwest?

15   Q.   Excuse me. Southeast, sorry. It's been a long

16 day. Southeastern transportation credits.

17   A.   Yes.

18   Q.   And this might be a question for Dr. Stephenson

19 when he comes, but I'll ask you. I know there was some

20 talk about were the credits considered as a way to get

21 milk where it needs to go.

22   I'm wondering if you know, because if I heard

23 correctly, the model did not take into account Federal

24 Order provisions?

25   A.   It does not.

26   Q.   And so did the model look at the current Class I

27 differentials in the Southeast plus the transportation

28 credit assessments that are assessed on top of that or

1 just the differentials in their adjusted ones for that

2 region?

3   A.   The model never looks at current differentials,

4 period. No matter how they are constructed. It simply

5 generates a price surface based on the minimum cost

6 minimization of using theoretical supplies or -- and

7 placing that in the most efficient way.

8   So we then go back, as humans, obviously, the

9 natural tendency is, let's look at what the model said

10 versus what we are today. So that's why we make those

11 comparisons. But the model itself doesn't know that the

12 current differential in Atlanta is $3.80, or the current

13 differential in Miami is 6. That's completely outside the

14 model's operation.

15   Q.   Okay.

16   A.   And I think we need to -- we need to make one note

17 for the record, I think.

18   When we -- when we start thinking about -- when

19 the Department starts thinking about the Southeast and the

20 interplay between Class I differentials and the

21 transportation credit system, there is an element of the

22 transportation credit system which is self-correcting.

23   When -- after you multiply the miles at whatever

24 rate is applicable for the month, there is a mathematical

25 adjustment to that gross credit based on the relationship,

26 the regulated price relationship, between -- or the

27 Class I differential relationship between the origin point

28 and the destination point.

1   So as we change the slope of the differentials in

2   the Southeast, we increase the slope, or the prices get

3   higher as you head toward the -- you know, the tip of

4   Florida. That will actually reduce the net credit you

5   receive, you will see, because the deduction for the

6   origin to destination point calculation gets bigger.

7   So for the same mileages, after we -- after the

8   Secretary wisely increases the differentials, there will

9   be a -- there will -- that deduct number gets smaller, so

10   it -- the transportation credit system kind of

11   self-corrects for the -- any changes in the relationship

12   of the regulated Class I prices.

13   Q.   Right. It self-corrects for any changes in the

14   slope, but --

15   A.   Yes.

16   Q.   -- not necessarily the increased part?

17   A.   The what?

18   Q.   The increased part, just --

19   A.   The change in slope.

20   Q.   Yes.

21   A.   Yes, but if you increase the slope, it increases

22   the deduct.

23   Q.   Sure.

24   On page 27 you are talking about someplace in

25   Mississippi I can't pronounce.

26   A.   Kosciusko?

27   Q.   That would be it. And I had to ask my lovely OGC

28   attorney over here who is from Mississippi to show me

1 where that was on the map. So that will help.

2   A.   Pretty much right in the middle of the state.

3   Q.   That's what she said.

4   THE COURT: Would you spell it?

5   THE WITNESS: Yes. K-O-S-C-I-U-S-K-O. I have had

6 to learn that in my career. And Mississippi is spelled --

7 BY MS. TAYLOR:

8   Q.   You talked about the adjustment you made because

9 of the cost to supply milk for that area is much nearer to

10 supplying -- is "as much nearer to the cost of supplying

11 these coastal plants than it is to being $0.50 less than

12 the coastal plants."

13   So I think what you all did was change the

14 difference between the model suggested $0.50 to $0.20?

15   A.   The $0.50 is the current relationship.

16   Q.   Okay.

17   A.   And --

18   Q.   I was wondering if you could explain that a little

19 more.

20   A.   Yeah.

21   Q.   It did not make sense to me when I read that

22 paragraph.

23   A.   Okay. There is only four plants in Louisiana and

24 Mississippi. The three Louisiana plants across the Gulf

25 Coast from -- going west to east, Lafayette, Baton Rouge,

26 and Hemet. The Kosciusko plant is north of those

27 plants -- of those plants in Mississippi. There is not

28 much milk left in Mississippi. There's not much milk left

1   in Louisiana. There's not much milk left in Arkansas.

2   And there's not much milk left in Southern Missouri.

3   So to supply the plant at Kosciusko, it costs

4   almost as much -- and the milk comes out of the same place

5   as it would for the reserve supply for the Arkansas plants

6   and the Louisiana plants -- and it costs just about as

7   much to get to Kosciusko -- it does -- you wouldn't think

8   about it on the map, but the mileages are almost pretty

9   close as the difference between, say, Hereford and

10   Kosciusko, and Hereford and Lafayette.

11   Q.   And that's the reserve -- sorry for interrupting,

12   but that's the reserve supply area?

13   A.   The reserve supply.

14   Q.   Uh-huh.

15   A.   Either that, or say Garden City, Kansas, either

16   one can serve those plants similarly.

17   So our point is that the current differential

18   difference, the Kosciusko plant has an effective

19   differential of 3.30, $3.30 per hundredweight. The plants

20   across Southern Louisiana, those coastal plants, what I

21   call them, is $3.80 per hundredweight today. That's a

22   $0.50 difference. It doesn't cost $0.50 less to supply

23   Kosciusko than it does it the plants on the coast, so we

24   upped that -- we -- I guess you could say reduced the

25   difference between those coastal plants and Kosciusko to

26   reflect that it costs almost as much to get milk to

27   Kosciusko as it does those coastal areas.

28   Q.   Okay. Thank you.

1   On page 20 -- on, excuse me, 28, at the bottom you

2   are talking about Asheville, North Carolina.

3   A.   Yes.

4   Q.   And the anchor price -- at the bottom full

5   paragraph, larger paragraph, in the middle of that

6   paragraph starts, While the anchor price at Asheville has

7   initially been set at 5.70, the working group deemed that

8   too high, and a $0.20 gradient was determined to be

9   warranted. I'm summarizing your sentence.

10   A.   Yes.

11   Q.   Just wondering if you could expand on why you

12   thought the 5.70 was too high.

13   A.   The -- that plant does get some of its supply from

14   that -- that milk production which remains in Southern

15   Virginia, Central North Carolina, I think Iredell County,

16   which is kind of on the western side of -- I-R-E-D-E-L-L,

17   Iredell -- and -- but it's -- it's difficult to get that

18   milk to Asheville. If you have ever driven that road, you

19   would know. It's in the mountain -- Asheville is in the

20   mountains. It's a treacherous drive. It simply is hard

21   to get milk over there.

22   So while we believe that the model price was too

23   high, we did set Asheville higher than those plants across

24   the southern tier or the middle tier of North Carolina.

25   Today those plants are all priced the same. They are 3.40

26   per hundredweight today.

27   So we set all those prices the same, because it

28   pretty much costs the same to get the milk out into them.

1 But Asheville is more expensive, just harder to get there.

2   Q.   So 5.70 was too much, but you still needed some

3 slope to get the milk there?

4   A.   Correct.

5   Q.   And when you said $5.70 is too much, and you are

6 looking at that in relationship to those other plant

7 decisions you made maybe northwest of there --

8   A.   Yes.

9   Q.   -- or wherever? I don't think my hand gestures

10 make it through our transcript, but I'll try.

11   On pages 29 into 30, here you are talking about

12 Atlanta and Slocum, Alabama --

13   A.   Yes.

14   Q.   -- which is Geneva County.

15   A.   Yes.

16   Q.   And you talk about, I think right now they are --

17 it's -- there's -- currently there's a $0.50 difference

18 between the two locations.

19   A.   Correct. Atlanta is $3.80. That southern tier of

20 Alabama County is $4.30.

21   Q.   And you are proposing that the differentials be

22 the same?

23   A.   Yes.

24   Q.   And why is that appropriate?

25   A.   Number one, that Slocum plant is -- it rocks back

26 and forth. When we see it on the Market Administrator's

27 list between -- I think it rocks -- it's only pooled part

28 of the time. It's what I would almost call a farmstead

1 plant.

2   But it -- if that milk did, if that plant did need

3 supplemental supplies, it's going to -- it's going to

4 compete for the Atlanta, for supplies to Atlanta. It

5 should have the same, generally the same price.

6   Q.   Okay. And down in the middle of that page where

7 you are talking about Myakka City, Florida --

8   A.   Yes.

9   Q.   -- and currently it has a differential $0.40

10 greater than Tampa?

11   A.   40 -- I think it's $0.40 currently, or $0.30?

12   Q.   Your paper says $0.40.

13   A.   Then that's correct.

14   Q.   Says currently carries a differential $0.40

15 greater than plants in the Tampa or Orlando, Florida?

16   A.   Yes.

17   Q.   Based on its nearness to Tampa, you thought the

18 spread was too high to -- by half, so you are recommending

19 a $0.20 spread?

20   A.   Yes. The Myakka City county is Manatee,

21 M-A-N-E-T-E-E (sic), like the aquatic animal. Those --

22 Tampa and -- Tampa County, or Tampa-St. Pete, and Manatee

23 are very close together. We felt like the current $0.40

24 difference between Tampa and Tampa County or Tampa -- the

25 Tampa Bay Area and Manatee County, Myakka City, was too

26 much, since they were close together. They do need a

27 little bit of difference because they attract their supply

28 from the same place -- or attract a supply out of South

1   Georgia, so they need a little bit of price, but not as

2   much as $0.40, so we just went with 20.

3   Q.   And when you say "very close," I feel like very

4   close in Florida is different than very close in Texas.

5   So what's very close in Florida?

6   A.   One county away.

7   Q.   Okay.

8   THE COURT: How do you spell that city?

9   THE WITNESS: M-Y-A-K-K-A, Myakka City.

10   THE COURT: Thank you.

11   I'd like to take a 15-minute break. Would that

12 work?

13   MS. TAYLOR: That's a wonderful idea.

14   THE COURT: Very good. Please be back and ready

15 to go at 4:30.

16   (Whereupon, a break was taken.)

17   THE COURT: Let's go back on record.

18   We're back on record at 4:30.

19   Ms. Taylor, you may resume.

20 BY MS. TAYLOR:

21   Q.   Okay. I'm just trying to get back to my place

22 where I was at.

23   I'm going to look on page 31 -- no, excuse me, 32

24 into 33. And that's where you are talking about, I think

25 it's Gustine County, I learned? Is that how I say it? Or

26 is it Gustine, which is in Comanche County; is that

27 correct?

28   A.   I'm sorry, where are you?

1   Q.   Where am I? I'm on page 32 going onto 33, and

2   pronouncing this name wrong.

3   A.   Gustine.

4   Q.   Gustine, that's what I thought.

5   A.   G-U-S-T-I-N-E.

6   Q.   And that's in what county?

7   A.   Comanche, I believe.

8   Q.   Okay.

9   A.   Let me double check.

10   THE COURT: May we have a little more volume for

11   Agricultural Marketing Service? Thank you.

12   THE WITNESS: Yes, Comanche County.

13   BY MS. TAYLOR:

14   Q.   Okay. And I wanted to talk a little bit there on

15   the adjustment you made and the difference between

16   Comanche County and Dallas-Fort Worth.

17   A.   Yes.

18   Q.   Because you narrowed the slope.

19   Am I correct?

20   A.   Yes. I think that's correct.

21   Q.   Okay. And so I just -- if you could go into a

22   little bit why you felt that was appropriate. You said it

23   was appropriate, but I'm not sure I got to the "why" part

24   of that.

25   A.   I don't think we narrowed the slope, did we?

26   Q.   Well, an increase --

27   A.   Oh, yes, we did. Yes.

28   (Court Reporter clarification.)

1   BY MS. TAYLOR:

2   Q.   I think you are going from $0.20 to $0.15?

3   A.   Yes.

4   Q.   For over current from what you have proposed?

5   A.   Correct.

6   Q.   So I wanted to just ask why that slight narrow,

7   but that adjustment was made?

8   A.   Well, if we were going to spread the Panhandle to

9   Dallas, it would be appropriate to spread that just a

10 little bit. That plant can -- is -- is also relatively

11 small. But it has a -- it's pretty close to that Sul- --

12 excuse me -- that Stephenville milk shed. But some

13 recognition of the increased slope between the Panhandle

14 and Dallas, between Dallas and San Antonio, between San

15 Antonio and Houston, should be recognized at that plant.

16 And it is, agreed, only a nickel, but that does recognize

17 that increased slope.

18   Q.   Okay. And I wanted to talk -- you talk a lot

19 about Dallas to Amarillo.

20   And if I'm not mistaken, was Norman, Oklahoma,

21 also an anchor city?

22   A.   It was.

23   Q.   Okay. My number's correct.

24   I wanted to talk a lit bit of the relationship

25 between Norman and Dallas, if any exists currently.

26   A.   Yes.

27   Q.   So as we looked at the differentials currently,

28 there are $0.60 between those two locations. Norman is

1 currently 2.40, and Dallas, three bucks.

2   A.   I thought Norman was 2.60 currently.

3   Q.   That may be part of our problem. So $0.40, thank

4 you for the correction.

5   And as you all have proposed it, Norman would be

6 3.85 and Dallas $4?

7   A.   Yes.

8   Q.   Just wondering if you could talk about what that

9 narrowing of $0.25, why you chose to narrow that? Is

10 there milk that moves between those two regions that needs

11 to be considered in the first place?

12   A.   Well, there's not a lot of milk that moves through

13 that world, particularly raw milk. If -- the milk in

14 Kansas that would come, is in Southwestern Kansas, doesn't

15 really go through the Oklahoma City, you know, Metro.

16 There's not a lot of packaged supply that comes out of

17 Oklahoma into North Texas, so we didn't feel like that

18 that -- narrowing that was -- was a major issue.

19   Q.   Okay. And turning -- I think this is my last

20 question -- to page 35, toward the bottom, and into 36.

21 You are talking about the relationship between the

22 Dallas-Fort Worth Metroplex and Hopkins and Smith

23 Counties.

24   A.   Yes.

25   Q.   Can you elaborate a little bit more on the

26 differences between those hauls and why you chose to kind

27 of break the relationship --

28   A.   Yes.

1   Q.   -- the way you did?

2   A.   Currently the Class I differential for Fort --

3   excuse me -- Fort Worth-Dallas, Tyler, and Sulphur Springs

4   is the same. The -- that those two latter plants, the

5   Tyler plant and the Sulphur Springs plant, during order

6   reform would have been supplied from that local supply in

7   Sulphur Springs. They sit right on top of them, right on

8   top of that supply.

9   As we mentioned, the Sulphur Springs supply has

10 really shrunk in the last 20-some-odd years, and that

11 plant -- that -- that Sulphur Springs supply is kind of

12 a -- a two-prong supply. There still is some multi-stop

13 routes in that Sulphur Springs area. In other words, it

14 takes more than one producer to make a load. But there

15 are some multi -- there are some load-a-day and

16 multi-load-a-day farms in that area.

17   The local stuff, the multi-stop routes in that

18 Sulphur Springs area tend to stay at home, but the

19 multi- -- the load-a-day folks or load-per-pickup folks,

20 that milk leaves there. It either goes south to, say,

21 Houston or Conroe, or works its way southeast to those

22 coastal plants in Louisiana. Doesn't really often go

23 north toward the Arkansas plants, but it can.

24   So what really has happened is, since that Sulphur

25 Springs milk shed has declined, that there is -- the milk

26 that backfills those two plants, as the Sulphur Springs

27 milk that can move has moved, it's either gone out of

28 business, or if it's load-for-pickup size, it leaves the

1   area. So that's left that those two plants in that

2   Sulphur Springs milk shed. Although they sit on a little

3   bit of a milk shed, that milk's really not sufficient to

4   supply those plants, so the milk is backfilled out of the

5   Panhandle.

6   So the -- basically what it amounts to is the milk

7   comes straight through the Dallas-Fort Worth Metroplex,

8   moves that hundred or so miles from Dallas over to

9   Tyler/Sulphur Springs. It actually needs a little bit of

10 difference between Dallas that it -- in order reform it

11 wouldn't have needed because it had a local supply.

12   Today that supply comes from the Panhandle. We

13 need a little bit of additional differential to attract

14 that supply to those far Eastern Texas plants, those two,

15 Tyler and Sulphur Springs. And that $0.35 represents

16 pretty much the same ratio of real haul costs to the

17 differential differences we have used elsewhere.

18   Q.   And I'm right that the Comanche -- no. Sorry.

19 We're having our own discussion. Okay.

20   MS. TAYLOR: That's it from AMS.

21   THE COURT: Are there any other questions before I

22 call on Ms. Hancock for redirect? There are none.

23   Ms. Hancock.

24   MS. HANCOCK: Your Honor, we have nothing further.

25 I'd just like to confirm that all of those were admitted

26 with respect to Mr. Sims.

27   USDA REPRESENTATIVE. I believe so.

28   MS. HANCOCK: 310 is where it starts.

1   USDA REPRESENTATIVE: Yes. 310 through 317?

2   MS. HANCOCK: Yes.

3   USDA REPRESENTATIVE: Were all admitted.

4   MS. HANCOCK: Yes.

5   THE COURT: Very good.

6   Mr. Sims?

7   THE WITNESS: Yes.

8   THE COURT: I'm delighted with your recall, which

9   is incredible. Is there anything else that will help the

10 Secretary?

11   THE WITNESS: Nothing I need to say, I don't

12 think. I think we've made a pretty good record.

13   THE COURT: Very fine. Thank you.

14   You may step down.

15   THE WITNESS: Thank you.

16   MS. HANCOCK: Mr. Prowant just clarified that it

17 goes up to 319. It should all be the same. I just want

18 to make sure that we're clear.

19   USDA REPRESENTATIVE: Yes. They were all entered

20 on October 10th.

21   THE COURT: Ms. Hancock, were you able to

22 ascertain whether all of your exhibits are already

23 admitted?

24   MS. HANCOCK: They are, Your Honor. Thank you.

25   THE COURT: Excellent.

26   Then shall we talk about tomorrow?

27   MS. HANCOCK: Your Honor, we have Dr. Scott Brown,

28 and that's the last witness that we have in support of our

1   proposed Proposal Number 19.

2   MS. TAYLOR: Your Honor, I'm aware of one dairy

3   farmer coming tomorrow, Mike Sumners. I don't believe I

4   have seen him in the room today, so I assume he'll be here

5   in the morning. If he's here first thing, I would

6   advocate that he get to go on first, and then we start

7   with Dr. Brown, and then move on to whatever MIG

8   witnesses, as they have the next proposal up for

9   conversation.

10   MR. ENGLISH: So this is Chip English for Milk

11 Innovation Group, but also speaking for people who are not

12 members of the Milk Innovation Group.

13   First of all, I think Mike Sumners is driving up

14 tonight. He is, I think, content to go after Mr. Brown,

15 and I think it will be nice to get NMPF 19 done.

16   THE COURT: So talk into the mic so I can hear

17 you.

18   MR. ENGLISH: I'm sorry, I was turning to

19 Ms. Hancock to say that I was trying to make sure

20 Mr. Brown got done.

21   I will confirm with Mr. Sumners before we get here

22 tomorrow morning that he agrees with me that he can go

23 after Mr. Brown.

24   I do not believe any of us -- I should knock on

25 wood -- believe that Mr. Brown will not get done tomorrow.

26 I think he's absolutely going to get done tomorrow.

27   So I will confirm and let you know. But if that's

28 USDA's perspective, I'm not going to argue. I think he is

1   prepared to go after Mr. Brown. So after Mr. Brown and

2   Mr. Sumners, depending who's in what order.

3   IDFA identified in an e-mail back in November, and

4   we were able to move United Dairy, U-N-I-T-E-D, Dairy

5   witnesses, Joe Carson, who is one of the owners of United

6   Dairy, C-A-R-S-O-N, but also a dairy farmer who ships to

7   United Dairy, Joe Shockey, S-H-O-C-K-E-Y. And I will

8   confirm tonight, but it may be that they get up on the

9   witness stand, each give their separate statement, and

10   then be available for cross-examination, assuming the

11   parties agree.

12   After that we have Jim Hau, H-A-U, from Maple Hill

13   Creamery. He is not an IDFA member, or Maple Hill

14   Creamery is not an IDFA member, and he's not a member of

15   MIG, but we will presenting, you know, an independent

16   processor witness.

17   It is actually my opinion, and maybe I'm

18   stretching it now, that we will get all of those done and

19   still have time. As such, assuming we have time, we will

20   have a flex witness, I'm advised by IDFA, I'm permitted to

21   say that Mr. Mike Brown, assuming we get all of those done

22   and have time, would be available to go on the stand

23   tomorrow. So that we -- and I think it's fair to say,

24   that assuming Mr. Brown gets on the stand, he will not be

25   completed tomorrow.

26   I say that partly because on Thursday, he may not

27   be the first witness back to the stand. That is why he's

28   a flex witness. So he may not return to the stand first

1   thing Thursday, if he's not done.

2   And I don't know of the order of witnesses at the

3   moment, but we do expect, as I think long has been

4   discussed in this hearing, and so Mark -- Dr. Mark

5   Stephenson, but he will be providing comments on NMPF 19

6   only. He will not be giving his MIG 20 testimony. This

7   is all NMPF 19 opposition testimony.

8   And then, to the extent there is time -- and it

9   may not be Thursday, it could be Friday -- Sally Keefe,

10 K-E-E-F-E, expects to have her MIG -- I'm sorry -- her

11 National Milk Producers Federation 19 testimony completed,

12 her opposition testimony. Again, that is not MIG 20

13 testimony.

14   I would also say that back in mid-November there

15 was communication with everybody that a Mr. Tim Galloway,

16 G-A-L-L-O-W-A-Y, would like to testify this week. He

17 would testify only on Proposal 21 for American Farm Bureau

18 Federation, and the most likely day will be Friday.

19   There may be other witnesses if we get the

20 testimony prepared.

21   MS. TAYLOR: And this is Erin Taylor from AMS.

22   For the witnesses on Thursday, Dr. Mark Stephenson

23 and Sally Keefe, I assume we'll get that testimony by

24 8:00 a.m.?

25   MR. ENGLISH: Absolutely. Frankly, we will do

26 better than that.

27   MS. TAYLOR: That would be appreciated.

28   MR. ENGLISH: MIG has tried to get its testimony

1 in the night before, and we will try to do the same. My

2 understanding is that we will try to submit tonight --

3 well, we won't be submitting. IDFA will try to submit --

4   MS. TAYLOR: Can you talk into the mic?

5   MR. ENGLISH: -- once it's done, Mr. Brown's

6 testimony for tomorrow at some point, I'm not sure how

7 late, but it will be available tonight.

8   MS. TAYLOR: And as a courtesy, since we are

9 unable to get things up on the website instantaneously, I

10 think it's been done before, which is appreciated by all

11 members here, if those could go out to the parties that

12 are present in an e-mail as well so they have time to

13 review.

14   MR. ENGLISH: Thank you. That was my clear

15 intention.

16   MS. TAYLOR: Okay. Thank you.

17   MR. ENGLISH: But I will also communicate that to

18 others.

19   MS. TAYLOR: And did you have -- intend to have

20 any other MIG witnesses this week then, or is that

21 probably the complete list?

22   MR. ENGLISH: I think that's the complete MIG

23 witnesses. I think IDFA may be working on a witness, but

24 I do not know whether that testimony is done yet, so I

25 don't know. I will let Mr. Rosenbaum speak for himself

26 tomorrow.

27   MS. TAYLOR: So what I gather from that, I just

28 want to make sure we're all perfectly clear about this,

1   you don't intend to start Proposal 20 this week?

2   MR. ENGLISH: There is no chance for starting

3   Proposal 20 this week.

4   I will say in advance that to the extent the ten

5   members of MIG will appear, they're going to combine their

6   19 opposition and their 20 presubmitted opposition but

7   they are not going to appear twice. You are not going to

8   have 20 -- and I think I indicated this in an e-mail back

9   in November -- that the fact witnesses, the industry

10 witnesses, will testify once.

11   The MIG witnesses who will testify twice -- well,

12 Sally Keefe on 19 and 20; Dr. Stephenson on 20; his

13 comments on 19 are what they are, comments on 19. So I

14 will let him speak for himself about what he's saying

15 about 19.

16   But to be clear, when we return in January, we're

17 not going to have 22 witnesses on MIG 20; we would have

18 12.

19   THE COURT: Say it again, Mr. English?

20   MR. ENGLISH: We're not going to have 22 witnesses

21 on 19 and 20, because the MIG industry witnesses, the ten

22 members of MIG who will testify, will provide, like so

23 many others have at one point in time, I'm giving my

24 statement on 19, and giving my statement on 20. 20, of

25 course, was presubmitted. Opposition to 19 will be

26 submitted the night before.

27   Does that answer your questions, Ms. Taylor?

28   MS. TAYLOR: It does. Thank you.

1   MR. ENGLISH: Thank you.

2   THE COURT: Are there any other questions or

3   comments before we recess?

4   I see none. I will see you all at 8 o'clock in

5   the morning.

6   We now go off record at 4:50 p.m.

7   (Whereupon, the proceedings were concluded.)

8   ---o0o---

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

```
 1   STATE OF CALIFORNIA   )
                           )     ss
 2   COUNTY OF FRESNO      )

 3

 4          I, MYRA A. PISH, Certified Shorthand Reporter, do

 5   hereby certify that the foregoing pages comprise a full,

 6   true and correct transcript of my shorthand notes, and a

 7   full, true and correct statement of the proceedings held

 8   at the time and place heretofore stated.

 9

10          DATED:  January 17, 2024

11              FRESNO, CALIFORNIA

12

13

14

15

16              MYRA A. PISH, RPR CSR
                Certificate No. 11613
17

18

19

20

21

22

23

24

25

26

27

28
```

$

$0.01 9724:16

$0.05 9728:21,24 9729:19

$0.10 9581:13,14 9582:25

$0.13 9622:6

$0.15 9748:8 9765:2

$0.20 9680:17 9758:14 9760:8 9762:19 9765:2

$0.25 9703:22 9766:9

$0.30 9580:21 9582:4 9584:23 9686:9,17,28 9741:8 9742:19 9743:11,13 9762:11

$0.35 9768:15

$0.40 9580:4,5,6 9699:13 9728:11 9762:9,11,12,14,23 9763:2 9766:3

$0.50 9573:23 9691:17,21 9704:11,26 9729:21 9758:11,14,15 9759:22 9761:17

$0.55 9729:20

$0.60 9645:24 9646:6,17 9676:24,25 9689:7,9,10 9692:5,11 9695:14 9704:13 9765:28

$0.74 9656:22

$0.75 9688:20

$0.83 9656:22

$0.85 9572:20 9573:1 9574:25 9575:2,3,16 9579:4 9682:2

$0.90 9731:10 9740:6,11

$1 9573:25 9608:27 9609:1 9690:5 9694:27 9699:15 9704:13,25,26

$1.30 9740:11

$1.40 9699:16,18

$1.50 9596:18 9622:5 9699:21 9704:1,8,22,25

$1.60 9645:8,22 9646:5,15 9676:22

$1.85 9580:15,17

$2.10 9740:3

$2.15 9579:26,28

$2.20 9593:26 9594:1,4,8 9596:26 9597:2,7 9645:2,18

9646:13,17 9676:20

$2.25 9688:20 9692:9

$2.40 9688:27 9689:6 9742:17

$2.50 9595:12

$2.55 9580:3,18 9581:3,25 9582:6 9583:19,20 9593:13, 18,19 9594:26 9595:7,12,15, 16,19

$2.70 9740:8

$2.75 9699:22

$2.85 9692:10 9694:20 9698:8

$2.90 9582:26

$3 9688:20 9689:1,6 9690:6 9691:5 9698:8 9740:4 9741:5

$3.30 9759:19

$3.60 9689:3,7

$3.70 9634:16

$3.75 9699:21

$3.80 9756:12 9759:21 9761:19

$3.85 9634:26 9703:6,17

$4 9634:15 9689:21 9690:1 9699:1 9703:18,25,26 9705:27 9706:2 9740:8 9766:6

$4.20 9634:20

$4.30 9761:20

$4.35 9634:26 9635:13

$4.40 9634:19

$4.70 9635:13

$5 9689:17 9735:5

$5.60 9728:3

$5.70 9689:18 9761:5

$5.80 9728:16

$5.95 9728:22

$6.00 9728:1,19

$6.30 9646:6

$7.90 9643:13,14 9645:21,25 9646:5,11,22 9676:13,19,21 9754:22 9755:3

$8.50 9646:8,9

-

---o0o--- 9670:14 9775:8

--the 9739:3

1

1 9637:20 9655:16 9672:4 9675:22 9698:18 9708:4

1.60 9676:27

10 9571:4

100% 9576:16 9716:26

102 9700:24 9701:16

109 9633:11,13

10:04 9631:9

10:20 9631:8

10:22 9631:12

10:24 9632:28

10:26 9633:3

10:34 9637:24

10:36 9637:26

10th 9769:20

11,194 9714:9,18

11,205 9714:23 9715:2 9717:25

1194 9717:24,28

11:42 9669:20

11:43 9670:10

12 9622:6 9774:18

126 9673:26 9681:3,6 9682:11,18,22 9688:24 9718:17,23 9720:8 9731:3 9733:22 9736:13 9739:11 9743:18,25,27 9744:2,3,5,21 9751:11

12:45 9669:3,13 9670:9

12:50 9671:3

12:57 9675:13

13 9655:16

15 9568:14 9713:2 9717:5 9742:24

15-minute 9630:3 9668:28 9669:3 9763:11

18% 9647:10,12

180 9701:21

19 9576:7 9580:3 9583:28 9607:23 9631:23 9632:7 9633:27 9634:4 9641:14,27 9644:10 9652:19 9655:16 9658:6 9671:9 9680:15 9693:7 9702:24 9726:18 9743:19 9748:9 9770:1,15 9772:5,7,11 9774:6,12,13, 15,21,24,25

1970s 9646:28 9647:4 9719:23

1991 9719:15 9722:18

1995 9719:23

1996 9719:12,16

1:29 9692:16

1:38 9692:19

1st 9638:4

2

2 9627:12 9635:24 9672:4 9675:22 9698:18 9708:4

2.25 9692:9 9704:8

2.40 9766:1

2.5% 9609:27 9610:6

2.60 9766:2

2.85 9694:26

20 9567:21 9573:10 9581:18 9591:17,20 9592:14 9619:26 9668:22 9705:5 9736:17 9760:1 9763:2 9772:6,12 9774:1,3,6,8,12,17,21,24

20-some-odd 9767:10

200 9593:24

2000 9571:16,24 9588:8 9620:12 9648:15 9710:6 9720:12

2000- 9666:24

2002 9664:15 9665:13 9666:2 9718:24 9719:3

2004 9591:19

2006 9643:11,15,19 9683:10 9715:5,20 9716:12,15

2007 9683:14,15 9684:21 9706:6,14 9714:14

2008 9642:15,19 9643:24 9683:16 9714:9,13,18

201.8 9701:8,27

201.9 9701:10

2021 9588:8 9666:24

2022 9666:24 9667:20

2023 9567:1,3 9637:20 9638:4 9656:16 9671:1 9693:16,22 9700:25 9710:6

2027 9656:19

2032 9656:16,19

21 9772:17

22 9656:13 9774:17,20

2325 9727:8,27

24 9746:15

25 9672:28 9705:9 9724:7,9, 17 9751:26

250 9593:22

2547 9704:3

2549 9702:28

26 9754:19

2678 9702:23

27 9757:24

2755 9583:19

2762 9579:25,28

278 9704:7

28 9760:1

28% 9702:28

29 9714:18 9761:11

299 9632:8,16,21,22 9633:4, 16,25,26 9635:3,15 9636:7 9669:22,25,28 9670:1

29th 9714:8

2:20 9713:1,3

2:35 9713:2,6

2:40-ish 9567:20

3

3 9567:19 9630:16 9672:5,27 9673:1 9686:10 9698:26 9707:28 9708:5 9733:18 9749:14

3.30 9759:19

3.40 9760:25

3.75 9694:26 9703:23,27 9704:5

3.85 9731:9 9766:6

30 9654:28 9655:4,7,12 9660:1,5,6 9705:6 9761:11

300 9618:7 9637:18 9639:6, 22 9677:28

300/301 9639:9

301 9580:11 9618:7 9639:6 9727:17

31 9763:23

31% 9664:15,16 9731:10

310 9671:28 9672:13,19 9675:2 9768:28 9769:1

317 9769:1

319 9769:17

32 9682:6,9 9685:12 9723:22 9763:23 9764:1

32's 9573:21

33 9606:2 9672:19,20 9685:26 9686:10 9753:11 9755:2 9763:24 9764:1

33% 9702:25

339 9635:25,28 9636:5,15

35 9669:26 9724:12 9766:20

36 9766:20

36% 9576:8,11

3:00 9567:19

3:20 9733:8,11

3rd 9637:12 9639:2,8,16 9644:22,26 9645:1

4

4 9607:25 9608:3 9698:27

4-2-0 9714:3

4-3 9714:3

40 9567:5,12 9573:23 9718:10 9762:11

40-some 9601:14

400 9705:16,26

403 9568:1 9588:6 9600:2,4, 6,8

404 9568:1 9600:2,11,16 9601:13 9602:5,6

405 9575:20,23 9576:6 9579:25,28 9583:19 9585:22,23 9602:11,13,20, 21,24,26

407 9608:4 9623:6,21 9624:13,14,16

408 9624:18,20,21,23

409 9624:26,28 9625:2

410 9625:5,7,9

411 9623:7 9625:12,14,16

412 9625:28 9626:18 9629:6, 21,22,24

413 9629:21,26,28

414 9568:16,18,19 9569:4 9585:23 9602:10,12 9603:1, 5,6

415 9633:6,7,16 9635:17,27 9636:5,14,18,19,21 9670:5

416 9637:28 9638:1,18,20, 21,23 9670:4

417 9692:20,24,26 9693:8 9702:24 9731:16,19,27,28 9732:2

418 9692:21,24 9693:9 9700:13 9731:16 9732:5,6,8

419 9692:22,25 9693:14 9700:14 9731:16 9732:11, 12,14

420 9713:11,17,19 9714:3 9731:17 9732:17,18,20

43 9567:13 9713:12 9714:3

44 9673:5

4:30 9630:21 9763:15,18

4:50 9775:6

5

5 9567:1,3 9624:2,3 9631:1 9649:2,5 9662:28 9671:1 9673:26 9674:7 9677:1,6,8 9678:10 9679:8,11 9680:6, 13,19 9715:23 9729:12 9733:22 9736:13

5% 9703:15

5.70 9760:7,12 9761:2

50 9701:15,16

51-page 9638:6

54B 9628:27

560 9580:14

561 9580:14

57 9634:11

59 9568:12,15 9603:2

5:00 9631:7

6

6 9639:27 9641:2 9655:5,8 9663:26 9673:26 9674:7 9677:1,8 9678:10 9679:8 9733:22 9736:13 9745:22 9756:13

6% 9655:1

60 9691:22

62 9634:18

64% 9716:1,22,25

69 9634:25,28

7

7 9658:19 9673:26 9674:7 9677:1,6,8 9678:10 9679:9 9687:7 9688:11 9689:16 9715:23 9721:25 9730:27 9731:2 9733:22 9734:11 9736:13 9751:11 9752:18, 24,28 9753:16 9754:9,10,13 9755:1

700 9745:22 9746:7

70s 9647:5

73 9635:11 9714:8,17 9717:23,27

75 9706:21

8

8 9588:5 9664:10 9666:4 9775:4

8.50 9645:26 9646:7

80 9682:2

80% 9706:7,16 9714:27 9715:6,10,15,26,28 9716:17, 18,22,25

80,000 9663:21

85 9575:2

8:00 9567:4 9772:24

8:04 9568:28

8:05 9569:3

9

95% 9574:13,19

97% 9647:3,4

99% 9647:3,6

9:15 9603:18

9:17 9603:21

A

A-N-N-A 9672:26

a.m. 9772:24

ability 9621:13 9737:14

absolute 9651:6 9699:10

absolutely 9574:22 9588:17
9594:17 9598:1,16,28
9599:14 9690:10 9702:10
9770:26 9772:25

absorb 9621:2,6,20 9622:9

absorbing 9621:17

abut 9749:25

abuts 9597:7

abutted 9642:16

accept 9585:13 9602:3
9628:22

acceptable 9611:25,28
9612:1

accepted 9706:7

accepts 9578:20

access 9657:28

account 9583:4 9588:25
9608:19 9661:2 9663:14,24
9697:10 9700:2 9708:14
9744:18 9755:23

accounted 9593:10 9663:11

accounting 9605:23

accounts 9596:5

accurate 9600:28 9612:4
9629:19 9672:2

achieve 9610:18 9611:1
9698:5

achieved 9694:16

acknowledge 9628:19,23
9649:12

acknowledged 9574:6
9575:9,10

Act 9606:17 9607:2

actively 9648:26

actual 9567:17 9572:12
9642:12 9647:19 9660:18,26
9667:2,3

add 9696:1

added 9646:6

adding 9586:20 9707:23

addition 9570:27 9695:23
9700:27 9714:6

additional 9572:7 9577:20,
26 9602:24 9611:20 9619:25
9632:23 9655:1 9657:3,5
9658:7 9661:6 9677:9
9698:9,10 9745:6,9 9768:13

address 9696:24 9697:7
9711:12

addressed 9638:5 9658:12
9698:18

addressing 9659:15

adds 9753:10

adequate 9588:9,14 9606:25
9607:6 9650:24 9651:3
9652:14,25 9662:6 9755:4,5

adequately 9606:9 9663:8

adjacent 9685:9,11 9686:10

adjust 9570:16 9681:21
9744:25

adjusted 9685:4 9687:9
9706:9 9756:1

adjusting 9674:3 9681:21

adjustment 9692:4 9706:22
9715:4 9716:10 9756:25
9758:8 9764:15 9765:7

adjustments 9607:12
9620:23 9621:8 9643:11
9644:7 9674:15,19 9695:20
9705:17 9719:25 9747:27
9752:5

administrated 9582:15

Administration 9648:15

administrative 9567:9
9626:18

Administrator 9629:7,12
9638:5 9693:26 9694:4,9
9725:14

Administrator's 9573:21
9694:10 9700:14 9718:11
9719:9 9720:8 9761:26

admissibility 9626:11

admissible 9601:1 9628:12

admission 9585:21 9600:2,
4,11 9603:1 9624:12,19,26
9625:5,12,28 9636:5,18
9638:17,20 9731:15,24,27
9732:5,11,17

admit 9603:4 9623:6 9626:6
9627:27 9629:20 9669:22,27
9670:5

admitted 9600:6 9602:15,25
9624:14,21,28 9625:7,14,24
9627:3,7,16 9629:4,22,26
9634:12 9636:20 9637:18
9638:21 9668:20 9669:21
9670:3 9671:28 9731:28
9732:6,12,18 9768:25
9769:3,23

admitting 9600:22 9601:7
9602:21 9628:4 9669:25

adopted 9573:16,17 9655:16

adoption 9657:2,4,13

advance 9678:5 9774:4

advantage 9617:5

advantageous 9743:8

advised 9602:4 9771:20

advocate 9567:20 9770:6

affairs 9648:25

affect 9582:23 9642:13
9652:12,16 9659:15,16

affected 9653:4

affecting 9652:10 9653:1,9

afoul 9658:3

after-lunch 9719:19

afternoon 9671:1 9675:17
9733:14,15,19 9749:7,8

afterthought 9685:3

afterward 9606:8

aggregate 9664:25 9666:1
9668:3

aggregated 9666:2

agree 9579:18,22 9586:15
9601:27 9626:15 9643:12
9647:6,8,15 9651:10,20
9657:25 9698:3 9712:15
9722:13 9723:18,19,21
9724:6,9 9728:24 9730:23
9733:25 9743:20 9745:27
9771:11

agreed 9765:16

agreement 9572:2 9606:17
9611:8 9681:16 9744:19

agrees 9770:22

agricultural 9590:26,27
9597:13 9600:15 9601:16
9606:17 9613:25 9636:11
9662:17,19 9664:23
9667:12,18 9749:1,3
9764:11

Agriculture 9714:13

ahead 9576:4

aid 9685:5

Alabama 9680:27 9761:12,
20

aligned 9616:20 9695:12

aligning 9599:11

alignment 9616:9,17,24
9651:17 9674:17 9689:21
9691:1 9699:2 9705:7,14
9710:15,16 9711:12 9729:17
9747:10,19

alignments 9616:12

aligns 9689:18,25

all-in 9584:15

all-milk 9665:8,17,24,26
9666:20

Allegheny 9634:18

Allowance 9573:24

Allowances 9573:16
9586:25 9605:22 9606:11
9660:10

allowed 9659:7 9747:28

allowing 9601:15 9649:8,21
9650:2

alter 9707:5

altered 9660:18 9686:2

Amarillo 9683:4 9685:9,17,
20,21 9688:19,27 9690:9,11,
18,22 9691:16,17 9692:8
9695:2,13,15 9696:28
9697:3,6,8,11,16,20,28
9698:6,21 9699:23,28
9700:5,18,19,21,27 9701:1,7
9702:2,8 9703:28 9704:7,23,
27 9705:2,28 9706:24
9707:9,10 9712:16 9724:3
9731:5 9741:3 9750:27
9765:19

Amarillo-to-lubbock 9712:1

Amarillo/lubbock 9697:23

amazed 9630:11

amendment 9716:15

America 9682:13 9725:17
9729:1 9741:23

America's 9654:11

American 9772:17

amount 9572:3 9644:27
9645:4 9659:23 9661:6,19

9696:18 9702:9

amounts 9768:6

AMS 9577:11,13,17 9597:9 9614:9 9638:5 9668:11 9768:20 9772:21

analysis 9573:14,20 9578:15,19 9587:7 9655:17, 21 9657:2,10,13 9658:19,26 9659:20 9663:28 9664:18

analyzed 9657:9

anchor 9616:17 9682:23,25, 28 9683:4 9684:6,9,10,26 9685:3,24,28 9686:11,17 9750:26 9751:1,5,22,24,25 9752:8 9760:4,6 9765:21

anchored 9685:4

and/or 9573:8,28 9592:22

animal 9762:21

Anna 9672:25

anniversary 9718:8

announcement 9628:28 9726:3,14,17

announces 9596:16

annual 9665:12,16

annually 9666:1

anomaly 9642:3

answering 9746:27

answers 9597:13

Antonio 9722:9,14 9745:18 9765:14,15

anymore 9584:23 9721:26

apologize 9580:10 9598:13 9671:4 9678:27 9683:15 9711:11 9728:10

Appalachian 9679:12 9687:24

Appalachians 9687:26 9729:13 9754:14

apparent 9639:23

apparently 9669:21 9702:19 9722:22

appears 9673:11,12 9683:2

appendix 9634:1

applause 9718:13

applicable 9689:3 9756:24

applied 9700:12 9715:15

applies 9688:26

apply 9581:9 9681:23 9682:1 9706:16 9711:20 9748:1

appreciable 9659:23 9745:12

appreciated 9772:27 9773:10

approach 9568:25,27 9677:22 9733:20,23 9743:18

approached 9659:11

approaching 9573:25 9574:14

appropriately 9627:17

approximately 9593:21 9715:6

aquatic 9762:21

area 9573:26 9582:19 9591:27 9592:11 9593:1,14 9594:3 9596:26 9597:1 9599:3,5 9605:24,28 9606:2 9628:28 9629:1 9642:15,23 9648:23 9674:9,23 9678:24 9679:7,16,21 9680:6 9681:6, 8 9683:2 9685:9,15 9687:6, 24 9688:13,24 9690:24 9694:22 9697:15,16 9700:10 9709:9 9710:20 9719:1 9721:20 9725:6,10 9727:3 9728:23 9729:9,22,25 9730:1 9731:5 9735:13 9748:2 9751:2,3 9752:14 9754:7,18 9755:12 9758:9 9759:12 9762:25 9767:13, 16,18 9768:1

areas 9579:17 9582:14 9587:8,9 9597:6,7 9598:6 9599:11 9609:1 9616:13,27, 28 9640:13,21 9642:18 9643:1,23,26 9674:8 9677:11 9683:18,20 9685:8 9689:6 9693:13 9695:18 9703:15 9710:18,23 9718:5 9731:7 9735:16 9746:13,14 9747:10 9749:24 9752:13 9759:27

argue 9578:26 9738:25 9770:28

argued 9581:9

argument 9581:8 9716:19

arithmetically 9646:12

Arizona 9659:28

Arkansas 9689:27 9692:28 9759:1,5 9767:23

Arkansas/western 9752:22

Arlington 9709:12

arrangements 9609:11,16

arrived 9729:9 9735:15

artificial 9578:25

ascertain 9769:22

Asheville 9683:3 9685:23 9686:1,4,7,17,28 9688:4 9754:15 9760:2,6,18,19,23 9761:1

Ashley 9623:16

askew 9586:22

aspect 9617:22

assessed 9755:28

assessment 9677:21

assessments 9677:5,6 9678:9 9755:28

assigned 9708:17

assigns 9708:15

assistance 9657:28

association 9644:15 9682:15

assume 9583:6 9609:7 9610:8 9770:4 9772:23

assuming 9578:16 9771:10, 19,21,24

assumption 9575:18 9727:20

assure 9606:25 9607:6 9616:24 9662:5,6

Athens 9753:12,15

Atlanta 9718:12 9719:14 9726:23,26 9727:1,3,7 9728:19,21,23,25 9753:6,7, 8,13 9756:12 9761:12,19 9762:4

Atlantic 9688:13 9754:18

attached 9634:1

attempt 9707:18

attempted 9609:21

attention 9641:19

attorney 9604:14 9757:28

attract 9681:18 9753:14 9762:27,28 9768:13

attraction 9581:3 9677:10

attributable 9743:7

audience 9637:22

Aurora 9575:7 9576:11,27 9577:9 9578:9,11,13,17

Aurora's 9575:19

Austin 9722:8

authentic 9628:23

authenticating 9629:14

authentication 9629:15

authenticity 9627:26

author 9601:25 9602:16

availability 9729:26,27,28

avenues 9621:19

average 9576:8 9580:17 9582:26 9641:10 9642:28 9643:2,3,7 9644:2 9658:21 9665:16 9676:14 9679:1 9686:5,8,14,18,26 9687:19, 22 9688:20 9692:1,7,10 9694:19,26 9702:25 9703:22 9704:5,19 9728:1,13,24

averaged 9664:14

averages 9659:26 9660:2 9691:23 9752:1

averaging 9665:11,13

avoiding 9654:7

aware 9578:11 9585:12 9626:25 9629:6 9647:19,21 9648:28 9651:22,26 9652:6, 9 9657:17 9660:27 9674:19 9719:26 9720:15,22 9721:2 9725:24 9737:4,6 9770:2

awareness 9719:28

B

back 9567:2,3 9569:2,3 9573:20 9574:23 9582:3 9583:28 9591:20,23 9594:2 9597:20 9603:18,20,21 9605:21 9608:23,24 9616:14,19 9617:26 9623:25 9630:23 9631:8,11,12 9632:12,27 9633:2,3,5 9636:28 9637:4,26 9639:7, 12,27 9645:20 9665:5 9666:27 9668:18 9669:19,20 9670:9 9671:2,3,16 9675:12, 13 9692:18,19 9697:16 9698:17 9704:21 9706:18 9707:19,26 9712:14 9713:2, 5,6 9714:26 9718:17,23 9719:4,6,23 9720:11 9721:28 9722:18 9723:10 9728:15 9733:8,10,11 9734:13 9735:22 9738:12 9739:17 9744:16 9747:15

9756:8 9761:25 9763:14,17, 18,21 9771:3,27 9772:14 9774:8

backfilled 9768:4

backfills 9767:26

backing 9742:28

backtracking 9714:24

backward 9734:2

backwards 9699:11

Bailey 9740:23 9742:16

balance 9596:8 9696:21 9753:2

balancing 9598:24 9654:24 9677:5 9679:18 9687:4 9696:21

bargaining 9620:19

base 9586:21 9587:5 9593:26 9594:8 9596:26 9645:1,7,9,15,18,22,24 9646:12,13,16 9665:16 9676:20 9689:2 9739:25

based 9571:19 9581:4,17 9583:13,15 9584:21 9586:23 9589:17 9599:3,7,11 9614:25 9661:3 9665:10 9685:17,20,21 9695:19 9712:2 9756:5,25 9762:17

baseline 9657:7 9658:11

baselines 9656:15

basic 9652:22 9696:13

basically 9575:16 9596:5, 16,27 9648:4 9650:19 9653:10,26 9654:8 9661:11 9662:10 9665:5,7,9,21,27 9666:16 9689:22 9690:6 9734:25 9751:16 9768:6

basing 9735:1

basis 9581:1 9582:28 9588:7 9601:11 9614:23 9619:3 9620:25 9626:12 9645:10 9657:26 9683:13 9754:3

Baton 9689:19 9758:25

Bay 9762:25

bear 9755:9

bearing 9616:7 9708:25

beat 9591:9

Beaver 9583:8 9584:3

beg 9680:7 9682:7 9699:7 9730:4

began 9643:24

begin 9567:7 9671:5 9675:14

beginning 9663:27 9717:23, 27 9749:14

begins 9672:28 9673:10

begun 9678:3,4

behalf 9600:14 9631:27 9638:14 9656:26

behavior 9653:3

belabor 9722:11 9736:14

belief 9698:10

believed 9677:19 9696:3

believes 9697:24

benchmark 9596:19

benefit 9669:2

betcha 9591:7

between-the-group 9747:26

beverage 9571:6

beverages 9666:21 9667:22 9668:3

big 9615:2,4 9654:10 9675:22 9693:10 9705:15

bigger 9757:6

Billings 9595:28

billion 9701:8

biofuels 9620:11

bit 9569:18 9591:19 9593:25 9597:25 9618:24 9671:3 9679:7 9685:25 9690:16 9701:24 9707:20 9750:10 9752:25 9755:11 9762:27 9763:1 9764:14,22 9765:10, 24 9766:25 9768:3,9,13

Blackfoot 9592:20

blend 9573:24 9607:28 9608:12,13,15,17,23,25 9661:4,12 9738:4,5,8,13,18, 21 9739:9,10

blended 9654:13

blending 9654:15

border 9587:8,13,15,21 9594:27 9596:3 9701:5

borders 9684:13,28 9747:19 9751:25

borrowed 9633:4 9636:7

bottler 9613:12

bottom 9607:25 9608:3 9626:23 9664:10 9672:23 9673:16 9692:1,2 9693:25 9694:21 9751:26 9760:1,4 9766:20

boundaries 9616:20,25

boy 9624:27

Bozeman 9596:1

breached 9589:26

break 9603:11,17,19 9630:3 9631:10 9668:23,27,28 9669:3,14 9706:19 9713:1,4 9714:26 9732:26 9733:8,9 9763:11,16 9766:27

breaking 9567:13

Brian 9628:16

briefly 9602:16

bring 9568:26 9628:4 9629:18 9675:1

brings 9614:13

broad 9668:3

broader 9681:13

broadest 9653:27

brought 9655:22

Brown 9655:14,20 9656:25 9657:11 9769:27 9770:7,14, 20,23,25 9771:1,21,24

Brown's 9658:19 9659:20 9660:9 9773:5

Bruce 9638:5

bucks 9766:1

build 9615:2,15 9616:8 9709:14

building 9567:19,21 9615:9

built 9615:4 9676:25 9695:24,28 9696:4 9704:28 9708:23 9709:3,7,26,28 9726:4

bulk 9715:8,9

bullet 9750:24

bunch 9604:15,16 9664:23

burdening 9717:6

Bureau 9772:17

burned 9708:7,9

business 9572:1 9573:9,28 9589:17 9590:3,9,16 9592:23 9611:6 9615:25 9616:7 9652:4 9737:8,16

9767:28

businesses 9590:2

buy 9605:1

buyers 9620:14

C

C-A-R-S-O-N 9771:6

Cache 9591:27 9592:4,16 9593:2

calculate 9665:25 9739:5

calculated 9665:20

calculating 9665:6 9739:14

calculation 9647:14 9757:6

calculations 9647:13,15 9665:8,9 9693:7

call 9604:16 9665:14 9673:25 9709:11,17 9744:2 9759:21 9761:28 9768:22

called 9592:16 9709:14 9713:16

Canada 9596:4

capacity 9626:16 9649:9

Capps 9653:17 9654:1

care 9636:13

career 9758:6

careers 9720:16

careful 9618:22

carefully 9637:14 9645:12, 15

Carolina 9678:20 9679:15, 21 9680:17 9683:3 9687:5 9688:3,8,10,13 9727:6,13 9728:5,7 9752:14 9754:15 9760:2,15,24

Carolinas 9687:2

carries 9762:14

Carrollton 9694:13

carry 9637:9

carrying 9710:1

Carson 9771:5

case 9571:10 9573:22 9660:23 9666:2 9677:19 9678:7 9680:3 9682:1 9691:26 9703:26 9721:28 9724:20 9731:13 9734:2,22 9748:21

cases 9584:17,18 9662:11 9663:24

casually 9684:13

cat 9625:6

catch 9722:26

category 9668:4

caterer's 9669:8

catering 9669:6

caught 9722:25

causing 9653:9

caution 9602:4,22

cautions 9601:25

cautiously 9678:6

caveat 9719:13

center 9708:26 9744:12 9752:27

centers 9708:20

central 9569:16 9587:4 9625:22 9628:27 9629:1 9733:24 9743:18 9751:3 9752:24 9760:15

certaintude 9743:10

certainty 9726:11

cetera 9663:5 9751:18

chain 9735:27

chairs 9733:3,4

challenges 9613:8,16 9620:4,8,16

challenging 9620:2

chance 9774:2

change 9571:6,7 9575:21 9576:7,8 9586:25 9596:24 9634:10,11,17,24 9635:10 9642:18 9643:16 9653:6,8 9665:4 9673:1,4,13 9685:28 9698:28 9703:4,10,19 9707:4,6,24 9750:3 9757:1, 19 9758:13

changed 9571:5 9581:18 9591:16 9592:27 9635:28 9673:11,14,18 9705:11 9708:19 9744:26

changing 9582:24 9588:19 9653:27 9658:13

channel 9578:24

characterization 9601:1 9640:23 9654:20 9734:16

characterize 9574:7 9658:25

charge 9712:23,24

Charleston 9686:11,13,19, 20,22,26 9687:18,23 9688:16

chart 9666:3 9667:27

Chavez 9740:1

check 9610:1 9764:9

checked 9637:14 9724:11

cheddar 9741:22 9743:25

cheese 9569:25,26 9570:24, 25,26 9572:2 9576:21 9583:9 9585:12 9592:10 9609:13 9615:2,4,28 9653:22,24 9662:13 9695:23,24 9696:4,16 9704:28 9741:22,26 9743:22 9744:1,4,6,18,23

chin 9722:25

Chip 9568:5 9570:11 9637:3 9675:17 9770:10

choice 9752:25

choose 9573:11 9609:17,19 9641:7,14 9744:25

chose 9645:8,18 9682:21 9766:9,26

Chuck 9629:8

circular 9699:25,26

circumstance 9661:19 9688:15

circumstances 9571:14 9576:21,24 9653:2,3 9661:15 9700:3 9750:24

cite 9714:16 9717:18 9746:16

cities 9572:11 9580:27 9616:17 9682:23,25,27,28 9683:4 9684:6,9,10,27 9693:10 9710:23 9711:10 9723:25 9751:1,9,22,24,25 9752:5,8

city 9579:18,19,23,26 9580:1 9583:1,28 9586:21 9684:26 9685:24,28 9686:11,17 9724:21 9734:2 9748:4,5,7 9750:26 9751:5, 21 9759:15 9762:7,20,25 9763:8,9 9765:21 9766:15

civil 9600:27

claiming 9653:24

clarification 9604:25 9610:3

9747:14 9764:28

clarifications 9639:1

clarified 9769:16

clarify 9624:6 9709:2

Clark 9582:25 9634:13 9687:12,15

class 9571:10,22,23,26 9572:2,12,18,19,20,24,28 9573:1,13,16 9574:18,20,27 9575:4,5,15 9576:13,14,23, 27 9577:1,18 9578:16,22,25, 26 9579:7 9580:1 9581:25 9582:14 9583:8 9588:10 9596:21,22,23,24 9597:24, 28 9604:20,24,26,28 9605:3, 8,19 9606:13 9607:3 9611:19,25 9613:7 9614:18, 21 9616:6 9619:20 9622:5 9623:22,23,26,27,28 9624:5 9634:14 9640:2,17,24 9645:2 9647:9 9648:8,22 9650:23 9651:2,6,16,18 9652:4,7,19,28 9653:4,5,7, 10 9654:5,6,10,12,15,22,24, 27 9655:1,7,18,26 9656:3, 14,15,18,21 9657:3,5,8,21 9658:5,7 9659:25 9660:3,8, 12,15,17,18,24,26 9661:1,4, 6,10,12,17,23,24,26 9662:7, 9,10,11 9663:27 9671:8 9672:8 9673:24,28 9674:9, 21,22 9677:9,12 9678:8,17 9681:19 9682:2,3 9683:11 9684:28 9685:6 9696:10,14, 16,22,26 9697:13,26,27 9705:10 9706:13 9710:10, 12,17,21,22 9711:7,18 9715:3,18 9716:7,8 9723:12, 24 9724:22 9725:1,5 9731:8 9735:12 9737:15 9738:2,10 9745:5,24,28 9747:13,22 9755:26 9756:20,27 9757:12 9767:2

classes 9596:22 9657:8

clean 9732:23

clear 9590:15 9592:19 9594:19 9599:8 9692:5 9709:11 9769:18 9773:14,28 9774:16

client 9598:19

clients 9606:4

close 9596:3 9611:12 9631:1 9690:6 9701:6,11 9708:23 9709:7,26,28 9727:6 9759:9 9762:23,26 9763:3,4,5 9765:11

closed 9722:8

closely 9674:14

closer 9653:20 9664:12 9702:8,11 9726:23 9729:14, 24 9730:9

closest 9611:3,9,17 9730:2, 5

club 9639:9,10

cluster 9724:21

co-op 9610:18 9613:10

co-ops 9589:10 9613:5

coast 9689:4,17 9698:14 9734:24 9750:15 9751:13 9754:14 9758:25 9759:23

coastal 9758:11,12 9759:20, 25,27 9767:22

collaborated 9729:9 9747:7

collaboration 9746:17,20 9747:1,2,3,25,26

collaboratively 9681:4

collect 9600:18

colloquially 9720:28

Colorado 9568:13 9569:19 9571:5,14,15 9572:13,19 9573:3,5,15,23 9574:9,10, 21,26 9577:2,20 9578:12,16, 20,21 9579:17 9581:9,12,28 9585:6,7,13,15 9586:21,27, 28 9587:2,13,15 9588:23 9590:13,15 9591:9 9596:11 9597:24 9598:5 9599:3,7,11 9605:14,16,20 9607:22 9608:11,13 9609:1,4,13,15 9612:21,22 9615:2,12,15 9618:26,28 9619:9,11,12,13, 15 9659:27 9685:18 9695:24 9734:3 9737:24 9743:21 9744:10,17 9748:4,5,7,9,22

colored 9640:27 9644:5,13, 18 9655:11 9664:7

colors 9617:24,27

column 9575:21 9576:6,9 9580:18 9639:19,23 9714:23 9715:1 9716:6 9717:24 9728:15

Comanche 9634:25 9703:3, 10,14 9763:26 9764:7,12,16 9768:18

combination 9683:17

combinations 9698:3

combine 9774:5

combines 9672:1

comfortable 9593:14 9735:11

comment 9636:7 9682:18,21 9731:26 9749:10,12

comments 9731:21 9772:5 9774:13 9775:3

commercial 9599:4,12

commitment 9589:21

commitments 9657:27 9658:2

committed 9578:22 9579:5 9744:24

committee 9673:25,27 9674:2,6,24 9680:25 9681:1, 4,11,13 9682:12 9684:13,14 9689:12 9697:23 9712:25 9736:9 9747:18

committee's 9674:12

committees 9607:11 9616:16 9684:11 9746:21,25 9747:16 9748:1

commodity 9667:18

common 9710:21 9712:11 9734:26

commonalities 9743:20

commonality 9733:20 9743:17 9749:28 9750:14

commonly 9722:2

communicate 9773:17

communication 9772:15

Company 9725:12 9728:26

compare 9666:8 9700:13 9747:17

compared 9598:5 9608:17 9642:13,22 9665:24 9666:19 9688:11

compares 9618:25

comparing 9642:11 9644:2, 3 9665:21 9728:10 9753:24

comparison 9644:1 9693:1

comparisons 9756:11

compelling 9681:25

compensate 9619:19 9716:26

compensation 9655:2

compete 9697:15,17 9700:10 9712:4 9750:12 9762:4

competing 9649:11 9696:26 9754:28

competition 9711:17

competitive 9617:5 9700:3 9710:24 9712:3 9737:9

competitors 9617:5

complete 9632:6 9773:21,22

completed 9747:17 9771:25 9772:11

completely 9643:18 9756:13

complex 9721:24 9734:24 9735:1,5,15 9752:23

complication 9750:9

comply 9648:12

compound 9708:27

computationally 9645:23,25 9646:4,15

compute 9665:12,27

computer 9633:19

concept 9684:21 9711:13

concepts 9684:25

concern 9586:14 9603:3 9746:11 9747:11

concerns 9695:19 9731:16

concluded 9775:7

concludes 9585:19 9656:12

concluding 9584:9

conclusion 9667:24 9679:22

condensed 9583:9

condition 9674:7

conference 9648:16,17

confess 9656:4

confident 9675:20 9682:1

confirm 9603:12 9668:23 9768:25 9770:21,27 9771:8

confirmation 9669:8

confirming 9635:15

Congratulations 9575:5

congruency 9582:1

connected 9607:7

connection 9664:13

Conroe 9689:4 9698:16 9767:21

consensus 9739:22

consequence 9644:21 9739:21

consequences 9705:9

conservative 9674:18 9677:22 9715:25,27 9716:1, 17

consideration 9590:11 9606:16 9642:5 9643:4,15, 20 9661:5,21 9688:6 9696:8 9738:5 9748:26

considerations 9607:21 9613:3 9691:4 9705:6,8 9737:26 9749:15

considered 9606:10 9607:11 9645:11 9712:7 9726:14,17 9755:20 9766:11

considers 9684:23

consistent 9596:23

consistently 9656:21

constitutes 9648:18

constraint 9698:10 9707:21, 23

constraints 9663:22 9707:24

constructed 9756:4

constructing 9615:27

consult 9736:6

consultations 9734:20

consulted 9720:7 9736:20, 21,22

consume 9653:12

consumed 9710:3

consumer 9653:3 9667:2

consumers 9621:24 9653:12,14

consumers' 9653:26

consuming 9653:22

consumption 9651:22 9652:16 9653:10,27 9662:2 9708:26

Cont'd 9569:11 9604:7 9671:25

content 9626:9 9628:8 9770:14

contention 9651:25 9662:3

contents 9601:21

context 9608:10 9649:24 9714:22

continental 9582:22

continue 9601:20 9650:2 9652:27 9667:22 9697:25 9724:22 9725:1 9749:26

continued 9591:25 9592:22 9636:24 9665:7,9

continues 9651:7 9709:9 9729:22

continuum 9660:16

contract 9569:27 9589:23 9590:16 9598:20 9599:8 9615:18

contracted 9746:8

contracts 9589:25,26 9590:19 9610:14

contractual 9589:21 9599:4 9609:11,16

contrast 9620:26,28

contribute 9644:16

control 9619:24 9621:2,6

convenience 9700:15

convenient 9696:15

conventional 9571:15,17, 23,26 9572:17,28 9574:20 9576:10,17,25 9577:7,8,11, 14,19,20,21,27 9578:5 9609:7

conversation 9574:23 9644:28 9645:20 9647:17 9680:21 9693:12 9707:27,28 9717:4 9729:2 9742:4,9,14 9770:9

conversations 9579:17 9607:17 9685:19 9730:11

converting 9665:22

Conway 9698:16

cooperative 9578:23 9589:5 9590:19 9598:24 9610:14 9613:9 9617:5 9682:15 9746:2,9

cooperative-owned 9725:21

cooperatives 9610:21 9617:9,10 9682:13 9683:10 9725:21 9736:3,4,6,10,12 9737:17,18

cooperatives' 9737:23

coordinated 9712:25

coordinator 9720:3 9736:25 9737:1,3

copies 9568:14 9636:12

9759:17 9762:23 9765:4

Curry 9740:1

curve 9667:21

cust- 9621:16

customer 9609:12 9615:5 9737:23,24

customers 9571:20 9610:15 9612:28 9621:14 9697:14,18 9737:17,19

D

D-E-A-F 9701:25

D-O-N 9672:24

D-O-N-A 9672:25

D.C. 9709:15

daily 9581:1 9593:3 9620:24 9696:23 9754:3

dairies 9580:27

dairy 9573:8 9575:11 9576:16 9577:11 9586:28 9597:27 9607:5 9615:13,14 9617:13 9619:19,23 9620:10,12,16,19,26 9621:4, 24 9653:27 9654:8,11 9655:2,25 9658:13,22 9659:8 9660:4 9661:2 9662:9 9664:13,24 9665:14, 22 9666:8,11,18 9667:6,8, 10,21 9678:9 9682:13,15 9725:17 9729:1 9741:19 9743:2 9770:2 9771:4,6,7

Dakota 9581:28 9587:18 9591:14

Dallas 9688:28 9689:6,24 9690:1,4,5 9691:2 9694:11, 17,24,25,27 9695:11 9698:5, 6,22,24,27 9699:1,3,13,19, 20 9703:21,22,23 9704:3,23 9705:16,25,28 9706:2 9718:4 9720:16,19 9721:6, 26,28 9723:10,14,23 9724:4, 7,12,17,19,26 9725:4,15,18, 19,21,22,25 9734:14 9735:22 9739:28 9740:4,8 9748:18 9750:5,7 9751:15 9765:9,14,19,25 9766:1,6 9768:8,10

Dallas-fort 9689:1,10 9690:2 9698:12,13 9703:18 9713:13 9724:14,24 9725:6,9 9731:4 9745:3 9764:16 9766:22 9768:7

Dallasma 9694:8

Dallasma.com 9693:26

Darigold 9595:27

Darigold's 9596:10

data 9601:7 9605:26 9606:15 9665:6 9679:6 9690:10 9693:5,24 9694:2

date 9589:24

dated 9638:4

dates 9678:3 9718:23

dating 9719:23 9720:21

David 9625:13

day 9567:5,12 9570:15 9582:20 9614:13 9631:2 9649:4 9677:28 9680:1 9695:8 9696:17,18,23 9716:20 9718:10 9731:7 9747:12,20 9753:4,23 9754:2,4 9755:16 9772:18

days 9567:13 9601:14 9718:17

dead 9591:9

Deaf 9695:1,4,9 9700:18,22 9701:16,23,24 9702:28

deal 9674:23 9720:12

dealing 9655:12

dealings 9575:7

deals 9651:28

debate 9652:17,23

decades 9572:15 9721:16

December 9567:1,3 9671:1 9715:5 9716:12,15

decided 9646:21

deciders 9621:23

deciding 9588:15 9750:16

decision 9572:1 9578:27 9591:15 9645:16 9677:3 9685:21 9690:26 9714:12 9717:9 9735:2,3

decision-making 9688:18 9750:23

decisions 9579:16 9606:28 9616:8 9644:19 9717:13 9729:7 9761:7

decline 9591:25 9653:10 9743:13

declined 9592:18 9767:25

declines 9721:13

declining 9651:23 9654:4

decrease 9728:11 9739:26 9748:23

decreased 9704:14

deduct 9622:9 9757:9,22

deduction 9757:5

deemed 9760:7

defer 9644:17

deficit 9641:4,13 9674:7

define 9572:12 9612:18 9649:14 9657:5 9738:2,14

defined 9648:21

defines 9738:10

definition 9643:7 9646:11 9647:24,28 9648:4,9,18 9710:16 9738:18

definitive 9640:25

degree 9654:1

deliberately 9715:24

deliberations 9645:17

deliberatively 9715:24

delighted 9769:8

delineate 9601:1

deliver 9598:21 9611:13 9612:1

delivered 9611:19,24 9612:5

deliveries 9613:4,14

delivery 9611:24,25 9677:7 9678:9 9738:11

delve 9672:15

demand 9571:6,15,23,26 9593:6 9597:26 9609:18,20 9612:20 9615:25 9620:10 9640:2,18 9650:22,26,27 9652:4,9,10,12 9684:12,23 9695:18 9696:5,7 9708:20 9724:25 9746:14 9750:19 9754:6

demands 9571:7 9597:24 9619:2,4,13

demonstrates 9659:20

Denver 9571:3 9577:8 9581:14 9584:26 9585:2 9744:13

departed 9602:10 9639:7

Department 9714:12 9717:13 9756:19

Department's 9664:1

departure 9601:13

depend 9731:6

depending 9576:14 9707:22 9750:23 9753:3 9771:2

depends 9576:13 9694:23 9695:8

depicted 9603:4

depool 9574:17 9739:21

depooled 9574:18

depooling 9739:25,27 9740:13,15 9742:3,7 9748:24

derived 9693:25

describe 9570:22 9595:24 9664:20 9720:9 9735:18 9749:17

describing 9620:4

description 9734:7

deserve 9749:27

deserving 9724:28

designated 9622:26 9624:1 9627:21 9720:11

designed 9596:7 9616:4 9617:4 9640:25

desire 9584:19 9678:21 9698:11 9735:26 9749:17

destination 9722:16 9756:28 9757:6

destinations 9745:5

details 9583:5

determination 9607:4,18 9682:24,26,27

determine 9668:8 9737:13

determined 9679:13 9703:5 9760:8

determining 9711:12

detrimental 9586:26

develop 9605:19 9614:23 9616:18 9737:14

developed 9588:8 9715:17 9747:4

developing 9607:15 9749:16

development 9616:5 9679:27 9680:2 9685:5

developments 9647:22

deviate 9658:6 9659:7

deviated 9684:4

deviating 9582:22 9678:23 9684:20,21

deviations 9599:26

devising 9736:26

DFA 9570:4 9571:28 9574:7, 10,15,19 9577:21 9579:4 9582:13 9583:8,9,22 9585:15 9588:1 9589:5,21 9590:16,17 9598:16,23 9599:6,12 9610:22 9615:2,6 9616:28 9617:4,16

DFA's 9576:21 9590:9 9605:10 9611:2 9613:3

DFA/Schreiber's 9592:13

dictate 9590:3 9640:26

dies 9723:4

differ 9619:9

difference 9575:17 9576:26 9577:18 9581:8,9,14,15 9582:4 9584:26 9618:27 9642:13 9643:14 9646:5 9661:3,12 9669:5 9688:3 9691:17,20 9692:6,11 9694:27 9695:15 9698:5,6 9699:15 9700:6 9702:10,24 9704:1,8,10,12,22 9705:27 9706:3,10 9708:19 9729:20 9741:8 9742:19 9743:9,11, 13 9758:14 9759:9,18,22,25 9761:17 9762:24,27 9764:15 9768:10

differences 9584:16 9748:16 9750:1 9766:26 9768:17

differential 9572:20 9573:1 9579:7,26 9580:1 9581:3,19, 25 9582:25 9583:13,15,17 9584:23 9588:11,15,19 9589:17 9591:13 9593:26 9599:2 9621:3 9634:14 9640:24 9641:20 9642:9,16, 19,23 9643:14 9645:2,7,9, 16,18 9646:10,13,20,21 9654:28 9655:7 9660:15,20, 26 9672:9 9674:1 9688:25, 26,28 9689:2,15,17 9690:28 9691:5 9697:14,26,27 9698:26 9705:4 9706:13 9710:21 9723:12,16,25 9724:22 9725:2 9731:9 9734:20,27 9735:6,14,15,21 9738:2,22 9743:9 9744:16, 18 9748:16 9756:12,13,27 9759:17,19 9762:9,14 9767:2 9768:13,17

differentials 9573:17

9578:26 9581:13,16 9582:15,21 9583:7,12 9588:27 9589:2 9599:7,10 9605:8,19 9606:14 9607:3, 12,21 9614:19,21 9616:26 9619:18,23 9621:21 9622:5 9623:22,27,28 9624:1,5 9634:3 9641:19,22 9642:12 9643:5,28 9645:6,10 9650:24 9651:3,16 9652:19 9653:4 9654:22 9658:5 9660:13 9661:25 9662:9 9663:27 9671:8 9674:3,13 9677:12 9678:25,26 9680:15 9683:11 9685:1 9691:27 9705:10,14 9706:10 9710:22 9733:21,22 9736:7,26 9737:10 9738:6,28 9742:3 9744:25 9746:12 9748:7,14 9749:16 9755:7,27 9756:1,3, 20 9757:1,8 9761:21 9765:27

differently 9577:7 9715:22

differing 9723:24

difficult 9590:7 9620:2 9668:7 9681:18 9687:25 9760:17

difficulty 9649:28 9651:28 9698:21

dips 9685:26

direct 9630:16 9632:1 9652:1 9653:24 9655:11 9656:24 9669:12 9671:25 9714:25 9715:3

directive 9746:24

directly 9642:7 9656:25 9661:27 9664:9 9665:24 9667:11 9677:18 9678:12 9697:11

disagree 9614:19 9653:28 9707:9 9730:24 9734:5 9735:7

disagrees 9646:28

discern 9668:8

disclose 9680:18 9695:27

discontinued 9665:1

discrete 9747:27

discuss 9583:7 9676:11 9720:4 9723:23 9727:14

discussed 9569:13 9593:27 9599:18 9639:15 9676:9 9704:21 9706:6 9707:3 9737:26 9739:3,15 9772:4

discussing 9738:7

discussion 9569:1 9623:23 9633:1 9637:25 9638:27 9646:25 9651:21 9652:11 9669:18 9685:14 9692:17 9716:6,7,20 9730:19 9737:18 9739:6 9768:19

discussions 9593:28 9607:15 9617:25

disorderly 9659:10 9750:2

disparity 9620:18

displayed 9668:1

dispositions 9571:21

disproportionally 9598:4

disrupt 9710:24

disruptive 9652:15

dissipate 9658:22,27 9659:4

distance 9593:20 9705:15 9708:1,12,18 9724:17 9750:2 9754:21

distant 9611:14 9726:28

distribute 9712:4

distributed 9568:22,25 9569:5 9618:3

distributing 9677:7 9678:9 9683:6,8,9,12,18 9684:22 9690:13 9693:4 9713:8 9721:21 9724:26

distribution 9690:25 9711:18

divergence 9608:11

diverted 9657:6

divide 9675:19

divvied 9684:11

Doctor 9638:11,27

document 9600:18,19,22 9601:22,26 9602:1 9626:24 9628:12 9629:4,15 9636:10 9638:6,9,11 9693:2,28 9714:5,21 9717:27 9731:21, 22

documents 9601:8 9625:20, 22 9626:7,26,27 9627:5,15, 27 9628:15,19,23,24 9629:1 9639:13 9713:8 9733:2

dollar 9664:27 9699:17

dollars 9576:16 9660:4 9665:15 9678:18

domestic 9658:1,9,10,11,12, 17

Don 9672:24

Dona 9672:25

Donald 9629:9

door 9700:9

double 9610:1 9764:9

double-spaced 9637:21

doubt 9723:6 9743:4

dozen 9736:14

drag 9614:7

draw 9576:19 9622:14 9641:18 9706:25

drill 9750:10

drinking 9653:14

drive 9760:20

driven 9584:5 9666:14 9723:24 9760:18

driving 9770:13

drop 9573:7,23 9655:1

dropping 9667:1,7,8

Drug 9648:15

dry 9570:25

due 9571:5,6 9651:23 9660:9 9664:26 9744:9

duplicate 9675:21

Durham 9680:16

dwindled 9591:28

dynamic 9659:8

E

E-D-W-A-R-D 9603:24

e-mail 9771:3 9773:12 9774:8

e-mails 9630:24 9734:19

earlier 9572:5 9623:11 9639:13 9676:18 9677:2 9687:11 9695:22 9702:12 9703:3 9733:19,24 9743:17

early 9632:6 9712:28

earn 9622:19

earth 9613:9

easier 9617:26 9696:15,20 9732:27

east 9569:15,23 9581:9 9679:11 9686:27 9687:20,26 9721:18,19,24 9724:3

9727:3 9729:13 9730:28 9731:3,11 9734:1,18 9738:1 9744:15 9745:5 9748:19 9751:14,15 9753:8 9754:14 9758:25

eastern 9674:7 9734:24 9738:15 9740:19 9741:10 9742:10,14,20 9744:22 9745:13 9748:21 9754:9 9768:14

easy 9617:23

eating 9653:14

economic 9572:1 9658:6 9661:15 9664:21

economically 9612:15 9743:7

economist 9650:14 9651:28

economy 9620:9

Ed 9572:6 9584:7

edge 9743:25,27 9744:2

Edward 9603:23 9604:4

effect 9622:24,25 9642:12, 20 9643:25 9648:7 9659:3, 18 9719:19

effect- 9660:8

effecting 9652:4

effective 9682:3 9759:18

effectively 9574:26

effectuate 9652:20,22

efficiencies 9712:6,10

efficiency 9711:15,16,17,18, 19 9712:12

efficient 9632:17 9710:28 9711:3,4,13 9724:28 9753:3 9756:7

efforts 9588:18

eggs 9667:13

either/or 9628:20

El 9722:10

elaborate 9749:20 9766:25

elasticities 9652:12

elected 9679:1

electronically 9727:9,10,21

element 9700:3 9750:13,23 9756:21

eligible 9648:4

emanating 9606:24

emphasize 9685:1

employee 9719:10,11

employment 9718:11

enacted 9573:6

encapsulates 9734:6

encompassed 9663:12

encountering 9649:27

encourage 9652:28 9745:7, 9 9748:15

encouraged 9615:14

encouraging 9694:17

encroachment 9591:27

end 9567:18,20 9574:23 9639:5 9641:7,15 9661:15 9673:14 9676:1 9694:21 9699:1 9744:22 9747:12,20

English 9568:2,5,12,22,24 9569:6,7,12 9570:12,15 9571:1 9575:23,26 9576:1,4, 5 9579:9,11,14 9580:6,7,13 9585:18,20,21,25,26 9591:12 9602:8,9,22 9630:13 9631:4 9636:28 9637:2,3,5,6,11,27 9638:3, 10,17,25,26 9646:9,14 9650:12,13 9662:14,28 9668:26 9675:16,17 9683:23 9692:12,20,23,26 9693:20, 24 9694:6,13,15 9700:20 9702:16,18,22 9706:18,20 9711:2,26 9712:13,26 9713:7,10,23,28 9714:5,6, 17,20 9715:9,11 9717:2,19 9718:1,2,15 9719:18,20 9723:6,8 9727:26 9731:14 9732:22,27 9733:4 9735:19 9755:11 9770:10,18 9772:25,28 9773:5,14,17,22 9774:2,19,20 9775:1

ensure 9650:24 9651:3 9652:14 9748:23

ensuring 9652:8

enter 9572:1

entered 9590:16 9605:25 9769:19

entire 9575:16 9578:4 9612:25 9618:13 9640:24 9681:5 9717:9

entities 9736:17

entity 9589:22

equal 9596:21 9605:2 9689:7,9,12 9690:3 9698:11 9700:8

equally 9590:20

equidistant 9721:7

equilibrium 9659:18

equipment 9696:19

equitable 9608:17,22

equity 9608:1,13,16 9609:2 9649:10 9738:4,5,8,18,21

equivalent 9739:9

Erath 9721:5 9722:1,13

Erba 9634:8,21

Eric 9634:8,21

Erin 9591:7 9593:12 9613:27 9772:21

erode 9654:6

erosion 9649:25

error 9703:12

errors 9629:18

ERS 9665:3,10,20,28

escalate 9620:14,24

escapes 9727:4

essence 9700:8 9705:21

establish 9582:19 9588:28 9589:3 9596:7 9651:11,12 9690:27 9743:19

established 9607:23 9626:5 9651:9 9689:16,27 9698:25 9715:20 9734:20

establishing 9581:24 9606:10 9673:28 9691:5 9695:14

estimate 9664:17

estimated 9608:18

estimates 9664:22

evaluate 9750:22

eventual 9606:28

eventually 9734:3,14

evidence 9600:4,7,9,11 9601:2,9,13,15 9602:3,7,21, 25,27 9603:1,5,7 9624:13, 15,17,20,22,24,26 9625:1,3, 5,8,10,12,15,17,25,28 9627:27 9628:4 9629:17,20, 22,25,27 9630:1 9636:18,20, 22 9638:20,22,24 9669:21, 25,27 9670:2,4,5 9731:27 9732:1,3,5,7,9,11,13,15,17, 19,21

evidentiary 9600:27 9627:25

evolved 9599:5

examination 9574:3 9597:15 9614:14 9632:1 9639:12 9671:25 9705:20

examined 9569:9 9604:5 9631:19 9671:23

exceed 9652:21

exceeds 9612:20 9687:6 9702:3

Excellent 9567:24 9633:20 9769:25

exception 9579:12,13 9638:27 9681:6 9752:13

excess 9596:17 9650:19

exchange 9735:19

exclude 9648:5

exclusion 9653:8

exclusive 9639:10

exclusively 9596:14

excuse 9569:21 9570:12 9587:14 9593:1 9596:23 9621:11 9626:16 9659:1 9666:20 9692:9 9697:19 9701:12 9710:23 9715:24 9752:20 9755:15 9760:1 9763:23 9765:12 9767:3

executive 9673:21,23

exemption 9618:19

exhibit 9568:1,10,12,15,18, 19 9569:4 9575:20,23,26 9576:6 9579:25,28 9580:11 9583:19 9585:22 9588:6 9600:4,6,8,11,16 9601:13 9602:5,6,11,12,20,21,24,26 9603:1,2,5,6 9605:11 9608:4 9623:21 9624:13,14,16,20, 21,23,26,28 9625:2,5,7,9,12, 14,16,28 9626:18,19 9628:27 9629:6,22,24,26,28 9632:8,16,21,22,23 9633:6, 7,11,16,25,26 9635:3,15,17, 25,27,28 9636:5,14,15,18, 19,21 9637:13,16,27,28 9638:1,18,21,23 9639:22 9669:22,25,28 9670:1,4,5 9671:28 9672:13,19 9675:1 9677:28 9692:12,20,21,22, 24,26 9693:8,9,14 9702:24 9704:21 9712:26 9713:11, 17,19 9714:3 9717:7 9727:15 9731:19,27,28 9732:2,5,6,8,11,12,14,17,18, 20

exhibits 9585:25 9600:2 9602:8,14 9605:26 9618:7 9623:6,8 9624:10 9625:18 9627:2,8,16 9629:21 9639:6 9668:19 9670:7 9675:8 9769:22

exist 9590:13

existence 9588:13 9642:5 9688:2 9726:7

existing 9582:4 9615:11 9642:17 9645:22 9729:17

exists 9724:22 9765:25

exit 9567:21 9573:8,11,28

expand 9609:6 9663:7 9754:24 9760:11

expanded 9648:17

expect 9602:13 9643:26 9737:6 9772:3

expected 9737:3

expects 9772:10

expending 9592:25

expenses 9645:9

expensive 9585:9 9761:1

experience 9660:6 9745:11

experienced 9721:13 9739:1

expert 9622:27 9648:26

expertise 9644:16

experts 9641:18 9648:25

explain 9609:7 9646:23 9688:22 9703:8 9712:17 9758:18

explained 9609:9 9645:14 9659:9 9733:23

explaining 9645:14

explanation 9579:10 9703:14

explicitly 9645:6

export 9657:28 9658:9

extending 9689:24

extensive 9685:14

extent 9652:17 9655:15 9680:16 9706:21 9708:21 9710:11 9721:17 9772:8 9774:4

extra 9576:11 9682:2 9724:17 9753:10

extreme 9641:24,28

extremely 9720:9

F

face 9613:9 9657:23

facilitated 9617:25

facility 9726:3,6,8

fact 9571:28 9578:17 9581:23 9626:7 9641:19 9642:26 9643:10,15 9644:21 9653:21 9656:21 9660:19 9664:14 9667:20 9668:24 9677:27 9697:11 9699:27 9706:6 9712:4 9725:2 9731:4 9739:18 9743:7 9744:9 9753:10 9774:9

factor 9579:10 9588:14,20 9666:15 9700:4 9714:28 9715:5,6,15,19,20,23,27 9716:11,13,15,16,17 9743:16 9750:16

factors 9588:16,22 9599:16, 17 9651:23 9663:23,24 9699:2 9700:2,12 9715:21 9735:10 9737:12

faded 9676:1

fails 9696:19

failure 9746:2,4,9

fair 9579:9 9599:27 9618:14, 22,23 9644:27 9645:4 9661:19 9721:9 9734:16 9735:13,17 9751:24 9771:23

Fairfax 9709:13

fairly 9658:22,27 9667:7 9675:19 9721:6 9745:19

fall 9618:18 9658:3

fallen 9743:5

falls 9579:19,23 9580:15,19, 21,23 9581:25 9582:4 9584:20 9591:13 9592:20 9593:1,20 9595:28 9673:1

familiar 9577:16 9628:7 9657:16 9688:17 9734:4

familiarity 9626:9

fantastic 9620:3

farm 9611:13 9664:13,26 9667:15 9668:9 9712:9 9730:5 9743:8 9772:17

farm-to-market 9711:16

farmer 9631:2 9664:27 9770:3 9771:6

farmer's 9620:26

farmer-owners 9610:23 9615:11

farmers 9573:8 9575:12 9576:16 9586:28 9589:10 9597:27 9607:5 9615:13,14 9619:19,24 9620:13,17,19 9621:4,24 9654:8,11 9655:2, 26 9658:22 9660:4 9661:2 9662:9 9667:8 9682:13 9725:17 9729:1

farmers' 9665:14

farms 9620:10 9682:15 9708:1,13,19 9710:8,10 9711:9 9740:26,27 9767:16

farmstead 9761:28

farther 9592:22 9710:9,10, 11 9711:9 9724:7

fashion 9625:25

Faupel 9605:24,28

favorable 9617:11

Fayetteville 9751:18

features 9659:6,17

February 9680:2 9714:8,18

Federal 9573:20 9574:16 9575:11,15 9596:19,24 9606:24 9607:5 9616:3 9622:27 9641:21 9642:5,13 9643:4 9645:6 9647:9,24 9648:5,22 9651:27 9652:2,6 9657:19 9658:2,16 9659:6, 14 9662:5 9693:5 9709:5 9714:8,15,17 9715:21 9717:15,23,27 9718:8 9755:23

federally 9581:23 9582:17

federally-regulated 9649:7, 21

Federation 9578:21 9579:3 9618:10 9637:21 9638:4 9648:24 9655:17 9657:1,12 9772:11,18

Federation's 9638:14

feed 9598:3 9605:6,7,15,19, 25,27 9606:10,21,23 9607:10,11,17,20 9620:11, 24

feel 9584:21 9652:13 9681:7 9682:17 9763:3 9766:17

feeling 9662:1

felt 9581:2,18 9582:9 9584:17 9593:13,16 9595:6 9680:3 9681:2,28 9687:3,8 9697:23 9703:17 9729:10,24

9734:26 9749:21 9762:23 9764:22

fiduciary 9610:17

figure 9617:12 9622:7

final 9606:28 9628:26 9677:2

finalized 9618:12

finally 9672:24 9693:14

find 9608:2 9610:5 9681:4 9683:22 9714:25,26 9717:16,18

finding 9722:18

findings 9606:16

finds 9699:8,10

fine 9600:21 9604:12 9628:14 9649:8,22 9650:8, 16,21 9674:28 9675:3 9677:14 9730:18,23 9769:13

finish 9630:6 9632:12 9644:22

firm 9605:23

fit 9747:21

five-minute 9603:11,16 9668:23 9733:7

fixed 9711:6

flailing 9651:19

flat 9584:19 9591:12

flattened 9667:21

fleshed 9747:5

flex 9771:20,28

Florida 9572:23 9640:21,22 9642:27 9675:25 9676:4,8, 11 9677:23 9678:16 9682:3 9754:21,26 9757:4 9762:7, 15 9763:4,5

Florida's 9754:28

flow 9695:17

fluid 9606:25 9647:11 9651:22 9652:4 9653:1,4,8, 18,23,26 9659:18 9662:2 9663:4 9666:11 9667:6 9696:27 9710:13 9730:25

flying 9599:23

focus 9653:7 9662:4

focused 9713:12 9741:13

folks 9767:19

follow 9647:22 9674:13 9677:23 9678:19 9681:20,22

9691:28

food 9648:15 9664:27 9665:14 9666:6,20 9667:17, 22 9668:3

Foods 9609:12 9615:5,25 9709:3 9737:24

footer 9638:8

footnote 9626:23

force 9617:3 9641:18 9707:14,21

forces 9649:8,13,14,22,26 9650:3,8,15,21 9653:9 9668:6

forgive 9642:24

forgot 9602:10

form 9596:11 9720:27

formula 9665:6

formulas 9606:7,10

Fort 9569:21 9581:15 9598:16 9694:24,25 9695:11 9699:19 9718:5 9721:2,7 9722:6 9723:9,14,23 9724:4, 7,12,18,26 9725:4,13,20 9750:5,7 9751:17 9767:2,3

fortunately 9604:17

forward 9645:19

found 9587:4 9664:28 9665:4 9717:27

foundation 9627:25 9628:5

foundationary 9626:6

fourth 9641:2 9672:23

frankly 9664:5 9712:8 9740:17 9772:25

Frazer 9605:23 9606:4

freight 9585:9 9592:26 9593:8

freighted 9585:8

frequently 9620:6

Friday 9567:18 9574:24 9575:26 9598:8 9599:18 9602:11 9714:8 9772:9,18

front 9567:28 9569:14 9580:11 9597:8 9633:15

full 9569:27 9663:28 9706:11 9747:4 9760:4

fully 9666:14

function 9618:1 9650:22,26 9651:2

fund 9677:5

fundamental 9651:2 9653:11

fungible 9609:5,8 9612:4,14, 15,17,18

furthest 9734:18

future 9589:14,19

G

G-A-L-L-A-G-H-E-R 9603:24

G-A-L-L-O-W-A-Y 9772:16

G-U-S-T-I-N-E 9764:5

Gallagher 9574:3,4,17 9584:7 9586:7,10 9603:14, 23 9604:4,9 9613:23 9614:16 9623:5 9624:10 9626:7 9695:23 9696:3,11 9733:23 9734:1 9737:22

Gallagher's 9572:6 9599:21 9627:4 9734:7 9738:17

gallon 9622:6

gallop 9719:17

Galloway 9772:15

Garden 9759:15

gather 9753:28 9773:27

gave 9597:21 9675:24 9676:3,8 9681:1,12,14 9685:6 9713:23 9726:1

general 9600:14 9619:1 9640:23 9662:1 9666:23 9668:9 9681:22 9695:17,18, 20 9721:20 9739:21,22

generalist 9590:6

generally 9595:24 9611:5 9640:3,19 9651:26 9667:26 9668:2 9674:18 9681:16 9685:12 9696:20 9721:27 9722:5,7,15 9724:5 9751:14 9762:5

generate 9706:2 9742:7

generated 9677:28 9687:8 9728:13 9730:1

generates 9696:7 9756:5

genesis 9687:17

Geneva 9761:14

Gentlemen 9719:17

geographical 9616:13

geography 9577:9 9587:7,9,

19 9592:15 9593:15 9744:11

Georgia 9680:27 9718:12 9719:14 9725:28 9726:4,28 9754:27 9763:1

gestures 9761:9

get all 9771:18,21

give 9567:20,22 9585:17 9602:1 9610:1 9615:22 9633:5,9 9673:20 9676:6 9681:12 9682:6,8,11 9704:1 9713:24,25 9750:19 9771:9

giving 9708:6 9772:6 9774:23,24

glad 9602:18

global 9620:9

goal 9611:9 9739:1

goals 9611:2

Gold 9595:27

good 9586:3,4 9591:4,5 9597:17 9604:10 9613:26,27 9614:1 9637:4,5 9662:23,24 9668:21 9671:11 9675:17 9680:3 9681:23 9682:1 9689:13,25 9690:26 9691:24 9694:14 9708:10 9713:18 9714:2 9717:21 9719:13 9733:14,15 9736:1 9737:1 9749:7,8 9763:14 9769:5,12

gospel 9704:17

Gossner 9592:8

government 9628:23

government's 9628:18

Grade 9585:10,13,15 9646:25,26 9647:1,7,18,19, 20,25,26,27 9648:1,5,9,18, 21 9649:1 9654:25

gradient 9760:8

graduate 9707:20

grain 9727:1

grammatical 9716:19

graph 9667:5

grasp 9736:1

grasping 9751:28

great 9595:28 9720:12 9736:1

greater 9619:2 9640:14 9661:16 9664:11 9704:25 9762:10,15

Greeley 9581:14,15 9609:13

9616:1

green 9668:8

gross 9756:25

group 9568:6 9605:18 9623:17 9637:3 9646:21,23 9675:18 9733:21 9734:8,19 9736:4 9737:5,8,25 9738:6 9739:2,3,7,16 9741:13 9742:2 9746:18 9747:4 9749:15 9760:7 9770:11,12

group's 9735:25 9755:3

grouping 9675:8

groups 9616:18,23 9674:16 9747:1

grow 9615:12

growing 9615:26 9742:25,26

grown 9569:17,19 9572:17 9588:24 9589:10 9742:24

growth 9571:5,27 9572:18, 23 9573:2 9583:1,4 9588:23 9616:4 9742:27 9743:11,15

guarantee 9589:12,15,20 9709:24

guess 9567:13 9568:8 9572:14,22 9597:5 9635:14 9650:6,17 9664:3,21 9675:7 9698:3 9713:16 9731:15 9738:12 9747:7 9751:7 9755:2 9759:24

guide 9671:12 9674:2

guilty 9723:5,6

Gulf 9689:3,16 9698:14 9734:24 9751:13 9758:24

Gustine 9763:25,26 9764:3, 4

H

H-A-L-E 9701:13

H-A-U 9771:12

Hale 9701:12,14

half 9592:1 9612:21 9702:1 9721:16 9723:3 9762:18

Hammond 9689:19 9734:12, 23

Hancock 9597:16,18 9600:1, 24,25 9601:27 9602:13 9603:12,15 9614:13,15 9623:4 9626:2,3 9627:18,20 9630:4,6 9631:25,27 9632:2, 20 9633:11,13,21,22,23 9635:23 9636:4,16,23

9638:28 9668:16,20,25 9669:9,10 9671:7,12,14,15, 26 9674:26 9675:6 9731:18, 20 9768:22,23,24,28 9769:2, 4,16,21,24,27 9770:19

Hancock's 9601:19 9731:16

hand 9761:9

handed 9714:7

handle 9622:7

handler 9574:28 9604:26 9660:24 9661:1

handlers 9604:20,24 9620:20,28 9621:1,18,25 9654:16 9661:10 9682:3 9736:13

happen 9573:19 9590:14

happened 9591:19 9767:24

happening 9620:24

happy 9567:15 9717:14

hard 9614:5 9682:4 9753:7, 9,17 9760:20

harder 9761:1

harm 9669:22

Harris 9691:10,12 9698:15

Hau 9771:12

haul 9654:27 9715:25 9716:26 9768:16

hauling 9663:5 9705:11 9706:12 9714:28 9715:7,8,9, 15,26 9716:2

hauls 9696:20 9766:26

he'll 9656:6 9770:4

head 9739:5,15,23,24 9741:17 9757:3

header 9693:25

heads 9592:17

heads-up 9567:23

health 9661:22

hear 9602:13 9623:23 9627:18 9655:14 9705:20 9722:20 9738:17,19 9770:16

heard 9573:26 9578:14 9597:1 9608:20 9617:8 9622:13 9626:14 9640:10 9651:20 9659:27,28 9660:1 9663:6,15 9675:23 9695:22 9703:3 9724:10 9754:5 9755:22

hearing 9567:14 9571:12 9591:18 9601:3,4,7,12 9606:27 9607:16 9608:21 9614:8 9617:8 9620:2 9635:3 9651:14 9655:23 9659:11 9677:2,24,27 9678:3 9679:8,25,27,28 9680:4,8 9683:14,23 9706:14 9720:2 9772:4

hearings 9606:7 9719:22,23, 24,26,28

heavy 9690:11

hedge 9604:27

held 9677:24 9679:28 9683:14 9707:26

helpful 9630:9

helping 9617:16 9743:18

Hemet 9758:26

Hereford 9692:6 9759:9,10

Hey 9577:21

high 9574:13 9595:9 9606:25 9650:7,9,15,18 9680:20 9704:19 9760:8,12, 23 9762:18

high-level 9671:9

higher 9572:10 9575:11,15 9593:13,14,19 9611:14,15 9616:27 9620:8 9621:13 9622:18 9654:13,27 9657:8 9660:19,26 9662:11 9663:4 9678:16 9679:10,14,23 9680:18 9681:27 9687:9 9688:11 9706:28 9725:3 9731:10 9748:8 9753:13 9757:3 9760:23

higher-of 9604:28

highest 9610:19 9611:1 9743:1

highlight 9649:25

highlighted 9637:12

highly-processed 9667:17

highways 9568:14 9713:13

Hiland 9725:18

Hill 9628:16,17,18 9714:15, 19 9717:18,20 9771:12,13

Hill's 9629:13

historic 9697:21

historical 9724:20

history 9719:5 9720:5 9736:18 9744:20

hit 9694:1

Hoeger 9681:9,11 9682:6,8

Holland 9753:17,19

home 9767:18

honest 9618:14 9753:7

honestly 9583:5 9593:12,18 9614:1 9741:17

honor 9567:9 9568:7,9,25 9569:7 9575:23 9576:1 9579:11 9585:17,26 9591:1 9600:1,13,25 9602:9 9603:9 9604:1 9608:5 9618:22 9623:6 9625:19 9626:3,21 9627:11,20 9628:16,26 9629:13 9630:2,6,13 9631:17 9632:20 9633:22 9636:4,23 9637:6 9638:3,17, 25 9668:16,25 9671:7,14 9692:13,23 9694:6 9706:19 9714:6,10,21 9715:10 9717:3 9718:1 9727:24 9731:15,20 9732:22 9768:24 9769:24,27 9770:2

hope 9589:10 9688:22 9738:9

hoping 9602:17

Hopkins 9720:24,27 9721:10 9766:22

horizontal 9697:19

horse 9591:9

housekeeping 9567:10

Houston 9689:4,6,17 9690:4 9691:3,10,12,13,14 9694:17 9698:14 9734:14 9735:2,4,6, 14,21 9745:18 9751:12 9765:15 9767:21

Houston/conroe 9689:11 9721:24 9722:9 9735:13 9751:13

How's 9709:19 9712:18 9727:19 9755:6

how-many-does-the-blend-go-up 9742:6

https://www.dallasma.com. 9694:7

human 9700:3,4

humans 9756:8

hundred 9768:8

hundred-plus 9591:28

hundredweight 9572:21 9573:1 9574:26 9580:6 9582:7 9656:22,23 9665:23

9686:9 9688:21,27 9689:1,3, 22 9692:9 9704:25,26 9705:21 9724:16 9728:22 9759:19,21 9760:26

hurts 9717:6

hypothetical 9579:1,2,8

I

I-25 9744:13

I-R-E-D-E-L-L 9760:16

I-T-A-L-I-A-N-O 9631:15

Idaho 9579:19,23 9580:15, 28 9581:1,10,17,21,25 9582:10 9584:20 9592:17, 19,20 9593:16,17,26 9594:26 9596:11,27 9597:3

idea 9681:22 9684:9,10 9689:13 9703:13 9705:13 9716:25 9724:15 9763:13

identical 9582:6 9698:6 9700:5

identification 9568:20 9633:8 9638:2 9692:25 9713:20

identified 9635:17 9645:7 9702:4 9771:3

identifies 9626:24

identify 9603:27 9631:25

identifying 9571:14

IDFA 9630:20,26 9698:19 9704:22 9771:3,13,14,20 9773:3,23

ignore 9588:21

ignores 9588:19 9699:22

II 9596:22,24 9623:22,23,26, 27 9624:5

III 9574:18 9578:22 9596:22, 24 9605:3 9648:8 9656:14, 15 9660:8 9696:26

illuminate 9591:21

imaginable 9591:10

immediately 9569:22

impact 9586:26 9654:3,6,7 9655:25,26 9656:2,12 9657:2 9658:21 9662:2 9668:9 9674:20 9678:12,13 9699:3,4 9707:11,13,18 9739:4

impacted 9620:9 9643:10

J

J-E-F-F-R-E-Y 9671:19

Jackson 9748:8

January 9630:25 9774:16

Jeff 9588:4 9668:24

Jeffrey 9671:19,22

Jim 9771:12

job 9620:3 9746:10

Joe 9771:5,7

John 9588:1 9729:2

join 9639:9

jokes 9713:11

Judge 9626:18

judicial 9625:21 9626:4,10, 15 9627:23 9628:2,14

justification 9572:27 9584:22 9585:5 9605:7 9686:25 9729:18

justifications 9599:25

justified 9729:28

K

K-E-E-F-E 9772:10

K-O-S-C-I-U-S-K-O 9758:5

Kang 9588:1 9730:11

Kansas 9586:21 9587:18 9685:12,18 9692:28 9730:20,25 9731:9 9734:2 9748:4,5,7 9752:20 9754:12 9759:15 9766:14

Keefe 9693:6 9772:9,23 9774:12

keeper 9617:18,20

keeping 9602:19 9643:6

Kentucky 9683:3 9719:15 9752:2

key 9737:14 9751:9

keying 9753:6

kicked 9632:6

kind 9572:18 9582:1 9594:26 9595:8 9596:1,7 9600:27 9618:19 9651:20 9661:22 9665:13 9681:2 9685:25 9690:24 9694:21 9702:15 9707:4,6 9718:8 9729:12 9734:12 9736:25

9737:20 9739:19,22 9742:6, 8 9743:24 9750:8,11 9751:1, 2,19,20 9753:4,21 9757:10 9760:16 9766:26 9767:11

kinds 9622:1 9629:16

knew 9689:15

knock 9770:24

knowing 9575:18 9674:18 9686:19

knowledge 9618:13 9636:2 9644:11 9706:5 9718:27 9719:27 9725:27 9726:9 9737:8,9,13 9748:1

Kosciusko 9757:26 9758:26 9759:3,7,10,18,23,25,27

Kroger 9725:12 9728:26 9729:7

L

L-A-M-B 9701:21,22

labeled 9568:12 9576:7

lack 9704:17

Lafayette 9689:18 9758:25 9759:10

lag 9666:17

Lake 9579:18,23,26 9580:1, 22 9581:10,21 9582:5 9583:16,28 9584:25 9585:1 9592:26,28 9593:12,15,18, 21

Lake's 9582:12

Lamb 9701:20,21 9702:1 9740:28 9742:16

Land 9612:28 9613:1

language 9634:6 9715:3

large 9591:24 9653:21 9658:12 9667:15 9737:23 9743:25 9744:6,18

largely 9663:15 9720:17 9755:1

larger 9579:19,21 9647:2 9663:4 9744:23 9760:5

largest 9613:7,10,11,12 9642:14,22 9643:27 9674:15 9741:19,22,25 9743:2

Las 9582:24 9583:14,17

late 9671:3 9677:3 9703:10 9730:16 9742:28 9773:7

Latin 9747:6

laugh 9749:11

lay 9628:5

leader 9622:13,16

leading 9639:5 9641:26

learn 9758:6

learned 9707:20 9763:25

learning 9630:18

leave 9574:9 9619:15

leaves 9619:4 9767:20,28

leaving 9574:6,15 9578:20 9596:10 9646:5

led 9659:9 9677:21 9679:19, 21

left 9594:7 9632:18 9639:4 9647:7 9669:11 9671:10 9674:10 9687:5 9697:18 9727:5 9758:28 9759:1,2 9768:1

legal 9618:16

legend 9693:1,8

length 9567:14 9651:14

Leprino 9570:5,6,27 9598:19 9599:8,13 9609:12, 19 9611:7,17,24 9612:20 9615:5,9,16,25 9737:24

letter 9637:16,20

letterhead 9638:4

level 9580:23 9588:15 9651:6 9652:14,19,21 9658:4 9676:27 9679:10,14 9680:12 9719:25 9739:1

levels 9608:14 9659:24 9660:3 9666:28 9711:15,19

levers 9621:1,5,15 9622:3,7

levity 9749:13

lifestyle 9653:2

light 9754:20

lighting 9595:13

likelihood 9739:26 9748:23

limited 9714:7

linear 9707:20

lines 9616:13 9618:21 9666:5 9667:10

link 9652:1,10

list 9617:17 9634:2 9696:2 9725:14 9736:12 9761:27 9773:21

listed 9693:10 9703:8 9725:13 9736:13

listen 9574:3

listened 9599:21

listening 9609:26

lit 9765:24

litigation 9606:8

Littlefield 9741:2

live 9709:15

livestock 9605:6,7 9606:21, 23 9607:17,20 9620:11,24

LLP 9605:23

load 9767:14

load-a-day 9767:15,19

load-for-pickup 9767:28

load-per-pickup 9767:19

loads 9612:1

local 9571:3 9588:9,14 9644:11 9674:4,5 9687:27 9688:2,5 9690:20,21 9695:19 9697:12 9700:2,8 9712:11 9729:11,28 9737:9, 13 9748:1 9753:25 9767:6, 17 9768:11

locally 9592:15 9688:11 9753:20

locate 9589:11 9693:13 9743:8

located 9569:26 9595:6 9686:22 9696:19,28 9726:23 9744:8 9752:17

location 9570:16 9581:23 9582:15 9588:11 9706:22 9711:6 9715:4 9716:11 9718:27,28 9719:25 9739:20 9753:25,26

locational 9646:19

locations 9583:22 9683:7,8, 12 9693:4 9723:11,13 9724:2 9761:18 9765:28

logic 9723:24

Lone 9682:13

long 9616:1,2 9630:14 9669:12 9673:9 9696:22 9697:12 9700:11 9703:11 9707:19 9720:20 9731:24 9752:11 9755:15 9772:3

long-term 9615:24 9653:5, 11 9744:19 9746:8

longer 9614:7 9658:14 9665:10 9724:12

longstanding 9649:6,20 9664:2

looked 9580:28 9607:11 9617:10,27 9660:14 9664:20 9679:6 9689:12,20 9694:26 9701:5 9720:12 9740:15 9750:18 9751:6,23 9765:27

loop 9744:12

loss 9622:12,16

lost 9708:27

lot 9587:21 9588:18 9591:16,26 9592:1,12,18,21,25,27 9596:27 9609:13 9622:6 9644:25 9693:11 9696:21 9721:14 9727:5 9734:10 9765:18 9766:12,16

lots 9599:16 9703:16 9705:17

Louis 9734:1

Louisiana 9689:19 9734:12,23,24 9735:12 9750:15 9751:13 9758:23,24 9759:1,6,20 9767:22

Louisville 9719:15

loved 9593:18

lovely 9614:11 9757:27

low 9574:17 9641:7,14 9659:24 9660:2,22 9661:4 9704:19

lower 9584:2 9616:28 9643:8 9666:6,19 9678:25 9679:4,5 9680:11,14,17 9686:28 9687:21 9697:8 9698:22 9728:15 9729:28

lowered 9646:17 9678:28 9698:25 9722:25 9729:19

lowering 9678:23

lowers 9643:7

Lubbock 9615:28 9685:22 9688:27 9690:7,8,11,15,22 9691:6,7,8,9,16,17 9692:10 9694:19,20 9695:6,13,15,25 9696:4,5,9 9697:9,11,16,17,20,28 9698:5,21 9699:24,28 9700:5 9701:11 9702:8,11 9704:27 9705:1,3 9706:27 9712:16 9724:3 9731:6 9740:21 9742:16

lunch 9668:22 9669:15 9670:8,9,11

Lynchburg 9729:8,14,19

9730:9

M

M-A-N-E-T-E-E 9762:21

M-Y-A-K-K-A 9763:9

MA 9694:9

macro 9653:9

made 9571:28 9579:16 9587:2 9604:21 9609:3 9617:23 9635:6 9636:9 9638:8 9640:1 9647:15,16 9657:27 9665:8 9675:5 9677:19 9688:3 9703:10 9711:28 9714:13 9722:17 9723:11,16,19 9727:20 9729:7 9739:18,19 9744:17 9747:22 9752:4 9758:8 9761:7 9764:15 9765:7 9769:12

Magic 9592:28

maintain 9582:4 9608:12 9617:17 9664:1 9681:24 9690:3 9698:11 9705:14 9735:26 9749:18

maintained 9665:18 9698:27

maintaining 9649:7,20 9738:21,28 9749:22

major 9674:5,21 9711:28 9766:18

make 9573:16,24 9580:25,26 9582:11 9584:1,10 9586:25 9596:7 9605:22 9606:11 9616:19 9621:8,9 9632:15,22 9633:25 9634:7 9636:24 9641:8 9645:8 9647:12,13 9652:25 9660:10 9661:3 9669:5 9672:14,19 9673:5,8 9674:18,26 9678:7 9681:2 9686:1 9695:20 9703:26 9705:17 9717:16 9721:4 9724:18 9732:27 9747:9,18,20,27 9749:11 9750:6 9756:10,16 9758:21 9761:10 9767:14 9769:18 9770:19 9773:28

makes 9606:16 9613:13 9689:24,25 9690:2,26 9695:13 9723:15 9749:23 9750:4

making 9597:19 9599:6 9632:12 9665:9 9708:22 9711:21

malarky 9615:20,23 9617:7

management 9604:24 9622:22,28

managing 9746:3

Manatee 9762:20,22,25

manufactured 9657:22

manufacturer 9572:2 9576:22 9579:5 9743:22,26 9744:1

manufacturers 9585:12

manufacturing 9571:7 9578:24 9588:25 9589:22 9596:25 9598:10,11,15,18,19 9612:6 9613:11 9621:9 9655:19 9736:18 9740:16

map 9568:13 9569:14 9582:13 9592:3 9597:8 9617:23 9632:9,16 9633:5 9635:16,24 9641:20 9693:9 9700:13 9713:12,16 9724:2 9736:26 9758:1 9759:8

Maple 9771:12,13

mapping 9617:23

maps 9617:26

March 9677:28 9678:4,5 9679:28 9680:1

margin 9622:18

margins 9622:10

mark 9568:16 9632:24 9772:4,22

marked 9568:15,19 9600:4 9602:22 9627:2,20 9628:3 9633:5,7 9637:15,27 9638:1 9692:12,20,21,22,25 9712:26 9713:13,17,19,25

market 9572:17,28 9573:21 9574:20 9578:23 9588:10 9592:22 9610:21 9619:20,26 9629:7,11 9649:8,13,22,26 9650:3,8,15,20 9651:7,9,11,13 9654:28 9657:28 9660:23 9661:23,26 9674:4 9682:3 9694:4,9,10 9700:14 9710:28 9711:3,4,13 9712:5 9718:11 9719:9 9720:7,19 9725:13 9749:26 9752:12 9761:26

Marketed 9693:15,20

marketer 9613:16

marketing 9590:26,27 9597:13 9600:15 9601:17 9606:17 9612:11,23,26 9613:2,7,25 9622:28 9625:22 9628:28 9629:1 9636:12 9659:10 9662:6,17,19 9674:8 9677:11 9681:8 9683:18 9687:6 9688:24

9693:26 9736:17 9749:1,3 9764:11

markets 9616:6 9618:27 9619:24 9659:24 9660:22 9663:18

marking 9713:7

Maryland 9679:20 9682:14,21 9729:8,19

massive 9674:9

master 9617:17

match 9705:13

matched 9617:28

material 9610:10

math 9741:16,17

mathematical 9698:2 9756:24

matter 9652:17 9661:1 9708:22,26 9744:9 9746:1 9756:4

matters 9652:3

Mcmurtray 9600:13,14 9601:18

Meadow 9595:27

meaning 9588:22 9608:22

means 9654:15 9715:17 9716:21

meant 9588:27

mechanism 9649:26 9717:4

mechanisms 9659:14

meet 9588:9 9592:27 9612:5,19 9619:4,13 9652:8 9685:23 9745:26

meetings 9607:18 9616:22

meets 9607:2

member 9574:11 9680:24,28 9681:2,11 9771:13,14

members 9585:15 9586:26 9590:20 9610:18 9617:3 9644:12 9659:12 9681:6 9746:9 9749:16 9770:12 9773:11 9774:5,22

members' 9610:19 9651:15

memorialize 9632:26

memorized 9748:6

memory 9708:7

mention 9705:5

mentioned 9588:2 9593:9

9595:22 9619:8 9648:12 9672:27 9687:2 9734:11 9767:9

merited 9680:20

method 9673:28

methodologies 9747:26

methodology 9601:21 9665:2,3,10,28

metro 9710:20,23 9725:9 9727:3 9728:23 9766:15

Metroplex 9689:1 9690:2 9691:2 9698:12,13 9724:14, 24 9745:18 9766:22 9768:7

metropolitan 9725:6 9749:24

Mexico 9587:11,15,22,24 9702:6 9720:11 9740:1,3,9, 19 9741:8,10,13,18,19,23 9742:3,10,15,20,26,28 9743:1,4,13 9744:8,12,22 9745:2,3,4,5,12,17 9748:18, 22

Miami 9641:8,11,15,16,24, 28 9642:8,27 9643:1,5,6,13, 18,23 9645:21,24 9646:6,11, 16,18,22 9655:8 9676:11,17 9681:27 9682:4 9754:19 9755:8 9756:13

mic 9635:20 9770:16 9773:4

Michelle 9600:13

Michigan 9618:24,25,28 9619:3,4,7,17

Michigan's 9619:1

Michigan/ohio 9606:2

micro 9712:5

microphone 9570:13

mid-1980s 9719:6

mid-november 9630:23 9772:14

middle 9594:27 9636:26 9663:1,26 9666:4 9685:7 9688:13 9708:28 9754:10, 13,18 9758:2 9760:5,24 9762:6

Mideast 9751:3,20

MIG 9568:12,15 9603:1 9618:6 9625:18 9629:4 9630:9,19,26 9655:15 9770:7 9771:15 9772:6,10, 12,28 9773:20,22 9774:5,11, 17,21,22

MIG's 9651:15

MIG-38 9692:21,27 9731:27

MIG-41 9692:21 9732:5

MIG-412 9625:20

MIG-413 9625:20

MIG-42 9692:22

MIG-44 9637:16,20,27 9638:7,20

MIG-59 9568:18 9569:4

MIG-60 9602:23

MIG-62 9626:1,19 9629:23

MIG-63 9629:27

MIG-EXHIBIT 9713:12 9714:3

Mike 9770:3,13 9771:21

mile 9705:22 9724:16

mileage 9674:8 9715:5,18, 20,21,23 9716:11,12,13,14, 16,17

mileages 9702:10 9757:7 9759:8

miles 9593:24 9705:16,24 9724:7,9,17 9745:22 9746:7 9756:23 9768:8

milk 9568:5 9569:16 9570:25 9571:5,7,11,12,15, 17,18,20,21,23,26,27 9572:4,13 9573:2,13,15,17 9574:7,9,10,11,15,18,19,21, 24,25 9575:10 9576:10,11, 12,17,25 9577:1,19,20,22,25 9578:12,16,17,21,25 9579:2 9581:1,5,12,13,21 9583:9 9584:4,19,22,25 9585:1,7, 11,13 9586:5 9588:9,14 9589:6,9,12 9590:20 9592:1, 19,26,27 9593:3 9594:3,5,7, 17 9595:10,11 9596:2,6,10, 27 9597:2,18,24,28 9598:10, 11,17,21 9599:3,26 9604:3, 27 9606:25 9607:4,6,11 9609:4,7,13,19,22 9610:20, 22 9611:3,8,9,12,13,16,18, 23,27 9612:1,3,5,10,13,16, 21,22,23,24,25,26 9613:2,4, 6,14,16 9615:12 9616:27 9617:21 9618:2,5,9,22 9619:1,2,3,12,15,20 9620:14 9621:10,11 9622:27 9623:2, 3,16 9631:28 9632:7 9634:3 9637:3,17,20 9638:4,13 9640:3,19,20 9641:7,14 9642:27 9643:1,5 9644:3,10, 13,14,15 9645:11,18 9646:26 9647:1,7,9,11,12, 24,25,26,27,28 9648:1,2,3,4, 6,8,11,12,17,24 9649:5,12,

19 9650:20,25,28 9651:8,10, 22 9652:5,8,14,16,26 9653:1,4,8,12,14,18,23,26 9654:9,16 9655:1,6,17,22 9657:1,3,5,6,7,12 9658:21 9659:2,13,16,18,19,23,26 9660:7 9661:5,16,19,21,26 9662:2,6,11,12 9663:4 9664:1,12,14 9665:23 9666:11,16,22,25,27 9667:6, 8,12 9671:15 9672:9 9674:6, 8,10,22 9675:18 9677:10 9678:18,22 9679:11 9680:6 9681:18 9682:14,16,17 9686:13 9687:5,21,27 9688:2,4,5,7,10,12,19 9689:8 9690:14,16,19,23 9693:5,15,20,26 9694:4,17 9695:2,4,6 9696:5,18,20,22, 25,26,27 9697:3,5,16,17 9698:21,23 9699:9,11,12 9700:18,19,21,24 9701:11, 13,21 9702:5,11 9703:16 9704:23 9705:1,11,22 9706:1,23 9707:18 9708:19, 23,24 9709:7,10,26,28 9710:2,11,13,18 9712:9 9715:7,8,9,21 9718:27,28 9720:5,10,16 9721:1,2,9,11, 12,13,17,22 9722:1,3,5,13, 16 9723:9,10 9724:2 9725:3 9726:14,23,26,28 9727:2 9729:14,22 9730:2,5,7,20, 25,26 9731:11 9733:17 9736:10,17,18 9737:28 9738:16 9742:24 9743:4 9744:14,19,23,24 9745:4,7, 12,17,21 9746:1,3,7,13 9748:5,13,14,15,17,24 9750:3 9752:10,18 9753:11 9754:16,17 9755:4,21 9758:9,28 9759:1,2,4,26 9760:14,18,21,28 9761:3 9762:2 9765:12 9766:10,12, 13 9767:20,25,27 9768:2,3, 4,6 9770:10,12 9772:11

milk's 9638:28 9661:24 9736:5 9753:23 9768:3

million 9700:24 9701:15,16, 27

Miltner 9586:2,5 9590:23 9603:27 9604:1,2,8,10 9607:9 9608:5,9 9610:7 9613:21 9733:13,15,16 9747:24 9748:27

mind 9738:12

mindful 9602:4

mine 9675:1

minimal 9657:20,22

minimization 9756:6

minimize 9611:3

minimum 9588:28 9589:3,18 9649:7,21,27 9650:1,7,10, 11,15 9651:8 9664:2 9676:27 9756:5

minimums 9589:7

minor 9651:24 9662:3

minute 9623:13

minutes 9567:21 9581:20 9668:22 9669:11 9705:6 9713:2 9724:12 9732:23

mirrors 9668:4

misinterpreting 9715:16

misrepresent 9653:11

Mississippi 9640:14 9757:25,28 9758:6,24,27,28

Missouri 9689:28 9692:28 9748:8 9752:20 9759:2

mistaken 9765:20

modalities 9658:2

model 9572:3,10,20 9573:2, 6,16,22 9575:1,3,4 9579:4, 25 9580:2,15,21 9582:25 9583:3,5,18,20,23 9584:1, 11,13,15,17 9586:13,17,23 9587:2 9588:7,19,26,27 9590:12 9591:16 9599:26 9607:12 9614:18,20,22 9616:10 9641:8,15 9642:4,8, 11,15,21,28 9643:2,3,6,13, 17,19 9644:3 9645:14,15,21 9646:15,17 9655:8 9658:6 9659:26 9660:2 9663:9,11, 12,19,20,21 9674:2,13,15 9676:12,16,21,26 9677:2,23, 25 9678:19,23,28 9679:2,6, 22,24 9680:8,10,17 9681:20, 22 9683:25,26 9684:4,6,18, 19,20,21,23 9686:2,4,8,14, 17,26 9687:3,8,19,21 9688:20 9690:7 9691:1,15, 16,22,25 9692:3,7,8 9694:18,23,24,25 9695:10, 14 9696:8 9697:7 9699:6,8, 12,14,15,22,26,27 9700:1,6 9703:15,23,28 9704:5,14,16 9706:28 9707:5,7,11,13,18, 21,22,24 9708:2,14,15,17 9710:7,12 9711:13 9724:18 9726:8,12 9727:8 9728:1,8, 10,13,18,24 9729:18,21,24 9730:1 9731:10 9751:27 9754:20 9755:23,26 9756:3, 9,11 9758:14 9760:22

model's 9608:11 9697:10 9707:5 9756:14

model-suggested 9674:3

modest 9608:12 9659:3 9677:22

modestly 9658:21 9679:22

modification 9711:28 9744:17

modifications 9638:8 9708:22 9710:16 9711:14,21 9729:18

modified 9589:27 9726:19

moment 9568:22 9585:17 9610:1 9637:24 9645:20 9669:7,17 9684:16 9687:2 9714:24 9727:5 9772:3

moments 9678:11

money 9576:15 9654:18 9678:21 9679:18

monies 9677:9

Montana 9581:28 9587:20 9595:9,12,19,21,23 9596:15

month 9700:16 9720:13 9756:24

monthly 9664:22 9665:13, 25,27 9666:1 9728:13

months 9667:28 9675:20 9679:2 9691:25

Monty 9582:8

Moore 9700:28 9701:8,26,28 9702:2,3 9718:3

Morgan 9569:21 9570:2,4, 19,27 9576:22 9581:15 9598:16

morning 9567:1,4 9586:3,4 9591:4,5 9597:17 9604:10 9613:26,27 9637:4,5 9662:23,24 9722:23 9724:11 9770:5,22 9775:5

mountain 9760:19

mountains 9603:4 9679:12 9687:24 9760:20

move 9585:21 9592:22 9600:2 9612:15 9615:14 9623:6 9627:7 9636:4 9638:17 9644:15 9655:1 9668:6 9688:12 9694:17 9695:9 9697:3 9698:24 9699:4,9 9702:20 9705:22 9707:18 9708:24 9710:12,18 9721:24 9722:5 9724:16 9730:25 9731:7,11,15 9733:4 9745:4,7,8,10,12,21 9746:7,13 9748:4,12,13,14, 15,17 9767:27 9770:7

9771:4

moved 9674:10 9703:21 9705:11 9710:8,10,11 9711:9 9718:27 9720:6 9723:9 9767:27

movement 9581:5

movements 9711:16

mover 9604:28 9605:2 9656:19

moves 9581:12,21 9584:22 9674:9 9721:19,23 9731:1,2 9745:17 9750:3 9766:10,12 9768:8

moving 9581:1 9593:3,25 9597:2 9630:8 9644:12 9664:1 9678:18 9695:6 9699:10,12 9706:1 9708:25 9710:2 9721:18,26 9730:20 9740:11 9751:14

mozzarella 9741:26

Muleshoe 9740:23,24

multi 9767:15

multi- 9767:19

multi-load-a-day 9767:16

multi-stop 9767:12,17

multiply 9756:23

Myakka 9762:7,20,25 9763:9

N

narrow 9765:6 9766:9

narrowed 9704:10 9764:18, 25

narrowing 9766:9,18

Nashville 9683:3 9752:2,15, 27,28 9753:7,12,14

nation 9571:13

National 9572:4 9573:17 9574:25 9577:15 9578:20 9579:2 9584:4,19 9594:3,7 9597:18 9599:3,26 9607:11 9612:10,23 9613:6 9616:27 9617:21 9618:2,5,9,21 9631:27 9632:7 9634:3 9637:17,20 9638:3,13,28 9640:20 9641:7,14 9642:27 9643:1,5 9644:3,9,14 9645:11,17 9648:11,16,24 9649:5,12,19 9651:8,10 9655:6,16,22 9657:1,12 9659:2,26 9661:5,21,24 9671:15 9672:9 9678:22 9686:13 9687:20 9688:4,19

9706:23 9726:14 9736:5,10 9744:14 9772:11

natural 9689:21 9722:15 9756:9

nature 9570:22 9571:12 9627:26 9658:13 9726:13

NCIMS 9648:26

NDA 9582:8

nearby 9662:12 9685:26 9697:5

nearer 9727:7 9758:9,10

nearest 9751:10

nearness 9679:20 9729:10, 11 9762:17

Nebraska 9587:18

necessarily 9597:3 9646:7 9653:23 9663:14 9699:1 9750:19 9757:16

needed 9567:18 9587:6 9593:17 9594:4 9597:1 9608:12 9632:11 9636:7 9645:12 9652:20,21 9674:3 9679:23 9681:17,19,21,26 9684:12 9734:26 9745:4 9761:2 9768:11

negotiate 9589:6 9619:28

negotiating 9620:17

neighboring 9573:10 9587:10,17 9690:16 9742:20 9747:18

nervous 9665:3

net 9706:11 9757:4

network 9612:23,26 9613:11

Newport 9729:8,15 9730:2,6

News 9729:8,15 9730:3,6

nice 9733:3 9770:15

nicely 9689:26

Nicholson 9584:5,14 9614:25 9629:7,8,9 9645:13 9663:13,21

nickel 9750:1 9765:16

Nicole 9597:18 9631:27 9671:14

Nietzke 9605:24,28

night 9773:1 9774:26

ninth 9741:19

NMPF 9631:23 9633:9,11 9641:14 9649:5 9656:13

9658:6 9663:2 9726:18 9770:15 9772:5,7

NMPF-109 9633:17 9636:14, 19

NMPF-35 9635:3 9669:26

NMPF-53 9600:5

NMPF-53A 9600:12 9602:5

NMPF-54 9624:13

NMPF-54A 9624:20

NMPF-54B 9624:27

NMPF-54C 9625:6

NMPF-54D 9625:13

NMPF-60 9656:8

Nobody's 9653:24

nominal 9667:7

non-existent 9580:25

non-federally 9582:18

non-florida 9680:23

non-fluid 9648:28

nonetheless 9640:28 9642:28 9675:22 9701:23 9703:21 9704:22 9716:22

nonfat 9570:25

normal 9600:27 9625:25 9666:28

Norman 9765:20,25,28 9766:2,5

north 9581:28 9583:15 9587:18 9592:6,19 9596:3 9643:1,5,17,18,23,25 9678:20 9679:15 9680:17 9683:3 9687:5,20 9688:3,8, 10 9702:2 9709:18 9724:3 9727:6 9728:5 9735:2 9738:1 9741:23 9752:14 9753:1,11 9754:15,17 9755:1 9758:26 9760:2,15, 24 9766:17 9767:23

Northeast 9689:23

northeastern 9592:6

northern 9569:15 9591:26 9709:9,11,12,15,17,24 9722:21 9753:16,18

northwest 9581:27 9593:16 9660:1 9761:7

notable 9752:13

note 9610:5 9756:16

noted 9579:13

notes 9692:7 9738:20 9747:17

notice 9626:4,10,16,17,18 9627:23 9628:2,14,22 9666:18 9714:7,21 9717:3,6, 8,12,15,23,26

noticed 9625:21 9689:20

noting 9731:24

notwithstanding 9678:21 9691:15

November 9771:3 9774:9

number 9568:19 9574:12 9579:27 9600:8,11 9602:6, 26 9603:6 9609:9,25,27 9624:16,23,26 9625:2,5,9, 12,16,28 9629:24,28 9633:7, 10 9634:13,15,20,26 9635:12,13 9636:21 9638:1, 23 9641:8,15 9646:22 9648:20 9651:23 9656:9 9659:5,6 9663:12 9664:25 9665:11 9669:28 9670:1 9675:2 9676:17 9679:16 9680:15 9683:14 9688:7 9689:18 9690:7 9691:20 9693:10 9698:2 9703:5 9704:16 9707:10,15,24 9710:17 9711:19 9713:19 9717:11 9732:2,8,11,14,17, 20 9735:10,20 9737:12 9757:9 9761:25 9770:1

number's 9765:23

numbers 9639:19,23 9656:26 9658:26 9660:14 9665:12 9666:26 9667:14 9677:28 9687:21 9691:28 9692:24 9704:19

numerous 9584:12 9626:8

O

O'LAKES 9612:28 9613:1

object 9600:16 9601:20 9626:11

objecting 9731:23

objection 9600:3,10,26 9602:3,20,24,28 9624:12,19, 25 9625:4,11,27 9626:4,10 9627:22 9629:15,20 9636:17 9638:19 9669:24 9717:22 9731:26 9732:4,10,16

objections 9651:15 9657:23, 26

objective 9662:5

objectives 9652:2

obligated 9661:11 9746:7

obligation 9574:27 9638:7 9657:18 9660:17,18,24

obligations 9610:17 9657:14,17,18 9658:18

obtained 9683:10

occasionally 9722:10 9731:3

occur 9720:1

occurred 9588:23 9616:12 9651:15 9663:18 9714:14

occurrence 9745:20

occurring 9653:12 9719:28

occurs 9572:9 9581:5

October 9632:6 9637:12 9639:2,8,13,16 9644:22,26 9645:1 9662:26 9675:24 9676:3,16 9691:26 9694:20 9700:16,24 9701:9 9707:26 9769:20

off-the-record 9569:1 9633:1 9637:25 9669:18 9692:17

offer 9591:15

offered 9593:11 9609:21

office 9573:21 9600:14 9694:10 9718:11 9719:9

official 9625:21 9626:17,18 9627:16,23 9628:4,22 9714:7,20 9717:3,6,8,12,14, 22,26

officially 9713:25

offset 9660:11

oftentimes 9596:10

OGC 9757:27

Ohio 9619:5,8 9634:13 9687:12,16 9753:19

Oklahoma 9692:28 9765:20 9766:15,17

omitted 9623:24

open 9618:10,14

opened 9726:21

opening 9696:6

operate 9611:5 9649:13,15, 26

operated 9725:17

operates 9725:12

operating 9616:1

operation 9577:18,19,20,24 9578:4 9615:15 9658:14 9696:28 9709:2 9725:20 9756:14

operations 9589:11 9736:19

opinion 9607:8 9654:2 9667:19 9696:13,14 9724:27 9748:3,11 9755:3 9771:17

opportunities 9614:13 9619:28 9687:4

opportunity 9604:14 9620:13 9678:19

opposed 9573:17

opposes 9655:16

opposition 9772:7,12 9774:6,25

optimal 9611:24

optimistic 9678:7

optimize 9613:14

optimizing 9613:4

option 9604:19 9620:4 9622:10

options 9604:23,28 9605:1 9754:13

order 9573:21 9574:16 9575:11,15 9578:9 9587:4 9591:18 9595:23 9596:5,16, 19,24 9601:5 9606:2 9607:13 9611:1 9615:7 9616:4 9619:24 9621:6 9625:22 9641:21 9645:6 9647:9 9648:5,7 9651:27 9652:2,6,20,22 9654:28 9655:4,5,7,8,12 9657:19 9659:6,14 9660:1,5,6,12 9674:16 9677:10 9679:11 9680:13,19 9681:3 9682:6,9, 11,18,22 9685:12,26 9686:10 9687:7 9688:11,24 9689:2,16 9693:5,26,28 9694:10 9696:24 9706:21 9709:5 9718:17,18,20,21,23 9719:6 9720:8 9721:25 9729:12 9730:27 9731:2,3 9733:24 9734:11 9739:11 9743:18,25 9744:21 9751:11 9752:18,24,28 9753:11,16 9754:9,10,13 9755:1,2,24 9767:5 9768:10 9771:2 9772:2

orderly 9662:5 9749:28

orders 9606:24 9607:5 9622:28 9642:6,13 9643:4 9647:25 9648:22 9658:3,16

9662:5 9673:26 9674:7 9677:1,6,8 9678:10 9679:8 9681:1 9715:21,23 9716:13 9718:9 9733:22 9736:13,19 9739:8 9755:13

Ordinance 9648:13

Oregon 9582:9 9597:7

organic 9571:18 9574:6,9, 15,24,27 9575:5,10 9576:11, 24 9577:1,3,7,12,13,14,15, 19,24,25,28 9578:5,8,11 9725:24

Organization 9657:15

origin 9756:27 9757:6

original 9634:11,13 9637:16 9641:21 9645:5

originally 9634:19,26 9675:8

Orlando 9762:15

other's 9723:4

outcomes 9620:3

outlets 9621:16 9622:14

output 9572:3 9614:23 9707:25

over-order 9589:6 9619:28 9620:17,23 9649:9,25 9650:2

overlap 9678:2

overlay 9608:28

overnight 9604:13

overpriced 9729:25

overriding 9674:23 9691:4 9695:19 9698:9 9700:12 9750:16 9752:9

overstated 9687:3

overview 9671:9

overwhelming 9738:15

owned 9595:27 9725:16,17 9728:26

owners 9610:18 9771:5

owns 9728:25,28

P

P-E-T-E-R 9631:15

p.m. 9775:6

Pacific 9581:27 9593:16 9659:28

package 9617:23 9655:15

9659:2

packaged 9596:11,14
9657:13 9766:16

pages 9761:11

paid 9607:5 9654:16 9661:7

pairs 9751:21

Panhandle 9688:26 9689:6,
8,10 9690:4,24 9691:2,3,5
9694:21 9695:3 9697:15
9698:11,28 9699:13
9703:16,20 9704:13
9705:16,19,25 9706:2
9724:6 9725:4 9735:22
9740:18,20,21 9742:9,10,12,
20,26,27 9743:8,12 9744:22
9745:2 9752:19 9754:11
9765:8,13 9768:5,12

paper 9633:18 9636:12
9708:9 9739:23 9762:12

paragraph 9639:28 9641:2
9649:3,24 9663:1,26
9672:22 9673:9,12,14
9706:21 9715:2 9716:10
9758:22 9760:5,6

parameters 9573:19

parcel 9629:3

pardon 9680:7 9682:7
9699:7 9730:4

parish 9715:4 9716:11

Parks 9619:6 9620:3,21

part 9569:16 9577:13,14
9578:19 9591:24,26 9598:24
9599:4 9605:7 9606:5,8
9607:4,20 9609:2 9610:17
9619:19 9622:14 9629:2
9630:16 9640:6 9643:9,10
9646:12 9651:16,17 9653:5
9663:16,18 9667:18 9672:5,
27 9673:1 9680:6,12
9693:18 9698:18 9707:28
9708:5 9716:3,4,5 9729:12
9734:14 9738:15 9742:25
9743:6 9744:5,12 9749:14
9754:10,13 9757:16,18
9761:27 9764:23 9766:3

partial 9714:12

participate 9607:15,18
9648:26 9681:7

participation 9660:23

particular- 9715:22

particulars 9674:4

parties 9771:11 9773:11

partly 9771:26

partner 9590:16

partners 9658:8

parts 9619:5 9651:16 9655:6
9672:1,4 9675:22 9680:20
9708:4 9729:23

Paso 9722:10

pass 9620:13 9621:7,13,20,
27 9724:3 9746:8

passed 9621:17,23 9666:25

past 9642:24 9643:21
9665:5,19 9725:4 9742:24
9753:12

Pasteurized 9648:12

patience 9668:17

pause 9696:12

pay 9571:11 9574:21
9576:11,14 9654:13

paying 9575:14 9576:15
9661:15 9745:24,25

payment 9661:3

pays 9575:10 9745:28

peak 9667:20

peculiar 9592:24

pencil 9640:27 9644:5,13,18
9655:11 9664:7 9730:12

Pennsylvania 9634:18
9679:21

penny 9705:21

people 9617:9 9622:13
9629:18 9647:15 9653:22
9664:6 9673:25 9707:14
9717:16 9721:12 9742:9
9770:11

percent 9575:20 9576:7,8
9664:22

percentage 9574:10 9647:1,
11 9651:6 9664:26 9667:15,
28 9702:25

perfect 9699:10 9750:6

perfectly 9628:13 9643:22
9773:28

period 9666:21,25 9667:27
9750:2 9756:4

periods 9665:19

permission 9568:7

permit 9650:15

permitted 9771:20

person 9622:23

personal 9725:27

personally 9740:14

perspective 9628:20
9770:28

pertains 9616:12 9672:7,8

Pete 9762:22

Peter 9630:7 9631:14,18

phrase 9607:26,28 9738:8

pick 9694:23 9710:12

picked 9676:17

picture 9675:23 9695:17,18

piece 9606:27 9741:17

pieces 9607:1 9747:21
9750:23

place 9569:1 9633:1
9637:25 9647:21 9669:18
9685:7 9692:17 9699:4
9735:9 9737:28 9738:1
9739:25 9748:15 9750:25
9759:4 9762:28 9763:21
9766:11

places 9673:18 9721:15
9752:18 9754:11

placing 9756:7

Plains 9696:28 9704:7

plans 9677:21

plant 9569:25,26 9570:4,19,
24,25,26 9571:2 9576:24
9578:24 9583:8,9 9589:13
9592:8,10,13 9595:28
9598:16,23 9609:13,14,17,
18 9611:7,8,9,13,17,18,19,
25,28 9612:5,20,22 9615:2,
4,6,10,16,28 9616:1
9617:11,12 9655:1 9677:7
9678:9 9683:6,8,12,19
9686:22,28 9687:27 9690:17
9695:24,28 9696:1,4,6,27
9697:6 9700:21,27 9703:20
9704:28 9708:1,24,25
9709:3,7,14,26 9721:21
9722:8 9724:21 9725:12
9726:11,18,20,24 9728:28
9729:1,7,8,20 9734:24
9737:20,21 9738:12
9740:16,24 9741:22,27
9744:6,18,23 9745:24,28
9753:22 9758:26 9759:3,18
9760:13 9761:6,25 9762:1,2
9765:10,15 9767:5,11

plants 9570:6,23 9576:22
9577:8 9582:14 9583:22
9594:18 9595:10,26 9596:9,

13 9611:3 9612:6,24 9613:4
9616:5,8,28 9617:1 9619:2
9640:17 9649:11 9651:1
9662:13 9663:4 9674:16,17
9679:15,16,19 9683:9
9684:22 9687:4 9688:3,9,14
9689:26 9690:13,22,24,27
9691:4 9693:4 9695:23
9696:16,17,22 9697:12,25
9705:18 9708:13,23 9710:7,
9,10,12,13,20,22,24,25
9711:6,7,17 9712:3 9722:7
9724:21,26 9725:1,5,15,19,
21 9726:23,26 9728:23,25
9734:25 9735:5,12 9740:16,
19 9741:18 9744:5 9745:13
9749:24,26 9750:4,12,14,15,
17 9751:10,12,13,14,15
9752:22,24 9753:16
9758:11,12,23,24,27 9759:5,
6,16,19,20,23,25 9760:23,25
9762:15 9767:4,22,23,26
9768:1,4,14

plants' 9735:15

play 9588:22 9706:22
9710:28 9711:3,4,14

played 9737:9

plenty 9663:16

PMO 9648:27

pocket 9596:1

point 9582:18 9584:14,17
9602:16 9611:24 9615:27
9628:26 9641:28 9649:12,
14,17 9650:1,7,9,14,18
9651:7 9657:21 9662:3
9683:20 9690:1 9691:24
9708:6 9712:7 9724:25
9733:28 9734:11,13,18,21
9735:1 9739:6 9743:1
9753:24 9754:6 9756:27,28
9757:6 9759:17 9773:6
9774:23

point-to-point 9748:16

pointed 9667:11

points 9607:22 9618:4
9640:2,18 9683:6,12,17,19
9684:12,22,23,24 9690:25
9731:1,2 9734:12 9735:2
9748:18

policies 9577:16

policy 9649:6,20 9652:24

pool 9574:27 9575:17
9576:12,15,19 9648:7
9654:14,15,26 9660:18,24
9661:3,7,11 9683:9 9693:3
9706:25 9721:21 9724:25

pooled 9654:23,28 9661:19 9761:27

pooling 9648:4

population 9583:1,3 9674:11 9705:11

portion 9685:12 9690:12 9706:14 9717:15 9729:13 9744:3 9749:14 9752:24,28

portions 9674:8

pose 9572:14

posed 9614:18 9615:17 9628:7

posing 9578:28

position 9601:19 9613:13 9628:18,21

positive 9658:21

potential 9573:7 9604:24 9678:17 9726:9

potentiality 9726:11

potentially 9619:28

Potter 9690:19 9701:1,7 9706:23,26 9741:3

pounds 9693:14,20 9700:24 9701:9,15,16,21

power 9620:19 9663:19

PPD 9608:13,23,24,26,27,28 9739:10,12

PPDS 9739:4,8

prac- 9754:15

practical 9724:27

practicalities 9724:15

practicality 9723:26 9724:1

Prairie 9682:15

precedent 9750:20

precisely 9645:2 9651:5 9653:16 9659:25 9666:14 9700:4

predicate 9656:28 9708:3

predominant 9695:4

predominantly 9718:28

prefer 9669:13

premium 9745:25 9746:1

premiums 9589:6 9620:1, 18,23 9649:25 9650:2

prepared 9672:5 9771:1 9772:20

preparing 9720:2

present 9647:1 9773:12

presenting 9771:15

preserve 9689:13

pressure 9588:11

presubmitted 9656:7,10 9774:6,25

presume 9746:23

presumes 9704:16

pretty 9631:1 9657:20 9667:18 9690:6 9701:20 9709:21 9711:6 9720:20 9744:6 9758:2 9759:8 9760:28 9765:11 9768:16 9769:12

prevent 9611:18 9618:17 9650:18

previous 9606:7 9635:8 9646:3,4 9716:5 9717:13

previously 9569:9 9597:1 9600:23 9604:5 9619:14 9631:19 9634:8 9635:13 9671:23,27

price 9573:24 9574:21 9575:5,10,11,14,16 9582:6, 19 9588:28 9589:3,18 9596:16,17,18,19 9599:7 9604:27 9607:5,15,19,28 9608:12,13,15,17,18,20,23, 26,28 9616:18,26 9617:13 9618:12 9620:11 9621:2,17, 20,28 9628:28 9634:2 9640:1,12,17 9651:23 9653:4 9654:2,7,13 9656:15 9658:14,21 9659:18,23 9661:2,12,13,17 9662:2 9664:12,23,26 9665:8,17,22, 24,26 9666:16,17,22,25,27 9667:2,6,8,11,14,15,16,17 9672:8 9673:24 9674:17,19, 20 9680:25 9681:5,24 9685:6 9690:5,9,27 9691:1 9697:13 9699:2,23 9700:11 9705:2,3 9706:23,26 9707:4 9710:17,26 9715:3,18 9716:1,8 9729:10,17,28 9731:12 9737:15 9738:4,5,8, 10,11,13,18,21,28 9739:9,10 9743:11 9745:3,4,25 9746:8 9747:6,13,22 9749:22 9750:7,17 9753:14 9756:5, 26 9760:4,6,22 9762:5 9763:1

priced 9760:25

prices 9572:3 9574:16 9584:27 9585:5 9605:27 9607:17,20 9620:10,24,28

9621:13,23 9640:20 9649:7, 8,9,21,22,27 9650:1,7,8,9, 10,11,15,16,19,21 9651:8, 11,12,18 9652:10,11,12,13, 21 9653:5,8 9655:18,19,27 9656:3 9657:21,22 9659:13 9660:7 9664:2,13 9666:17 9667:4 9668:10 9676:9 9678:23 9679:1 9689:21,26 9695:12,17 9703:19 9716:7 9757:2,12 9760:27

pricing 9584:20 9606:24 9614:24 9618:18 9623:2,3 9649:10 9652:7 9688:6 9729:7 9749:18,28

primarily 9649:24 9650:25

primary 9752:17

principally 9619:5,12

principle 9664:2 9684:25

print 9618:6 9693:28 9694:1

prior 9639:12 9731:20 9736:5

privilege 9687:19

privy 9600:17

problem 9628:1 9651:5 9654:19,21 9704:23,27 9711:10 9723:3 9738:15 9742:11 9746:14 9766:3

procedures 9652:2,6

proceed 9568:8 9603:28 9623:18 9631:26 9633:21 9671:13 9694:14 9749:4

proceeding 9567:6 9600:28 9622:27 9677:2 9679:9 9714:13

proceedings 9775:7

process 9615:27 9618:14 9644:13,17 9679:27 9680:2 9688:18 9689:13 9699:5,8 9710:27 9730:17 9735:10 9744:15 9751:8,21 9753:24

processes 9621:9

processing 9618:1 9649:11 9650:25,28 9651:4 9652:8, 15,26 9654:10

processor 9571:3 9575:4 9578:9 9613:7 9660:17,19 9771:16

processors 9574:20 9576:27 9577:2 9654:13 9662:7,11

procurement 9690:21 9712:11

produce 9615:26 9621:12

produced 9585:1 9596:2,3,6 9609:14 9611:16 9612:21 9619:12 9647:12 9688:10 9710:3

producer 9647:24,26,28 9648:1 9659:19 9664:12 9706:26 9738:11,28 9767:14

producer's 9738:21

producers 9573:26 9578:21 9579:3 9586:6 9591:28 9604:3 9618:9 9637:21 9638:4,13 9648:24 9654:17, 23 9655:17 9657:1,12 9682:14 9693:16,19,21 9706:22 9733:17 9772:11

producers' 9648:3

producing 9659:16 9701:21

product 9615:26 9621:12 9622:18 9648:18 9667:13 9711:18

production 9569:16 9573:3, 7,15 9591:24 9592:12,18,21 9594:17 9595:10,11 9596:8 9605:25,27 9615:12 9620:7 9674:10 9679:11,14 9687:5 9690:11,19 9694:2 9695:2,5 9701:13 9705:11 9708:16,20 9720:10 9721:13,15,17,23 9742:24,28 9743:4 9760:14

products 9596:14 9648:20, 21,22,28 9650:27 9664:15, 24 9665:22 9667:17

profit 9622:19

program 9577:15 9596:6,20 9651:27 9652:2,7 9657:19 9658:14 9659:6,14 9696:24

programming 9707:21

Programs 9577:11

progress 9677:27

progressively 9641:3,13 9659:7

project 9617:10

promise 9633:5

prompted 9597:12 9623:9

pronounce 9757:25

pronouncing 9764:2

proper 9601:27 9626:5,17 9628:5,12 9674:16 9678:7 9719:25

proportion 9687:7

proportionality 9735:26

proposal 9575:1,2 9576:7 9580:3,18,22,26 9591:15 9607:23 9631:23 9632:7 9633:27 9634:4 9641:27 9643:3,4 9644:2,10 9652:19 9671:9 9676:10 9678:5 9679:23,27 9680:1,15 9693:7 9702:24 9705:2 9726:15,19 9728:3,10,12,22 9735:13 9737:13 9740:8 9743:19 9747:5 9748:9 9770:1,8 9772:17 9774:1,3

proposals 9608:20 9644:9 9655:15,16,18,22,26 9656:13 9657:3,4,14 9658:20 9659:15 9661:24 9672:9 9736:5

propose 9582:24 9606:15 9614:22 9642:28 9680:17 9686:4,7 9694:28 9735:21

proposed 9572:19 9573:15 9574:25 9578:21 9579:16, 26,28 9591:13 9594:1 9599:3,26 9605:13 9608:18, 19 9616:27 9632:9 9634:3,6, 14,15 9640:20 9641:22 9646:2,10 9655:7 9658:5 9659:25 9663:28 9674:12 9706:23 9711:21 9714:11 9733:21 9734:20 9735:16,20 9741:7 9765:4 9766:5 9770:1

proposes 9572:4 9580:3 9614:20 9643:1 9678:22

proposing 9572:28 9579:3 9583:23 9651:8,10,11 9655:6 9688:19 9728:6,11 9738:6 9761:21

proprietary 9686:22 9696:27 9725:20

protect 9574:19

proud 9618:15

provide 9578:15 9611:2,8 9617:4 9628:10 9630:9 9632:16 9672:11 9674:16 9684:6 9691:16 9699:13 9714:22 9726:7 9737:5 9750:4 9774:22

provided 9598:10 9609:27 9617:21 9618:2,5 9671:27 9678:18 9689:15 9695:10 9707:1 9714:9 9717:19 9718:26 9726:8 9728:19

providing 9772:5

provision 9662:10

provisions 9678:4 9755:24

Prowant 9769:16

proximities 9580:27

public 9652:26 9726:13

publications 9629:17

publish 9664:22,25

Publix 9728:27

pull 9622:4,7

pulleys 9621:1,16

purchase 9621:11 9622:18

purely 9685:21 9706:1 9723:24

purpose 9589:2 9606:1 9612:6 9651:26 9659:12,21 9661:28 9662:4 9731:8 9752:28

purposefully 9588:24

purposes 9574:18 9601:3 9626:11 9652:20,22 9700:15 9710:15 9714:7

put 9576:2 9601:9 9606:12, 26 9607:1 9618:7 9632:7,9 9638:7 9649:3 9713:26 9717:16 9731:22 9732:24 9744:11 9747:7,8 9751:24

puts 9613:13

putting 9645:5 9736:26

puzzle 9747:21

puzzled 9716:4

Q

qualified 9626:8 9681:2,7 9682:18

qualify 9648:7 9718:25

quantify 9609:22

quantitative 9657:10

quantity 9679:10 9687:6 9688:9

quarter 9692:9

question 9572:14,16,22,25 9579:1,12 9582:3 9590:1,6 9591:10 9598:9,14 9604:19, 25 9611:21 9612:11,14 9615:21 9629:5 9630:15 9639:21,22 9640:15 9645:1 9646:3,4 9650:5,6,17 9652:12,18 9655:3,5,10 9657:11 9660:27,28 9661:9 9664:3 9676:1 9680:7

9683:22 9690:8 9708:27 9709:1 9711:11,20 9714:27 9740:18 9742:6 9745:1 9746:28 9752:10 9755:18 9766:20

question-and-answer 9735:19

questioner 9570:14

questioning 9605:6

questions 9574:1,4 9586:8 9590:4,25,28 9595:20 9597:12,13,22,23 9598:12 9599:1,5 9604:15 9605:13 9610:12 9613:24 9614:2,6,9, 16 9615:17 9618:25 9622:21 9623:4,9 9624:9 9628:7 9639:18 9644:18 9656:25,28 9662:14,18,25 9663:1 9665:2 9668:13,17 9676:23 9677:15 9683:24 9684:2 9708:3,4 9719:24 9730:18 9731:14 9748:28 9749:2 9768:21 9774:27 9775:2

quick 9702:20 9739:19 9742:5

quickly 9667:7 9723:7

quota 9596:6,16,17,18

quotation 9641:12

quote 9654:5 9658:20 9738:26

quote/unquote 9745:1

quoted 9606:19

R

raise 9595:9 9659:13,22

raised 9578:26 9600:26 9606:9 9623:11 9643:17 9652:13 9697:28 9719:24

raising 9651:18

ran 9691:25

range 9593:18 9691:28 9704:18

rapid 9666:25

rapidly 9658:23,27 9659:4

rare 9745:19

rarely 9667:26 9668:6

rate 9666:23 9668:2 9715:5, 15,19,20,21,23,26 9716:11, 13,14,16,17 9756:24

rates 9667:2 9705:12

ratio 9768:16

rational 9572:1

rationale 9578:21 9595:8 9696:10

raw 9664:14 9666:16 9667:11,18 9766:13

reach 9736:16

reached 9736:10 9737:4,7

read 9733:18 9751:27 9758:21

reads 9608:11

ready 9603:18 9631:8 9673:20 9713:2 9733:8 9763:14

real 9754:16 9768:16

realistic 9612:12 9724:28 9729:10

reality 9579:1 9630:22

realize 9677:18

realized 9738:23

reason 9584:26 9587:23 9595:10 9627:6 9629:19 9676:11 9681:23,25 9696:18 9729:25

reasonable 9677:19 9681:4 9703:17 9704:20 9710:26 9737:15 9747:13,22 9754:20

reasoned 9710:26 9737:15 9747:12,22

reasons 9584:9 9599:25 9600:22 9628:11 9645:7 9746:12

recall 9568:3 9604:21,22 9605:12 9607:16 9609:28 9622:24,25 9637:11 9675:27 9676:5 9679:5 9680:27 9683:24 9685:19 9686:19 9696:1 9706:8,17 9728:18, 20 9737:18,27 9738:7,25 9741:14 9742:4 9743:3 9769:8

recap 9632:5

receipts 9696:23

receive 9576:25 9752:25 9757:5

received 9578:17 9600:8 9602:6,26 9603:6 9624:16, 23 9625:2,9,16 9629:24,28 9636:21 9638:23 9641:28 9642:2 9658:22 9670:1 9732:2,8,14,20

receives 9578:11

recent 9700:16 9720:15

recess 9631:9 9670:11 9775:3

recognition 9712:12 9765:13

recognize 9601:25 9613:19 9638:11 9642:9 9656:12 9682:4 9765:16

recognized 9622:27 9649:19 9765:15

recognizes 9649:6

recollection 9715:14 9738:20,24 9742:1

recommend 9656:24

recommendation 9582:12 9599:6 9606:28 9681:3 9686:20,21

recommendations 9599:2 9661:27

recommended 9599:10 9686:16 9749:16

recommending 9762:18

record 9567:2,3,13,14 9568:23,28 9569:2,3 9591:22 9594:8 9601:15 9602:2 9603:20,21 9606:1, 12 9608:10 9627:28 9628:2 9631:11,12 9632:5,21,25,28 9633:2,3,4 9634:12 9636:7, 8,12 9637:14,23,26 9669:16, 19,20 9670:10 9671:2,3 9675:1,5,11,12,13 9679:8 9692:14,16,18,19,26 9702:13 9703:4 9713:3,5,6 9717:7,17 9722:11 9731:19, 24 9733:10,11,16 9738:27 9756:17 9763:17,18 9769:12 9775:6

recoup 9619:24 9620:27

RECROSS-EXAMINATION 9623:19

rectified 9587:6

red 9730:12

redirect 9597:14,15 9614:12,14 9623:9 9668:14 9768:22

reduce 9656:14 9687:15 9729:20 9757:4

reduced 9715:10,28 9716:18 9728:21 9759:24

reduces 9641:16

reduction 9660:6 9668:1 9728:6,8

refer 9605:28 9675:7 9684:13 9717:10 9720:28 9721:12

reference 9693:3,27 9708:6, 12

referenced 9598:14 9602:22 9605:22 9606:13 9627:17,21 9717:9

referencing 9606:20

referred 9605:6 9665:15

referring 9575:1,2 9594:20 9595:18 9598:23 9605:21 9620:18 9624:2 9706:13

refers 9715:19 9716:14

refine 9604:16

reflect 9759:26

reflected 9634:27

reflecting 9700:6

reflection 9708:18

reflects 9663:28

reform 9641:21 9645:6 9709:5 9767:6 9768:10

refresh 9715:14

refreshed 9588:8

regard 9636:14 9677:1,22 9731:19

region 9581:27 9582:10,13 9586:13 9587:25,27 9593:16 9605:11 9607:19 9644:14 9671:10 9672:8,12 9681:5 9720:13 9747:9 9754:25 9756:2

regional 9584:15 9616:13, 16,18,20 9673:24,27 9674:1, 6,12,24 9680:25 9682:12 9684:11,13,14,15,28 9685:8, 9 9747:16,28

regions 9605:20 9644:26 9663:25 9674:19 9720:11 9747:11,19,21 9766:10

Register 9714:8,15,18 9717:15,23,27

regular 9619:3,15

regularly 9581:21

regulated 9581:24 9582:17, 19 9588:28 9589:3,18 9756:26 9757:12

regulation 9590:2

regulations 9590:3,8 9613:18

regulatory 9634:6 9648:23, 25 9652:1,3,9

relate 9667:10,20

related 9633:26

relating 9657:19

relation 9573:10 9583:16 9651:12

relationship 9576:21 9579:5 9583:13,16 9586:20 9587:5 9589:17 9599:12 9615:24 9652:3 9665:19 9685:21 9689:5 9694:19 9697:22 9703:17,18 9710:19,24 9712:1,3 9724:20 9735:11 9737:21,23 9739:24 9745:1, 7 9751:10,16,17 9756:25,26, 27 9757:11 9758:15 9761:6 9765:24 9766:21,27

relationships 9590:3,9 9599:5 9681:24 9737:9,16 9738:13 9749:18,22

relative 9608:13 9609:10 9655:19 9657:22 9667:9 9686:7 9703:19 9706:26 9729:27 9752:14

released 9677:3

relevant 9585:4 9597:3,5

relied 9600:20 9629:1

relies 9715:4 9716:11

rely 9584:25 9628:6,27

remain 9567:28 9589:13 9603:25 9631:16 9671:21 9675:11

remains 9572:16 9760:14

remarked 9667:23

remember 9591:19 9594:2 9598:12 9615:19,20 9627:12 9676:28

remembering 9739:7

reminded 9602:10

reorganized 9578:4

repeat 9572:25 9579:27 9611:21 9639:21 9640:15 9641:11 9646:1,3 9650:4 9676:1 9680:7 9714:15 9722:19

repetitive 9755:9

reported 9665:10,20,27

regulations 9590:3,8

reporter 9570:10 9610:3 9722:22,24 9747:14 9764:28

represent 9586:5 9604:2 9719:27 9733:16

REPRESENTATIVE 9768:27 9769:1,3,19

representatives 9682:12

representing 9715:6

represents 9694:20 9768:15

requested 9714:1

require 9572:2 9609:16 9692:4 9696:21

required 9605:1 9644:11

requirements 9607:2 9627:25

requires 9698:8

Research 9664:21 9678:24

reservation 9731:21

reservations 9731:19

reserve 9609:23 9619:7 9640:1,3,14,17,18 9679:20 9689:8 9695:18 9746:13 9754:6,8,21,24,26,27 9759:5,11,12,13

respect 9587:2 9606:13 9618:22 9620:17 9661:25 9680:22,26 9681:14 9696:11 9699:27 9710:19,22 9714:13 9719:24 9729:6 9730:20 9768:26

respective 9685:8 9712:9

respects 9718:23 9751:19

respond 9590:2 9615:9 9626:21

responded 9615:6

responding 9605:12

response 9600:24 9604:19 9605:5,10 9609:3 9738:17

rest 9616:18 9679:7 9755:1

restate 9589:1

restrictions 9618:16

result 9583:18,20 9584:1 9608:12 9613:18 9614:18 9620:8 9642:8 9645:17,21 9646:17 9654:7 9657:4 9658:7 9694:16 9707:9,22 9754:20

resulted 9716:23

side 9594:26 9666:18 9687:24,26 9725:16,18,19 9730:7,28 9731:2,3 9745:6 9747:7,8 9750:12,18,19 9751:11 9752:18 9754:9 9760:16

significance 9581:26

significant 9577:1 9579:20 9660:1,4 9667:26 9668:8 9707:23,24

significantly 9573:9 9579:19 9620:8 9621:12 9658:13 9660:25 9701:26

silver 9750:24

similar 9582:11 9602:14 9628:28 9696:17 9712:11 9738:22 9739:1

similarly 9601:24 9611:16 9659:12 9722:1 9744:24 9759:16

simply 9589:26 9685:5 9687:8 9690:8 9719:27 9724:27 9749:23,28 9750:3, 6 9752:12 9756:4 9760:20

Sims 9588:4 9630:14 9631:6 9634:8 9639:11,12 9668:24 9669:2 9670:8 9671:16,19, 22,27 9674:25 9675:17 9693:13 9714:14,27 9715:1 9718:4 9731:13 9733:14 9748:27,28 9768:26 9769:6

Sims' 9669:11

simultaneously 9734:25

single 9666:15 9749:26

single-spaced 9637:19

sir 9637:4 9644:20 9651:5 9684:1 9705:15 9716:9

sit 9690:11 9697:11 9700:8, 9 9712:8 9767:7 9768:2

sits 9690:20 9698:16 9700:18,19,21,27

situation 9572:9 9573:5,12 9575:8,19 9576:18,28 9577:9 9580:28 9581:12 9582:9 9590:12,15 9592:25 9612:27 9613:2,19 9619:16 9654:8 9661:22 9750:21

situations 9680:19 9723:19 9754:5

sixth 9743:2

size 9580:26 9767:28

skew 9589:18

slight 9765:6

slightly 9687:8 9725:3

Slocum 9761:12,25

slope 9572:8,11,12 9581:2, 6,8,9,16,18,26 9582:10 9593:10 9640:1,16 9641:9, 16 9643:7,8 9681:17,20,26 9689:14 9695:10 9698:27 9748:3,12,13 9757:1,2,14, 19,21 9761:3 9764:18,25 9765:13,17

slopes 9582:1

slow 9702:17 9722:20,23

slowly 9702:19

small 9570:26 9571:2 9653:5 9654:3,6,7 9667:18, 28 9765:11

smaller 9757:9

Smith 9695:1,4,9 9700:18,22 9701:16,23,24 9702:28 9751:17 9766:22

Smithfield 9592:13

so-called 9654:12,25,26

sold 9596:14 9697:17

solely 9599:12

solution 9691:26 9699:10,13 9700:1

solve 9645:15 9704:22

solved 9629:14

solving 9711:10

someplace 9757:24

sort 9569:22 9607:1 9616:16 9620:3 9647:23 9665:6,20 9666:27 9706:7

sought 9683:10

sound 9684:5 9734:4

sounds 9610:28 9718:14 9723:28 9734:6 9741:21

source 9601:4,7 9611:3 9626:24 9694:3 9753:3

sources 9571:20 9660:21

south 9569:22 9581:28 9587:18 9591:14 9592:21 9686:27 9687:20 9694:21 9700:27 9721:19,23 9722:5, 20 9726:28 9727:13 9728:7 9738:1 9744:9,21 9753:14 9754:21,27 9762:28 9767:20

southeast 9641:20,23,27

9642:1 9643:11,18 9672:7 9674:10 9675:23 9677:17 9678:14,18 9679:8 9680:8, 23 9681:10,15,19 9682:16, 17,23 9706:6 9708:21 9721:14 9729:23 9738:14 9751:2,5 9752:9,16 9753:22 9755:15,27 9756:19 9757:2 9767:21

Southeast/southwest 9672:12 9673:21,24,27 9674:1,6,12 9680:25,28 9697:23 9712:25

southeastern 9592:17 9641:3,13 9642:16 9643:9 9646:21 9755:16

southern 9735:12 9759:2,20 9760:14,24 9761:19

Southwest 9587:25,27 9607:13,16 9672:8 9689:24, 28 9693:25 9694:4 9708:21 9718:20 9744:4,6 9750:27 9751:6 9752:19,20 9754:12 9755:12,14

Southwestern 9755:12 9766:14

Spartanburg 9726:24 9727:6,8,13,27 9728:7,12,28

spatial 9645:10

speak 9570:11 9610:21 9617:2 9712:20 9723:2 9773:25 9774:14

speaking 9605:15 9609:2 9642:26 9644:3 9702:18 9723:6 9724:1 9770:11

special 9576:20,24

specific 9579:15 9584:9 9605:10,11 9626:27 9663:23 9677:11 9683:24 9693:27 9709:1,2 9714:22

specifically 9571:13 9604:23 9605:15 9606:11,18 9607:20 9608:15 9616:19 9655:3 9664:19 9706:17 9707:26 9720:7 9733:27 9742:2

specifics 9578:13

speculate 9707:12

speed 9630:8 9722:20 9723:2

spell 9567:25 9603:22 9631:13 9664:19 9671:18 9722:28 9758:4 9763:8

spelled 9758:6

spike 9609:18

spoke 9734:1

spot 9704:18 9707:15 9745:16

spread 9580:25,26 9740:11 9749:24 9762:18,19 9765:8, 9

spreadsheet 9617:17,19,20 9637:17 9703:13

Springfield 9751:18

Springs 9713:14,15 9720:17,18,23,24,28 9721:6, 12,21 9723:10 9751:15 9767:3,5,7,9,11,13,18,25,26 9768:2,9,15

spur 9743:11

spurring 9743:14

square 9596:28

St 9734:1

staff 9617:16 9648:23,24

stair-stepping 9679:17

stance 9574:22

stand 9567:7,8 9572:26 9598:8 9604:13 9631:6 9632:4 9668:18 9671:16 9734:11 9771:9,22,24,27,28

standard 9601:2

standards 9600:27

standpoint 9712:4

Star 9682:14

start 9574:8 9577:10 9633:24 9637:13 9684:15 9685:7 9756:18 9770:6 9774:1

started 9568:9 9616:16 9622:21 9667:7,8 9676:21 9708:3

starting 9584:13,16 9663:2 9672:23 9704:18 9714:9 9722:19 9733:28 9734:13, 18,21 9744:15 9774:2

starts 9689:22 9756:19 9760:6 9768:28

state 9567:18,25 9569:16 9573:8 9591:25 9595:23 9596:5,6,10,15 9603:21 9605:14 9615:14,15 9619:3, 4,13,16 9631:13 9634:13,18, 25 9648:16 9649:2 9650:12 9671:18 9693:9,10 9702:5 9705:15 9741:19 9743:2

9758:2

stated 9572:5 9573:27 9584:21 9600:23

statement 9588:5 9604:21 9608:16,25 9609:3 9629:14 9634:12 9635:2 9639:27,28 9640:11,16,23,25,28 9649:5, 19,23 9656:14 9664:5 9735:13,20 9746:15 9771:9 9774:24

statements 9607:27

states 9573:11 9582:22 9587:10,17,21 9590:14 9606:18 9619:5,7 9640:4,19 9641:3,13 9657:14,23,27 9658:15 9688:9 9714:12

static 9572:27

stating 9590:12

statistic 9743:3

Statistics 9693:27

stay 9676:12 9686:14 9767:18

stays 9596:8 9619:13 9721:20,23

steeper 9640:2,18 9698:27

stems 9664:13

step 9603:10 9689:13 9769:14

Stephenson 9584:5 9614:28 9645:13 9755:18 9772:5,22 9774:12

Stephenville 9713:14,15 9721:3,4,7 9722:2,28 9723:9,13 9765:12

steps 9689:7,9 9690:3 9698:11 9735:26

stepwise 9751:8,21 9753:24

Steve 9567:7,26 9569:8

stick 9612:17

sticker 9713:27

Stop 9623:13

stopped 9722:27

stores 9622:15,17

Stout 9567:7,26 9569:8,13 9585:18 9586:3 9597:17 9600:17 9601:28 9603:8 9609:10 9619:14

Stout's 9600:20

straight 9768:7

straightforward 9753:22

strategically 9588:24 9589:9,11,12

strategies 9604:19 9621:26, 27 9622:1

stressing 9588:21

stretch 9603:11,17 9668:23, 27 9733:8 9754:16

stretching 9771:18

strike 9574:8 9650:5

strive 9610:18

strong 9615:24

structural 9663:2

structure 9659:8 9688:25

struggled 9630:17

struggling 9576:26 9577:5 9714:25

studied 9584:11 9658:1 9719:4

study 9573:18

stuff 9604:16,17 9733:1 9767:17

subcommittee 9673:25

subject 9623:12,22,27 9668:5 9731:15

subjective 9579:20

submarket 9697:22

submission 9736:5

submissions 9703:9

submit 9635:3 9773:2,3

submitted 9605:23 9634:5 9635:2 9637:16,18 9638:9, 13 9644:10 9774:26

submitting 9773:3

subsequent 9663:16

Subsequently 9645:8

subset 9671:10

subsidies 9657:28

subsidization 9658:12

subsidizing 9654:9 9662:10

subsidy 9654:12 9658:8,9, 10,11

substantial 9659:13 9679:9 9688:12 9701:13,20 9702:9 9704:27 9724:13,25 9741:26 9743:22 9745:25,28

substantially 9687:25 9740:12

substantive 9617:18 9627:26 9628:5 9672:15

substitute 9576:10 9653:18, 20,25

sufficient 9581:4 9627:27 9688:8 9690:14,17 9697:5 9748:4,17 9768:3

suggest 9697:7 9705:27 9743:14

suggested 9630:24 9681:9 9695:20 9758:14

suggestion 9674:13 9697:10 9704:18

suggests 9601:10 9690:7,10 9692:3 9699:27

Sul- 9765:11

Sulphur 9713:14,15 9720:17,18,22,24,28 9721:6, 12,21 9723:10 9751:15 9767:3,5,7,9,11,13,18,24,26 9768:2,15

summarize 9586:11

summarized 9708:12 9733:19

summarizing 9760:9

summary 9672:13 9673:20, 21,23 9700:26

Summers 9638:5

Sumners 9770:3,13,21 9771:2

Sunday 9724:10

Supermarkets 9728:27

supersede 9640:26

supplemental 9729:11,24, 26 9752:16,17,26 9753:1,3, 26 9754:17 9762:3

supplied 9650:28 9662:7 9753:20 9767:6

supplies 9657:3 9696:14 9697:12 9712:9 9718:28 9744:23 9752:16,17 9753:1, 25,27 9754:6,21,24 9755:1 9756:6 9762:3,4

supply 9569:27 9571:5,27 9574:10 9578:22,24 9579:5 9588:9,14 9590:20 9606:25 9607:6 9609:17 9610:15 9611:10 9612:19,22 9615:16 9617:11 9619:1,7 9640:1,3, 14,17,18 9650:25 9651:4

9652:8,14,25 9659:16 9662:6 9674:9 9679:20 9683:6,12,17,20 9684:22,23 9687:2,7,25,28 9688:2,5,7,8, 16 9689:8 9690:17,20,21 9693:4 9695:18 9696:15 9697:6 9700:8,9 9708:23 9709:7,10,26,28 9720:5,16, 19 9721:9,11 9722:1 9726:26,28 9727:2,7 9729:11,12,14,23,24,27,28 9731:5 9744:19,24 9746:3, 13 9750:14,15,18 9752:26 9753:3,14,18 9754:8,17,26, 27 9758:9 9759:3,5,12,13,22 9760:13 9762:27,28 9766:16 9767:6,8,9,11,12 9768:4,11, 12,14

supplying 9597:27 9619:20 9650:20 9651:13 9654:9 9661:26 9758:10

support 9601:5 9626:6 9658:1,14,17 9769:28

supported 9649:20

supports 9649:6

surface 9607:16,19 9608:18, 20,28 9614:24 9616:18 9617:13 9618:12 9640:1,17, 24,25 9642:17,23 9674:1,20 9681:5 9706:26 9710:18,26 9715:18 9716:8 9729:10 9736:7 9737:15 9738:10,11 9747:6,13,23 9756:5

surfaces 9685:6

surplus 9609:23

surprise 9722:17

surprised 9725:26

surrounding 9598:6

suspect 9630:28 9631:7 9707:12

swaths 9707:17

switch 9653:23

sworn 9567:28 9569:9 9603:25 9604:5 9631:16,19 9671:21,23

sympathetic 9600:26

system 9609:22 9612:11 9613:7 9648:5 9750:9 9756:21,22 9757:10

T

T-E-N 9673:12,13,15,18

table 9702:27

tabular 9700:26

tailored 9590:9 9613:19 9661:27

takes 9620:22 9705:21 9767:14

taking 9586:8 9608:19 9627:23 9717:22 9734:11

talk 9591:8,10 9593:25 9616:11 9618:24 9619:18 9621:15 9638:18 9663:2,7 9666:9 9672:5 9675:23 9698:20 9707:27 9713:8 9714:4 9718:4 9730:22 9735:4 9737:19 9739:11 9749:17 9754:19 9755:20 9761:16 9764:14 9765:18,24 9766:8 9769:26 9770:16 9773:4

talked 9569:26 9582:8 9595:22 9598:2 9599:24 9605:24 9616:9 9639:5 9664:11 9672:4 9719:5 9734:10 9743:17 9755:11 9758:8

talking 9571:22 9577:6 9582:9 9591:12 9594:10,23 9617:15 9618:17 9628:13 9642:24 9643:21 9644:5 9702:15 9757:24 9760:2 9761:11 9762:7 9763:24 9766:21

talks 9601:6

Tampa 9683:23 9762:10,15, 17,22,24,25

Tampa-st 9762:22

tandem 9753:5

task 9617:3 9641:18

Taylor 9567:9,12,17 9570:11,17 9591:1,3 9594:25 9595:1,4 9597:9 9613:26 9614:1,4 9631:3 9662:22,24 9668:11 9749:6 9758:7 9763:13,19,20 9764:13 9765:1 9768:20 9770:2 9772:21,27 9773:4,8, 16,19,27 9774:27,28

team 9602:18

technically 9672:22 9673:16 9701:4

telling 9579:12

temporarily 9659:3

ten 9673:11 9774:4,21

tend 9643:8 9650:23 9668:6 9711:7 9767:18

tendency 9756:9

Tennessee 9683:3 9752:2, 22 9753:13,15

tentative 9684:28 9685:1 9714:11

tentatively 9689:16,27

term 9704:17 9710:15 9712:24 9738:3 9745:27

terminate 9615:18

termination 9589:23

terms 9588:26 9646:19 9647:11 9667:7 9684:15 9715:25 9753:25

terribly 9753:17

territory 9734:15

testified 9569:10 9581:20 9584:14 9588:6 9604:6,18 9605:21,26 9612:13 9619:6, 14 9620:1 9631:20 9634:8, 19,22,26 9639:2 9644:10 9649:4 9663:13 9671:24 9675:26 9676:19,26 9687:12 9688:4 9693:5 9702:12,14 9736:24 9737:22

testify 9622:13 9623:26 9626:20,25 9630:23 9646:23 9655:20 9656:6,25,26 9678:2 9708:5 9772:16,17 9774:10,11,22

testifying 9604:22 9610:27 9730:15

testimonies 9659:9

testimony 9571:4 9572:6 9579:16 9584:12 9586:11 9599:2,21 9600:20,21 9601:6,11 9607:25 9609:21 9610:26 9616:14 9623:12,21 9624:5 9626:28 9627:5,14 9629:2 9631:22 9632:8 9633:26 9634:1,28 9639:2, 28 9640:9,10,12 9641:17 9644:25 9645:4,19 9646:25 9649:2 9654:1 9655:21,24 9656:2,7,10,11 9663:16,17 9667:24 9671:6 9672:1,11 9673:22 9675:24 9678:21 9687:1 9692:27 9695:22 9698:18 9708:11 9716:23 9719:5 9726:1 9730:19 9733:18 9734:9 9735:4 9738:4 9772:6,7,11,12,13, 20,23,28 9773:6,24

Texas 9578:18 9615:28 9634:25 9635:1,4,5,9,11,16 9636:10 9674:7,11 9683:4 9688:26,28 9690:12 9693:1,

9,10,15,16,21 9694:13 9705:15 9711:22,26 9712:1, 23 9718:17,20 9719:1,6,25 9720:4,5,10,13 9721:15 9730:20,28 9735:22 9738:15 9739:28 9742:17,20 9743:12 9745:2,6,13 9752:19 9754:9, 11 9763:4 9766:17 9768:14

text 9667:23

theoretical 9756:6

theoretically 9678:15

thi 9632:10

thing 9567:10,17 9590:14 9626:17 9676:28 9696:24 9716:28 9752:14 9770:5 9772:1

things 9567:22 9581:17 9591:11,14,16,22 9617:28 9632:18,26 9644:4 9652:3 9659:22 9663:8,13,14,17,19 9665:4 9679:14 9722:12 9724:10 9732:23 9750:18 9753:21 9773:9

thinking 9598:13,22 9618:14 9677:17 9678:13 9680:9 9682:5 9740:16,17 9742:9, 10,12,14 9756:18,19

thirdly 9586:24

thought 9598:14 9627:4 9649:4 9676:24 9684:16 9693:11 9702:18 9719:18 9727:9,17 9739:5 9742:2,23 9748:25 9751:27 9752:6 9760:12 9762:17 9764:4 9766:2

thoughts 9618:11

threat 9696:13

threatened 9649:11

thumb 9594:11,25,26

Thursday 9771:26 9772:1,9, 22

tier 9753:16 9760:24 9761:19

tilt 9640:1,16

Tim 9772:15

time 9585:18,22 9589:27 9597:21 9600:1 9605:17 9616:2 9618:5 9623:5 9630:3 9632:10 9637:12 9645:14 9648:27 9650:1 9662:15 9665:2,3,17 9667:27 9669:11 9673:10 9683:25,27 9686:20 9691:24 9697:13 9699:11 9700:11

9703:12 9705:10 9707:19 9714:5 9715:15,18 9718:16, 24,26 9720:15,18,20 9761:28 9771:19,22 9772:8 9773:12 9774:23

times 9604:15 9609:9 9626:8

timing 9620:21

tip 9757:3

titled 9693:14

today 9570:15 9581:6 9591:6 9595:13 9599:18 9602:12 9604:10 9613:28 9630:8,12,17,19,20,23,28 9659:27 9670:6 9676:18 9685:13 9687:11 9688:26 9690:9 9695:22 9702:12 9703:3 9705:3 9706:27 9708:12 9718:10 9733:24 9743:13 9749:9 9756:10 9759:21 9760:25,26 9768:12 9770:4

today's 9673:10

tomorrow 9631:3,4,5 9655:15,21 9656:2,5,6 9769:26 9770:3,22,25,26 9771:23,25 9773:6,26

tonight 9770:14 9771:8 9773:2,7

tool 9604:24 9720:9

top 9690:20,23 9692:2 9697:12 9700:9 9712:8 9755:28 9767:7,8

topic 9616:15 9623:28 9624:2,3 9626:14 9631:22

topics 9606:27

total 9614:7 9646:21 9651:7 9661:16 9668:4

totality 9719:27

totally 9577:16 9645:16

touches 9592:17

touching 9594:15

town 9727:4

track 9602:19 9696:25

trade 9644:14 9657:15 9658:8

traditional 9673:28

traffic 9579:22,23 9724:10, 13

transaction 9589:19

transcribes 9588:10

transcript 9761:10

translate 9666:16,17

transporta- 9755:13

transportation 9611:4
9677:4,5,21 9678:8,22
9680:5,12 9706:9,11
9715:19 9716:6,14 9755:12,
16,27 9756:21,22 9757:10

transporting 9584:25

travel 9574:2

Travis 9635:11 9703:11

treacherous 9760:20

Treasure 9593:1

treat 9577:7,11,13 9601:24

trend 9666:5

trending 9666:19,22

triangle 9596:1 9678:24

trip 9597:20 9724:6

trucks 9753:9

true 9578:17 9589:20 9676:7
9681:10 9709:21 9716:27
9752:21

Tuesday 9567:1,4 9671:1

tune 9649:8,22 9650:8,16,21

turn 9579:15 9624:10
9662:28 9663:26 9668:19
9682:8 9746:16 9749:9
9753:10

turned 9639:11 9666:28

turning 9585:10 9649:2
9682:23 9725:28 9754:19
9766:19 9770:18

tweaked 9584:18

twelfth 9673:15

Twin 9579:19,22 9580:15,
18,21,23 9581:24 9582:4
9584:20 9591:13 9593:1,20

two-prong 9767:12

Tyler 9721:22 9751:15
9767:3,5 9768:15

Tyler/sulphur 9768:9

type 9626:26

types 9663:17

typically 9585:1 9683:17
9696:17 9754:6

U

U-N-I-T-E-D 9771:4

U.S. 9606:5 9609:22
9613:11,12 9617:13 9659:8

ugly 9573:12

Uh-huh 9570:7 9574:5
9594:14 9595:5 9597:4
9759:14

ultimate 9621:16,22,23
9650:6 9655:25

unable 9773:9

unacceptably 9586:26

underlying 9588:7 9601:11

understand 9595:24
9601:18 9607:27 9614:20
9618:16 9642:4,14 9650:17
9654:20 9656:27 9657:26
9661:14 9663:20 9712:15
9716:9 9733:28 9741:24
9746:25

understandable 9643:22
9688:23

understanding 9606:6
9609:15 9616:3 9647:27
9653:1 9655:24 9660:5
9661:10,20 9707:19 9730:14
9773:2

understood 9571:19
9585:23 9618:8 9632:18
9659:21 9662:8

uniform 9661:2

unintended 9739:20

unique 9596:23 9613:4,13,
19

uniquely 9613:13

United 9582:22 9590:14
9619:5 9657:14,23,27
9658:15 9714:12 9771:4,5,7

University 9576:7 9584:2
9588:7 9676:12 9695:27
9702:25 9707:4,8,14
9712:14

unlike 9729:23 9754:5

unnecessarily 9652:17

unnecessary 9750:8

unpredictable 9660:25

unregulated 9582:14

unusual 9710:4 9721:27

---

up- 9665:27

update 9632:16 9659:5
9665:28

updated 9632:16 9663:27
9716:16

updating 9635:28

upfront 9618:10

upped 9759:24

upper 9569:15

upward 9668:2

upwards 9591:28 9592:16

urban 9591:26

USDA 9568:15 9572:14
9576:23 9577:7,10 9578:20
9582:15,18,20 9605:26
9606:9,15,20 9618:5 9624:1
9625:22 9626:25 9628:16
9629:11 9637:19 9638:9
9645:5 9664:21 9665:1
9677:14 9679:25 9680:4,10,
18,21 9688:5 9706:7
9713:24 9722:17 9726:20
9768:27 9769:1,3,19

USDA's 9618:6 9649:6,20
9770:28

USDSS 9583:3 9642:4
9646:5 9674:2,13 9676:16
9683:26

Utah 9581:1,2,3,17 9583:8
9584:20 9585:5,8 9591:25,
26 9592:24 9596:11

utilization 9576:13,14
9647:10 9651:6 9659:25
9660:3,22 9725:25

V

---

valley 9591:27 9592:16,17,
26,28 9593:1 9709:23

valuable 9737:24

valued 9609:12 9615:5

values 9695:21 9739:20
9743:19

Vandervoort's 9725:14

variability 9666:5,6 9667:9

variable 9666:12,13

variety 9653:2

vary 9660:25 9696:23

varying 9572:11 9690:28

vastly 9619:16

Vegas 9582:24 9583:14,17

vein 9629:3

verbatim 9738:26,27

verify 9664:9 9691:18
9731:23

version 9635:2,15 9667:3
9676:21

versus 9575:1 9576:7
9585:10 9591:15 9601:1
9694:26 9703:15,19 9710:6
9756:10

vertical 9697:19

Victor 9631:14

view 9579:6 9676:19

viewed 9658:7

views 9681:13

Virginia 9679:15,21
9682:14,21 9685:27
9686:11,13,21,23,26 9687:3,
5,18,23 9688:8,10,13,16
9709:3,9,12,15,17,24
9722:21 9730:8 9752:14
9760:15

Virginia's 9729:20

virtually 9680:28 9691:25

vis-a-vis 9703:28 9704:14

Vitaliano 9630:7 9631:14,18
9632:3 9633:15,24 9636:24
9662:17 9668:17 9676:18
9687:11 9702:13

voice 9702:20 9723:4

volatile 9666:15

volatility 9667:10

volume 9576:12 9639:19,23
9661:16 9696:9 9714:8
9717:23 9730:2,5 9745:12
9764:10

voluntarily 9571:28

voluntary 9660:23

Vulin 9623:10,14,16,20
9624:7 9625:19,26 9626:21,
23 9627:6,11,14 9628:26
9629:6,8,13 9630:2

W

---

wait 9654:18 9656:1

waiting 9723:3

walk 9711:8

Walmart 9726:3,6,7

wane 9649:10

wanted 9567:17,22 9593:25 9594:6 9604:26,27 9618:11 9624:6 9664:16 9764:14 9765:6,18,24

warranted 9760:9

Washington 9582:9 9594:15 9597:7

watch 9746:17,20

water 9702:21

ways 9617:24 9619:23 9727:3

weaves 9689:23

website 9618:6 9624:1 9635:5 9693:27 9694:1,6 9720:8 9773:9

wedded 9669:1,5

week 9567:14,18 9595:23 9597:21 9630:18,25 9659:28 9660:1 9677:3 9685:13 9705:21 9718:7 9724:11 9729:3 9772:16 9773:20 9774:1,3

weeks 9594:2

weigh 9735:10 9753:21

weighed 9750:20

weight 9601:8 9605:2

Weld 9569:14,20,23 9570:2, 19 9572:18 9574:26 9576:22 9579:3 9607:21 9609:4,7,14 9611:7,16,23 9612:3 9619:10,11 9696:11 9743:21 9744:9,17,26 9745:1 9748:9, 22

west 9594:4,26 9597:1 9640:13 9685:26 9686:11, 13,20,23,26 9687:18,20,23 9688:16 9695:2 9702:5 9707:17 9709:20 9730:20,25 9735:2 9738:1 9744:16 9751:14 9752:26 9753:8 9754:16 9758:25

western 9586:13 9591:18 9605:11 9606:5 9640:4,13, 19,21 9685:11 9730:7 9731:2 9734:14 9743:25,27 9744:2,3,5 9751:11 9752:18 9760:16

westward 9734:13

what'd 9634:24

Wichita 9731:9

Wichita/kansas 9731:12

wide 9653:2 9707:17

Winchester 9683:2 9752:2 9753:17

Wisconsin 9576:8 9584:2 9588:7 9676:12 9695:27 9702:25 9707:4,8,14 9712:15

wisely 9757:8

witness's 9579:10 9629:2

witnesses 9575:10 9594:3,7 9630:9,12,17,18,19,20,22, 26,27 9632:11 9639:7 9655:11 9662:26 9663:7 9738:4 9770:8 9771:5 9772:2,19,22 9773:20,23 9774:9,10,11,17,20,21

witnesses' 9607:26

wondered 9663:6

wonderful 9615:26 9763:13

wondering 9587:3 9591:21 9615:22 9616:11 9666:9 9669:1,2 9749:20 9752:6 9755:22 9758:18 9760:11 9766:8

wood 9770:25

word 9573:25 9672:24 9673:10,17 9685:2 9711:1 9737:1 9746:17,20

words 9594:15 9665:18 9672:24 9711:25 9732:25 9767:13

work 9595:25 9613:1 9615:12 9617:2 9640:26 9641:26 9644:24 9650:2 9664:7 9669:4 9673:24 9684:11,15 9710:6,21 9723:25 9732:28 9733:21 9734:8 9739:23 9746:24 9747:17 9763:12

worked 9605:18 9615:11 9617:10,12 9676:26 9681:4 9685:7 9734:2,25 9746:23, 26

working 9678:4 9734:13,19 9735:25 9736:4 9737:5,8,25 9738:6 9739:2,16 9741:12 9742:2 9744:16 9746:17,21 9747:1 9749:15 9752:4 9755:3 9760:7 9773:23

works 9614:11 9688:25 9750:25 9767:21

world 9613:17 9657:14 9710:5 9723:23 9741:23

9766:13

worries 9580:12

worse 9755:8

Worth 9689:1,10 9690:2 9694:24,25 9695:11 9698:12,13 9699:19 9703:18 9713:13 9718:5 9721:2,7 9722:6 9723:9,14,23 9724:4, 7,12,14,18,24,26 9725:4,6,9, 13,20 9731:4 9745:3 9750:5, 7 9764:16 9766:22 9768:7

Worth-dallas 9767:3

wrestling 9590:5

written 9588:5 9590:9 9632:8 9633:26 9671:28 9708:11 9734:9 9735:20

wrong 9655:28 9695:14,16 9764:2

wrote 9644:23 9726:1

WTO 9657:19,23,27 9658:11

Wyoming 9587:19

Y

year 9620:7,12 9656:15 9677:2

year-over-year 9667:2

years 9573:10 9581:18 9591:17,20 9592:14 9619:26 9620:15 9656:19 9705:9 9717:5 9718:10 9742:24 9767:10

yesterday 9574:2 9586:9 9599:22 9609:10 9615:17 9616:9,15 9617:15 9619:6 9622:20 9685:13 9733:24

yogurt 9653:18,25

York 9689:23

Z

zone 9586:21 9587:6 9593:26 9596:26 9645:7,9, 16,18 9646:13,16 9689:2,22 9739:25 9740:3 9742:17

zones 9741:5 9746:21