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Massachusetts Ocean Planning
Listening Session

Heritage Park
Fall River, MA

October 8, 2008
7:15 p.m.

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1 (the Listening Session conducted by
2 Assistant Secretary Babb-Brott convened at 7:15
3 p.m.)
4 ASSISTANT SECRETARY BABB-BROTT: Why
5 don't we get started this evening. Good evening
6 folks. Thank you for coming this evening. On
7 behalf of Secretary Ian Bowles, the Secretary of
8 Energy and Environmental Affairs, it's my pleasure
9 to welcome you this evening.
10 My name is Deerin Babb-Brott, and I'm
11 the assistant secretary for Ocean and Coastal Zone
12 Management, and I'm managing the development of the
13 state's ocean plan pursuant to the Oceans Act of
14 2008. We'll talk about that in a few minutes.
15 This evening is the 10th in a series of
16 18 meetings that we're holding state wide to gather
17 public information on the planning process, and I'll
18 talk more about that when I do the presentation.
19 There are a number of handouts at the front of the
20 room and a sign-in list. We would like you to
21 provide contact information, if you would. If you
22 would like additional information from us, we'll put
23 you on the mailing list that we're maintaining to

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1 I N D E X

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3 Open Presentation 3

4 Public Comment 5

5 Adjournment 21

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1 email to folks and let them know what next in the
2 planning process will be, what the materials we're
3 developing are, and just give you the opportunity to
4 stay plugged into the process as we go through it.
5 The handouts up there include a map of
6 the planning area. There is an overview of the
7 public process and planning process. There is a
8 form for submitting written comments this evening,
9 if you would like to do that. There are also a
10 number of links on one of the pages to web materials
11 that are available, and there is also the ability to
12 comment electronically through email on those links.
13 We're trying to provide as much opportunity as
14 possible.
15 The format for this evening is simple.
16 I'll do a brief overview and presentation, and then
17 ask folks who would like to to come up and offer
18 comments. It's a small group tonight so we can do
19 this informally. If folks want to ask questions, we
20 can do things that way as well. We have the video
21 running. We're videotaping all of the public
22 meetings so we can post the videos on line on the
23 web page, and folks will be able to view that at

1 their leisure. Because we're doing it that way, we
 2 ask that if you have questions or if you do want to
 3 make comment, if you'd come down and use the
 4 microphone that would be helpful so we have audio
 5 for folks up there. And that's what I have just for
 6 a brief beginning.

7 What I would like to do now is run
 8 through a presentation on the ocean plan and
 9 planning process, and then we'll go to comments and
 10 questions. So we begin with the discussion of what
 11 is an ocean plan. The ocean plan is a plan to guide
 12 the use, protection, and development of our ocean
 13 waters. That addresses uses and development that
 14 are compatible or incompatible with each other.

15 The ocean plan is designed to balance
 16 uses, protections, and development in ocean waters.
 17 The ocean plan is not itself going to be a
 18 regulatory structure, but it does have regulatory
 19 reality in that all state permits issued, once the
 20 plan is in place, will have to be consistent with
 21 the plan. So although it's not adding a new
 22 regulatory layer, it will have the force of law in
 23 the sense that permits are issued for development in

1 the ocean will have to be consistent with decisions
 2 made by the plan.

3 The plan is going to be based on
 4 environmental, economic, and social information,
 5 maps and data that we will use to rationally
 6 organize uses of ocean space and the interactions
 7 between uses, balance demands for development with a
 8 need to protect the environment, and achieve social
 9 and economic objectives in an opened and planned
 10 way.

11 So the Oceans Act of 2008 which was
 12 passed by the legislature and signed by Governor
 13 Patrick in the spring early summer of 2008 is really
 14 predicated on the principle that the ocean is a
 15 public trust resource. It belongs to all of us.
 16 Everybody gets to be part of it. Everybody gets to
 17 use one way or another or everybody gets a say in
 18 how it gets managed. The Oceans Act recognizes we
 19 need to protect and enhance the ocean's environment
 20 but also recognizes we need to use the ocean for
 21 different kinds of things and that some uses
 22 conflict with each other. Some uses have the
 23 potential to conflict or have impacts to the natural

1 environment. We can neither protect the ocean
 2 everywhere nor can we develop the ocean everywhere.
 3 So again the Oceans Act is really about balance.

4 The Oceans Act in the spring of 2008
 5 the Act directs Secretary Bowles, Secretary of
 6 Energy and Environmental Affairs with the assistance
 7 of an ocean advisory commission and science advisory
 8 council to develop the comprehensive ocean
 9 management plan. And in short the Act directs that
 10 the ocean plan set forth the Commonwealth's goals,
 11 siting priorities, and standards for proper
 12 stewardship of its ocean waters held in trust for
 13 the public benefit.

14 The Act also directs that the ocean
 15 plan coordinate uses that include international,
 16 federal, state, and local jurisdictions so if there
 17 are big projects down the road, offshore wind farms,
 18 for example, that are in federal waters but the
 19 cable that connects the power supply to the mainland
 20 passes through federal, state, local municipals
 21 jurisdictions, that is the kind of thing we want to
 22 be able to address.

23 It directs that we foster sustainable

1 uses that capitalize on economic opportunity without
 2 significant detriment to the ecology of the ocean.
 3 And it specifically directs that we identify
 4 appropriate locations and performance standards for
 5 activities and uses facilities allowed under the
 6 Ocean Sanctuary Act. An example of developments that
 7 are allowed under the Ocean Sanctuary Act include
 8 pipelines, renewable energy facility, sand mining
 9 areas for beach erosion nourishment, but again those
 10 will have to be developed under the ocean plan. And
 11 there is a key piece that the Oceans Act directs
 12 that we consider as we think about those facilities
 13 in that those facilities are allowed in ocean
 14 sanctuaries to the extent they are appropriate
 15 scale.

16 Appropriate scale is not defined in
 17 legislation, so it's something we'll be working on
 18 and something that we're interested in hearing
 19 comments from folks on. For example, what is the
 20 appropriate scale for a wind farm in state waters.
 21 We don't know what that is. The Town of Hull has
 22 proposed four turbines in their municipal waters so
 23 we have a sense of what Hull thinks is appropriate

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1 scale. Appropriate scale is probably going to be,
2 location is going to depend on where it is,
3 something of a certain size. It's appropriate in
4 one part of a state but may not be appropriate in
5 another part of a state. But we're looking for
6 comments and your thinking about that issue.

7 Importantly the Oceans Act directs that
8 commercial and recreational fishing are allowable
9 uses. They're not subject to management of the
10 plan. The Act directs the Division of Marine
11 Fisheries will have sole responsibility for
12 developing and implementing any fisheries management
13 plans or regulations. So although we will be
14 working with the fishing industry and we want to
15 know about the fishing industry and the resources
16 and the habitat and the ecology on which they
17 depend, the plan itself is not a fisheries
18 management or regulation document.

19 The schedule and the product of the
20 plan, we have to develop a plan on a very aggressive
21 schedule. The Act requires we develop a plan and
22 submit and promulgate it by the end of 2009. So by
23 December 31, 2009, a plan needs to be formally

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1 promulgated with any accompanying regulations that
2 we need to develop. What that really means, because
3 of the way the Act is structured, 6 months prior to
4 promulgation we have to submit the plan for formal
5 public hearing and legislative review. So when you
6 back that up on the calendar, it really means we
7 have to have a draft plan ready to go out to formal
8 public hearing and to the legislature by June 30th
9 of 2009. So we have a lot to do over the winter and
10 spring and early summer to have that ready to go.

11 We're going to have two products.
12 First will be the plan required by the Act and the
13 second is going to be a formal road map for the
14 longer-term planning process that is going to have to
15 occur. The different kinds of things that the Act
16 asks us to do requires far more time than we have to
17 do them.

18 For example, we know on balance not
19 nearly enough about how the ocean works in order to
20 make significant and detailed management decisions,
21 a tremendous number of things we don't understand
22 about the ocean. Working with the commission and
23 the science advisory council, part of what we would

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1 be doing is identify what the longer term questions
2 are that we need to address, what the information is
3 that we need to address them, we need to build in
4 measures so that we can review how the plan will be
5 put forward as working, we need to put forward ways
6 we can modify over time, and formally this is
7 required by the Act in the sense that the Act
8 requires that the plan be reviewed every 5 years.

9 So there is going to be an ongoing
10 planning component to this. And it will be the
11 longer term process where we work on the kinds of
12 things we know we can't work on right away.

13 In terms of developing the shorter term
14 plan we broke it down to four steps. In the first
15 step is to gather the information and the raw
16 materials that we need to start building the plan.
17 So this is the first part of that which is
18 soliciting public comments and getting a sense from
19 folks in the world who use the ocean, care about the
20 ocean, want a say in what happens, what your
21 thoughts are.

22 Other work that we're doing is we're
23 collecting and analyzing existing environmental,

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1 economic, and social data through a number of
2 different ways with working with agencies, working
3 with small work groups comprised of representations
4 of cross-sections of interests like habitat,
5 fishing, navigation, the kinds of things you see
6 with ocean use. We're working with specific
7 stakeholder groups, fishing organizations,
8 environmental groups, whale watch groups, for
9 example. We sit and talk to them. Where do you go,
10 what is important to you, what are your concerns.
11 And with the public.

12 And then the last piece we're working
13 on right now, we're reviewing and analyzing the
14 national and mostly international models of ocean
15 planning that are out there. This hasn't been done
16 very often. There may be 6 or 8 ocean plans in the
17 whole world. So in the United States we're kind of
18 breaking new ground, and we want to look at what
19 folks have done elsewhere in the world and see what
20 might work and what might make sense in
21 Massachusetts, running them passed the commission
22 and science advisory council, and build the right
23 plan for Massachusetts. So that takes us through the

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1 end of January.

2 In February, March, and April we will

3 begin developing the draft plan itself. So we'll

4 take all those raw materials, pile them on the table

5 and start making sense of them. We'll overlay the

6 data, incorporate the public comments, see what has

7 been done elsewhere, and start shaping the rough

8 draft of a plan.

9 At that point we are going to come back

10 out to folks and do planning exercises and put maps

11 on the walls and say here is what we heard. Here is

12 the data we have. Here are the different ways we

13 can think about that, what do you think about it.

14 So this is not going to be, we're here tonight to

15 hear what you have to say. We are going to be

16 building this in successive steps and coming back

17 and asking you folks for feedback as we go forward.

18 Step 3, by the end of the second step

19 at the end of April, we'll start to refine our ideas

20 and we'll have a fairly specific draft plan working

21 at that point at the end of that process. Step 3 in

22 May and June is we'll bring that plan back out again

23 and go through the same exercises and say based on

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1 our conversations state wide and the information we

2 gathered here is where we're heading fairly

3 specifically from the draft plan. Again what do you

4 think. At the end of that process, end of June then

5 we'll have the formal draft plan that is submitted

6 to the legislature for their review and for formal

7 public hearings with the public. The difference

8 between formal public hearing and this kind of

9 session and the working sessions we'll hold over the

10 winter formal public hearings we can't interact with

11 the audience. We just sit and listen. Folks come

12 up say whether or not they like it or not. It's not

13 participatory. We want to make sure we build in the

14 community to work with folks closely until we get to

15 that point.

16 Step 4, the formal public review 6

17 months from July to December formal public hearings

18 legislative review and promulgated plan.

19 The last slide that is on the handout,

20 that is titled your comments and participation.

21 We've listed a few questions just as thoughts for

22 you to consider. If you have an interest in

23 speaking this evening we're happy to hear and want

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1 to hear whatever is on your mind, whatever you'd

2 like to communicate. But the kinds of things we're

3 generically interested in are what is important to

4 you based on how you use or experience the ocean,

5 how should that be reflected in an ocean plan that

6 has to balance, protection, use, development, now

7 and in the future. Thoughts about the planning

8 process. But beyond that whatever you'd like to

9 offer.

10 And then lastly just to plug for the

11 web page which is where there is a bunch of

12 additional information that is available to you. We

13 encourage you to go to those sites and learn more

14 about the process. I'm available afterwards for

15 questions also. And with that that's my formal

16 piece.

17 So now we'll just go to comments and

18 then after comments if folks have questions, we'll

19 just go from there. On the list I have Don Church

20 from Sea Boats, Incorporated. Would like to speak?

21 Do you want to come up. You're the only person on

22 the list so feel free to take your time.

23 MR. CHURCH: I own and operate a

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1 company called Sea Boats. We are a quiet company,

2 doesn't deal with Wall Street, a company that nobody

3 has ever heard of and glad off it because generally

4 when a tugboat and barge company transporting

5 petroleum products gets to be known it's because of

6 a disaster. I'm glad you don't know us.

7 First of all, I could read this

8 legislation either way, that it was ocean

9 legislation but then they started talking about the

10 rivers and waters of Massachusetts. And that's the

11 main reason I'm here. I was concerned it may

12 include everything within Massachusetts. And my

13 understanding now is Mount Hope Bay is not included

14 in this at all.

15 ASSISTANT SECRETARY BABB-BROTT: That's

16 correct. The planning legislation establishes build

17 off a baseline map created, and I brought some here.

18 We'll talk about it in just a second. But state

19 wide the planning area runs from a third of a mile

20 seaward of mean low out to the limited state waters

21 at 3 miles. So the plan, legislation is not in to

22 address immediately coastal kind of issues. You

23 will see on the map behind you, the dark blue area

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1 is the planning area and actually the Act or the map
 2 is based on calculations in rods, and I forget my
 3 old time measurements but it works out to about a
 4 third of a mile and designed specifically so it
 5 doesn't pick up docks and piers, small harbor
 6 dredging projects. It's supposed to be deeper
 7 water.

8 Mount Hope Bay I have circled there and
 9 it's a little triangle where you apply that one
 10 third mile buffer all the way round it leaves a
 11 small piece of Mount Hope Bay, potentially subject
 12 to the Act that the Act does not apply to Mount Hope
 13 Bay. So this is a deep water act.

14 MR. CHURCH: With this legislation is
 15 this the end of the permit process? What I mean by
 16 that, if someone applies to you to build a windmill
 17 farm or to put in an off-shore oil well, they apply
 18 to you, do you approve it or deny it, and that's the
 19 end? They don't have to go to another agency or
 20 group of agencies for permits?

21 ASSISTANT SECRETARY BABB-BROTT: That
 22 would be ideal in many respects I share, but no.
 23 Not yet. Right now, actually it's going to be the

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1 other way around. I think the plan promulgated is
 2 going to be transparent and the proponent goes to
 3 the agency as they do now for their permit. The
 4 agency looks at the plan, makes sure the project is
 5 consistent with the plan, and then goes ahead and
 6 does its own plan.

7 MR. CHURCH: We are faced with a
 8 situation, or I am faced with a situation here in
 9 the Taunton River where before to put in any kind of
 10 marine project you had to apply to the normal
 11 agencies. When they designated this as a wild and
 12 scenic study, not necessarily passing the
 13 legislation, just a study, you had to comply with
 14 all of the rules and regulations of a total of 14
 15 agencies to get anything done.

16 I wanted to extend my pier. I brought
 17 in a consulting firm. They took a look at it, said
 18 it's going to be a long arduous process, maybe 3 to
 19 5 years, and I told them no thanks. So then they
 20 sent me a bill for \$3,000. But the project is dead.

21 One of the problems with having a small
 22 company, you wake up in the morning and you make a
 23 decision and you're upset by the end of the day if

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1 it hasn't been done. You don't go into a 3- 4-
 2 5-year project hoping you're going to get it done
 3 later and invest 10s of thousands of dollars to try
 4 it. I mean if there were anything that needs to be
 5 done to the State of Massachusetts to improve
 6 investment, employment, put these permits, for
 7 either this project or this type of project or water
 8 boat projects, in one agency where you don't have to
 9 go to every agency on the east coast to get
 10 something done. It's a yes or no, get it over. Get
 11 it done.

12 I mean right now I don't think you'll
 13 ever see another privately-financed project in the
 14 Taunton River. There is just too much time too much
 15 effort and too many hoops to jump through to do it.
 16 So what is the result? You have a dead river. No
 17 progress, no method, no marinas, nothing. There are
 18 three projects that I know of right now that are in
 19 some way state or city sponsored. Now are they
 20 going to have to go through the same process that
 21 everybody else does, or do they get a pass to get
 22 their projects approved and everybody else just sits
 23 by and says I wish I can do that too.

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1 ASSISTANT SECRETARY BABB-BROTT: They
 2 go through the same process.

3 MR. CHURCH: The state pier, they want
 4 to rebuild that. The mayor wants to build a marina.
 5 The Battleship Cove wants to improve their pier.
 6 They all require permits. My guess is they won't be
 7 getting them done because there is just too long a
 8 permit process. When you start getting into
 9 employment, capital investment, it's got to be an
 10 easy path or just doesn't get done.

11 We're building tug boats up here on a
 12 very slow process only for our own use, not for
 13 sale. We were building barges in nearby Rhode
 14 Island. I got into a long discussion with one of
 15 the Rhode Island politicians. I told him I can
 16 spend my money anywhere I want to. I have a barge
 17 being launched December in Louisiana. They are not
 18 cheap. We invested \$15 million in Louisiana. They
 19 don't want it up here. Because you have to jump
 20 through too many hoops to do anything to keep it
 21 moving. That's all right.

22 I wish there was one agency to go to,
 23 get something, you get something and continue on.

1 It just doesn't happen. We get another layer of
 2 bureaucracy, another layer, and another layer, and
 3 pretty soon nothing happens. That's about all I
 4 have to say. Thank you.

5 ASSISTANT SECRETARY BABB-BROTT: Okay.
 6 Thank you. Other folks who signed up, comments or
 7 questions? I'm at your disposal. For more
 8 information the website, the information is on the
 9 handouts. If you would like a card I'm happy to
 10 leave you with a card, and you're always welcome to
 11 call.

12 Thank you for coming out that evening,
 13 and I hope that you stay engaged in the process.
 14 There will be more fun and more to talk about as we
 15 are putting things on maps. So hopefully next time
 16 we're back down we'll see you again. Thank you very
 17 much.

18 (The proceedings adjourned
 19 at 7:34 p.m.)

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C E R T I F I C A T E

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I hereby certify that the foregoing 22
 pages contain a full, true and correct transcription
 of all my stenographic notes to the best of my
 ability taken in the above-captioned matter at said
 time and place commencing at 7:15 p.m.

Carol DiFazio
 Registered Professional Reporter

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\$15 [1] - 20:18 \$3,000 [1] - 18:20	ability [2] - 4:11; 22:10 able [2] - 4:23; 7:22	approved [1] - 19:22 April [2] - 13:2, 19 arduous [1] - 18:18 area [4] - 4:6; 16:19, 23; 17:1 areas [1] - 8:9 assistance [1] - 7:6 Assistant [1] - 3:2 ASSISTANT [5] - 3:4; 16:15; 17:21; 20:1; 21:5 assistant [1] - 3:11 audience [1] - 14:11 audio [1] - 5:4 available [3] - 4:11; 15:12, 14	bill [1] - 18:20 blue [1] - 16:23 boat [1] - 19:8 boats [1] - 20:11 Boats [2] - 15:20; 16:1 Bowles [2] - 3:7; 7:5 breaking [1] - 12:18 brief [2] - 4:16; 5:6 bring [1] - 13:22 broke [1] - 11:14 Brott [2] - 3:2, 10 BROTT [5] - 3:4; 16:15; 17:21; 20:1; 21:5 brought [2] - 16:17; 18:16 buffer [1] - 17:10	coastal [1] - 16:22 Coastal [1] - 3:11 collecting [1] - 11:23 coming [3] - 3:6; 13:16; 21:12 commencing [1] - 22:11 Comment [1] - 2:3 comment [2] - 4:12; 5:3 comments [11] - 4:8, 18; 5:9; 8:19; 9:6; 11:18; 13:6; 14:20; 15:17; 21:6 commercial [1] - 9:8 commission [3] - 7:7; 10:22; 12:21 Commonwealth' s [1] - 7:10 communicate [1] - 15:2 community [1] - 14:14 company [5] - 16:1, 4; 18:22
1	above-captioned [1] - 22:10	B	B	
10s [1] - 19:3 10th [1] - 3:15 14 [1] - 18:14 18 [1] - 3:16	accompanying [1] - 10:1 achieve [1] - 6:8 act [1] - 17:13 Act [22] - 3:13; 6:11, 18; 7:3-5, 9, 14; 8:6, 11; 9:7, 10, 21; 10:3, 12, 15; 11:7; 17:1, 12 activities [1] - 8:5 adding [1] - 5:21 additional [2] - 3:22; 15:12 address [4] - 7:22; 11:2; 16:22 addresses [1] - 5:13 adjourned [1] - 21:18 Adjournment [1] - 2:3 advisory [4] - 7:7; 10:23; 12:22 Affairs [2] - 3:8; 7:6 afterwards [1] - 15:14 agencies [4] - 12:2; 17:20; 18:11, 15 agency [6] - 17:19; 18:3; 19:8; 20:22 aggressive [1] - 9:20 ahead [1] - 18:5 allowable [1] - 9:8 allowed [3] - 8:5, 7, 13 analyzing [2] - 11:23; 12:13 applies [1] - 17:16 apply [4] - 17:9, 12, 17; 18:10 appropriate [6] - 8:4, 14, 20, 23; 9:3 Appropriate [2] - 8:16; 9:1 approve [1] - 17:18	Babb [2] - 3:2, 10 BABB [5] - 3:4; 16:15; 17:21; 20:1; 21:5 Babb-Brott [2] - 3:2, 10 BABB-BROTT [5] - 3:4; 16:15; 17:21; 20:1; 21:5 balance [5] - 5:15; 6:7; 7:3; 10:18; 15:6 barge [2] - 16:4; 20:16 barges [1] - 20:13 based [4] - 6:3; 13:23; 15:4; 17:2 baseline [1] - 16:17 Battleship [1] - 20:5 Bay [4] - 16:13; 17:8, 11, 13 beach [1] - 8:9 begin [2] - 5:10; 13:3 beginning [1] - 5:6 behalf [1] - 3:7 behind [1] - 16:23 belongs [1] - 6:15 benefit [1] - 7:13 best [1] - 22:9 between [2] - 6:7; 14:8 beyond [1] - 15:8 big [1] - 7:17	build [6] - 11:3; 12:22; 14:13; 16:16; 17:16; 20:4 building [4] - 11:16; 13:16; 20:11, 13 bunch [1] - 15:11 bureaucracy [1] - 21:2	C
2		C	C	
2008 [5] - 1:19; 3:14; 6:11, 13; 7:4 2009 [3] - 9:22; 10:9 21 [1] - 2:3 22 [1] - 22:7		C	C	
3		C	C	
3 [6] - 2:2; 13:18, 21; 16:21; 18:18; 19:1 30th [1] - 10:8 31 [1] - 9:23		C	C	
4		C	C	
4 [2] - 14:16; 19:1		C	C	
5		C	C	
5 [3] - 2:3; 11:8; 18:19 5-year [1] - 19:2		C	C	
6		C	C	
6 [3] - 10:3; 12:16; 14:16		C	C	
7		C	C	
7:15 [3] - 1:19; 3:2; 22:11 7:34 [1] - 21:19		C	C	
8		C	C	
8 [2] - 1:19; 12:16		C	C	
		C	C	
		C	C	
		C	C	
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<p>conversations ^[1] - 14:1</p> <p>coordinate ^[1] - 7:15</p> <p>correct ^[2] - 16:16; 22:8</p> <p>council ^[3] - 7:8; 10:23; 12:22</p> <p>Cove ^[1] - 20:5</p> <p>created ^[1] - 16:17</p> <p>cross ^[1] - 12:4</p> <p>cross-sections ^[1] - 12:4</p>	<p>different ^[4] - 6:21; 10:15; 12:2; 13:12</p> <p>directs ^[8] - 7:5, 9, 14, 23; 8:3, 11; 9:7, 10</p> <p>disaster ^[1] - 16:6</p> <p>discussion ^[2] - 5:10; 20:14</p> <p>disposal ^[1] - 21:7</p> <p>Division ^[1] - 9:10</p> <p>docks ^[1] - 17:5</p> <p>document ^[1] - 9:18</p> <p>dollars ^[1] - 19:3</p> <p>Don ^[1] - 15:19</p> <p>done ^[1] - 12:15, 19; 13:7; 18:15; 19:1, 5, 10-11; 20:7, 10</p> <p>down ^[4] - 5:3; 7:17; 11:14; 21:16</p> <p>draft ^[6] - 10:7; 13:3, 8, 20; 14:3, 5</p> <p>dredging ^[1] - 17:6</p>	<p>Environmental ^[2] - 3:8; 7:6</p> <p>environmental ^[3] - 6:4; 11:23; 12:8</p> <p>erosion ^[1] - 8:9</p> <p>establishes ^[1] - 16:16</p> <p>evening ^[9] - 3:5, 9, 15; 4:8, 15; 14:23; 21:12</p> <p>everywhere ^[2] - 7:2</p> <p>example ^[5] - 7:18; 8:6, 19; 10:18; 12:9</p> <p>exercises ^[2] - 13:10, 23</p> <p>existing ^[1] - 11:23</p> <p>experience ^[1] - 15:4</p> <p>extend ^[1] - 18:16</p> <p>extent ^[1] - 8:14</p>	<p>21:6</p> <p>force ^[1] - 5:22</p> <p>foregoing ^[1] - 22:7</p> <p>forget ^[1] - 17:2</p> <p>form ^[1] - 4:8</p> <p>formal ^[10] - 10:4, 7, 13; 14:5, 8, 10, 16-17; 15:15</p> <p>formally ^[2] - 9:23; 11:6</p> <p>format ^[1] - 4:15</p> <p>forth ^[1] - 7:10</p> <p>forward ^[3] - 11:5; 13:17</p> <p>foster ^[1] - 7:23</p> <p>four ^[2] - 8:22; 11:14</p> <p>free ^[1] - 15:22</p> <p>front ^[1] - 3:19</p> <p>full ^[1] - 22:8</p> <p>fun ^[1] - 21:14</p> <p>future ^[1] - 15:7</p>	<p>hear ^[3] - 13:15; 14:23; 15:1</p> <p>heard ^[2] - 13:11; 16:3</p> <p>hearing ^[4] - 8:18; 10:5, 8; 14:8</p> <p>hearings ^[3] - 14:7, 10, 17</p> <p>held ^[1] - 7:12</p> <p>helpful ^[1] - 5:4</p> <p>hereby ^[1] - 22:7</p> <p>Heritage ^[1] - 1:16</p> <p>hold ^[1] - 14:9</p> <p>holding ^[1] - 3:16</p> <p>hoops ^[2] - 19:15; 20:20</p> <p>Hope ^[4] - 16:13; 17:8, 11</p> <p>hope ^[1] - 21:13</p> <p>hopefully ^[1] - 21:15</p> <p>hoping ^[1] - 19:2</p> <p>Hull ^[2] - 8:21, 23</p>
D	E	F	G	I
<p>dark ^[1] - 16:23</p> <p>data ^[4] - 6:5; 12:1; 13:6, 12</p> <p>dead ^[2] - 18:20; 19:16</p> <p>deal ^[1] - 16:2</p> <p>December ^[3] - 9:23; 14:17; 20:17</p> <p>decision ^[1] - 18:23</p> <p>decisions ^[2] - 6:1; 10:20</p> <p>deep ^[1] - 17:13</p> <p>deeper ^[1] - 17:6</p> <p>Deerin ^[1] - 3:10</p> <p>defined ^[1] - 8:16</p> <p>demands ^[1] - 6:7</p> <p>deny ^[1] - 17:18</p> <p>designated ^[1] - 18:11</p> <p>designed ^[2] - 5:15; 17:4</p> <p>detailed ^[1] - 10:20</p> <p>detriment ^[1] - 8:2</p> <p>develop ^[5] - 7:2, 8; 9:20; 10:2</p> <p>developed ^[1] - 8:10</p> <p>developing ^[4] - 4:3; 9:12; 11:13; 13:3</p> <p>development ^[7] - 3:12; 5:12, 16, 23; 6:7; 15:6</p> <p>developments ^[1] - 8:6</p> <p>DiFazio ^[1] - 22:16</p> <p>difference ^[1] - 14:7</p>	<p>early ^[2] - 6:13; 10:10</p> <p>east ^[1] - 19:9</p> <p>easy ^[1] - 20:10</p> <p>ecology ^[2] - 8:2; 9:16</p> <p>economic ^[4] - 6:4, 9; 8:1; 12:1</p> <p>effort ^[1] - 19:15</p> <p>either ^[2] - 16:8; 19:7</p> <p>electronically ^[1] - 4:12</p> <p>elsewhere ^[2] - 12:19; 13:7</p> <p>email ^[2] - 4:1, 12</p> <p>employment ^[2] - 19:6; 20:9</p> <p>encourage ^[1] - 15:13</p> <p>end ^[10] - 9:22; 13:1, 18-19, 21; 14:4; 17:15, 19; 18:23</p> <p>Energy ^[2] - 3:8; 7:6</p> <p>energy ^[1] - 8:8</p> <p>engaged ^[1] - 21:13</p> <p>enhance ^[1] - 6:19</p> <p>environment ^[3] - 6:8, 19; 7:1</p>	<p>faced ^[2] - 18:7</p> <p>facilities ^[3] - 8:5, 12</p> <p>facility ^[1] - 8:8</p> <p>fairly ^[2] - 13:20; 14:2</p> <p>Fall ^[1] - 1:17</p> <p>far ^[1] - 10:16</p> <p>farm ^[2] - 8:20; 17:17</p> <p>farms ^[1] - 7:17</p> <p>February ^[1] - 13:2</p> <p>federal ^[3] - 7:16, 18, 20</p> <p>feedback ^[1] - 13:17</p> <p>few ^[2] - 3:14; 14:21</p> <p>financed ^[1] - 19:13</p> <p>firm ^[1] - 18:17</p> <p>First ^[2] - 10:12; 16:7</p> <p>first ^[2] - 11:14, 17</p> <p>Fisheries ^[1] - 9:11</p> <p>fisheries ^[2] - 9:12, 17</p> <p>fishing ^[5] - 9:8, 14-15; 12:5, 7</p> <p>Folks ^[1] - 14:11</p> <p>folks ^[14] - 3:6; 4:1, 17, 19, 23; 5:5; 8:19; 11:19; 12:19; 13:10, 17; 14:14; 15:18;</p>	<p>gather ^[2] - 3:16; 11:15</p> <p>gathered ^[1] - 14:2</p> <p>generally ^[1] - 16:3</p> <p>generically ^[1] - 15:3</p> <p>glad ^[2] - 16:3, 6</p> <p>goals ^[1] - 7:10</p> <p>Governor ^[1] - 6:12</p> <p>ground ^[1] - 12:18</p> <p>group ^[2] - 4:18; 17:20</p> <p>groups ^[4] - 12:3, 7</p> <p>guess ^[1] - 20:6</p> <p>guide ^[1] - 5:11</p>	<p>lan ^[1] - 3:7</p> <p>ideal ^[1] - 17:22</p> <p>ideas ^[1] - 13:19</p> <p>identify ^[2] - 8:3; 11:1</p> <p>immediately ^[1] - 16:22</p> <p>impacts ^[1] - 6:23</p> <p>implementing ^[1] - 9:12</p> <p>important ^[2] - 12:10; 15:3</p> <p>Importantly ^[1] - 9:7</p> <p>improve ^[2] - 19:5; 20:5</p> <p>include ^[4] - 4:5; 7:15; 8:7; 16:12</p> <p>included ^[1] - 16:13</p> <p>incompatible ^[1] - 5:14</p> <p>incorporate ^[1] - 13:6</p> <p>Incorporated ^[1] - 15:20</p> <p>industry ^[2] - 9:14</p>
H			H	
			<p>habitat ^[2] - 9:16; 12:4</p> <p>handout ^[1] - 14:19</p> <p>handouts ^[3] - 3:19; 4:5; 21:9</p> <p>happy ^[2] - 14:23; 21:9</p> <p>harbor ^[1] - 17:5</p> <p>heading ^[1] - 14:2</p>	

<p>informally ^[1] - 4:19 information ^[10] - 3:17, 21-22; 6:4; 11:2, 15; 14:1; 15:12; 21:8 interact ^[1] - 14:10 interactions ^[1] - 6:6 interest ^[1] - 14:22 interested ^[2] - 8:18; 15:3 interests ^[1] - 12:4 international ^[2] - 7:15; 12:14 invest ^[1] - 19:3 invested ^[1] - 20:18 investment ^[2] - 19:6; 20:9 Island ^[2] - 20:14 issue ^[1] - 9:6 issued ^[2] - 5:19, 23 issues ^[1] - 16:22 itself ^[3] - 5:17; 9:17; 13:3</p>	<p>law ^[1] - 5:22 layer ^[4] - 5:22; 21:1 learn ^[1] - 15:13 leave ^[1] - 21:10 leaves ^[1] - 17:10 legislation ^[7] - 8:17; 16:8, 16, 21; 17:14; 18:13 legislative ^[2] - 10:5; 14:18 legislature ^[3] - 6:12; 10:8; 14:6 leisure ^[1] - 5:1 limited ^[1] - 16:20 line ^[1] - 4:22 links ^[2] - 4:10, 12 list ^[4] - 3:20, 23; 15:19, 22 listed ^[1] - 14:21 listen ^[1] - 14:11 Listening ^[2] - 1:11; 3:1 local ^[2] - 7:16, 20 location ^[1] - 9:2 locations ^[1] - 8:4 longer-term ^[1] - 10:14 look ^[2] - 12:18; 18:17 looking ^[1] - 9:5 looks ^[1] - 18:4 Louisiana ^[2] - 20:17 low ^[1] - 16:20</p>	<p>maps ^[3] - 6:5; 13:10; 21:15 March ^[1] - 13:2 marina ^[1] - 20:4 marinas ^[1] - 19:17 Marine ^[1] - 9:10 marine ^[1] - 18:10 Massachusetts ^[6] - 1:10; 12:21, 23; 16:10, 12; 19:5 materials ^[4] - 4:2, 10; 11:16; 13:4 matter ^[1] - 22:10 mayor ^[1] - 20:4 mean ^[4] - 16:20; 17:15; 19:4, 12 means ^[2] - 10:2, 6 measurements ^[1] - 17:3 measures ^[1] - 11:4 meetings ^[2] - 3:16; 4:22 method ^[1] - 19:17 microphone ^[1] - 5:4 might ^[2] - 12:20 mile ^[3] - 16:19; 17:4, 10 miles ^[1] - 16:21 million ^[1] - 20:18 mind ^[1] - 15:1 mining ^[1] - 8:8 minutes ^[1] - 3:14 models ^[1] - 12:14 modify ^[1] - 11:6 money ^[1] - 20:16 months ^[2] - 10:3; 14:17 morning ^[1] - 18:22 mostly ^[1] - 12:14 Mount ^[4] - 16:13; 17:8, 11 moving ^[1] - 20:21 MR ^[4] - 15:23; 17:14; 18:7; 20:3 municipal ^[1] - 8:22 municipals ^[1] - 7:20</p>	<p style="text-align: center;">N</p> <p>name ^[1] - 3:10 national ^[1] - 12:14 natural ^[1] - 6:23 navigation ^[1] - 12:5 nearby ^[1] - 20:13 nearly ^[1] - 10:19 necessarily ^[1] - 18:12 need ^[9] - 6:8, 19-20; 10:2; 11:2, 5, 16 needs ^[2] - 9:23; 19:4 new ^[2] - 5:21; 12:18 next ^[2] - 4:1; 21:15 nobody ^[1] - 16:2 normal ^[1] - 18:10 notes ^[1] - 22:9 nothing ^[2] - 19:17; 21:3 nourishment ^[1] - 8:9 number ^[4] - 3:19; 4:10; 10:21; 12:1</p>	<p>One ^[1] - 18:21 one ^[7] - 4:10; 6:17; 9:4; 17:9; 19:8; 20:14, 22 ongoing ^[1] - 11:9 Open ^[1] - 2:2 opened ^[1] - 6:9 operate ^[1] - 15:23 opportunity ^[3] - 4:3, 13; 8:1 order ^[1] - 10:19 organizations ^[1] - 12:7 organize ^[1] - 6:6 overlay ^[1] - 13:5 overview ^[2] - 4:6, 16 own ^[3] - 15:23; 18:6; 20:12</p>
J	M	O	O	P
<p>January ^[1] - 13:1 July ^[1] - 14:17 jump ^[2] - 19:15; 20:19 June ^[3] - 10:8; 13:22; 14:4 jurisdictions ^[2] - 7:16, 21</p>		<p>objectives ^[1] - 6:9 occur ^[1] - 10:15 Ocean ^[4] - 1:10; 3:11; 8:6 ocean ^[32] - 3:13; 5:8, 11-12, 15-17; 6:1, 6, 14, 20; 7:1, 7-8, 10, 12, 14; 8:2, 10, 13; 10:19, 22; 11:19; 12:6, 14, 16; 15:4; 16:8 ocean's ^[1] - 6:19 Oceans ^[7] - 3:13; 6:11, 18; 7:3; 8:11; 9:7 October ^[1] - 1:19 off-shore ^[1] - 17:17 offer ^[2] - 4:17; 15:9 offshore ^[1] - 7:17 often ^[1] - 12:16 oil ^[1] - 17:17 old ^[1] - 17:3 once ^[1] - 5:19</p>		<p>p.m. ^[4] - 1:19; 3:3; 21:19; 22:11 page ^[2] - 4:23; 15:11 pages ^[2] - 4:10; 22:8 Park ^[1] - 1:16 part ^[5] - 6:16; 9:4; 10:23; 11:17 participation ^[1] - 14:20 participatory ^[1] - 14:13 pass ^[1] - 19:21 passed ^[2] - 6:12; 12:21 passes ^[1] - 7:20 passing ^[1] - 18:12 path ^[1] - 20:10 Patrick ^[1] - 6:13 performance ^[1] - 8:4 permit ^[3] - 17:15; 18:3; 20:8 permits ^[5] - 5:19, 23; 17:20; 19:6; 20:6 person ^[1] - 15:21 petroleum ^[1] - 16:5 pick ^[1] - 17:5 piece ^[4] - 8:11; 12:12; 15:16; 17:11</p>
K				
<p>keep ^[1] - 20:20 key ^[1] - 8:11 kind ^[5] - 7:21; 12:17; 14:8; 16:22; 18:9 kinds ^[5] - 6:21; 10:15; 11:11; 12:5; 15:2 known ^[1] - 16:5</p>	<p>MA ^[1] - 1:17 mailing ^[1] - 3:23 main ^[1] - 16:11 mainland ^[1] - 7:19 maintaining ^[1] - 3:23 managed ^[1] - 6:18 Management ^[1] - 3:12 management ^[5] - 7:9; 9:9, 12, 18; 10:20 managing ^[1] - 3:12 map ^[5] - 4:5; 10:13; 16:17, 23; 17:1</p>			
L				
<p>last ^[2] - 12:12; 14:19 lastly ^[1] - 15:10 launched ^[1] - 20:17</p>				

<p>pier [3] - 18:16; 20:3, 5</p> <p>piers [1] - 17:5</p> <p>pile [1] - 13:4</p> <p>pipelines [1] - 8:8</p> <p>place [2] - 5:20; 22:11</p> <p>plan [42] - 3:13; 5:8, 11, 15, 17, 20-21; 6:2; 7:9, 15; 8:10; 9:10, 17, 20-21, 23; 10:4, 7, 12; 11:4, 8, 14, 16; 12:23; 13:3, 8, 20, 22; 14:3, 5, 18; 15:5; 16:21; 18:1, 4</p> <p>planing [1] - 10:14</p> <p>planned [1] - 6:9</p> <p>planning [12] - 3:17; 4:2, 6-7; 5:9; 11:10; 12:15; 13:10; 15:7; 16:16, 19; 17:1</p> <p>Planning [1] - 1:10</p> <p>plans [2] - 9:13; 12:16</p> <p>pleasure [1] - 3:8</p> <p>plug [1] - 15:10</p> <p>plugged [1] - 4:4</p> <p>point [3] - 13:9, 21; 14:15</p> <p>politicians [1] - 20:15</p> <p>possible [1] - 4:14</p> <p>post [1] - 4:22</p> <p>potential [1] - 6:23</p> <p>potentially [1] - 17:11</p> <p>power [1] - 7:19</p> <p>predicated [1] - 6:14</p> <p>presentation [3] - 3:18; 4:16; 5:8</p> <p>Presentation [1] - 2:2</p> <p>pretty [1] - 21:3</p> <p>principle [1] - 6:14</p> <p>priorities [1] - 7:11</p> <p>privately [1] - 19:13</p> <p>privately-financed [1] - 19:13</p> <p>problems [1] - 18:21</p>	<p>proceedings [1] - 21:18</p> <p>process [19] - 3:17; 4:2, 4, 7; 5:9; 10:14; 11:11; 13:21; 14:4; 15:8, 14; 17:15; 18:18; 19:20; 20:2, 8, 12; 21:13</p> <p>product [1] - 9:19</p> <p>products [2] - 10:11; 16:5</p> <p>Professional [1] - 22:16</p> <p>progress [1] - 19:17</p> <p>project [7] - 18:4, 10, 20; 19:2, 7, 13</p> <p>projects [5] - 7:17; 17:6; 19:8, 18, 22</p> <p>promulgate [1] - 9:22</p> <p>promulgated [3] - 10:1; 14:18; 18:1</p> <p>promulgation [1] - 10:4</p> <p>proper [1] - 7:11</p> <p>proponent [1] - 18:2</p> <p>proposed [1] - 8:22</p> <p>protect [3] - 6:8, 19; 7:1</p> <p>protection [2] - 5:12; 15:6</p> <p>protections [1] - 5:16</p> <p>provide [2] - 3:21; 4:13</p> <p>Public [1] - 2:3</p> <p>public [16] - 3:17; 4:7, 21; 6:15; 7:13; 10:5, 8; 11:18; 12:11; 13:6; 14:7, 10, 16</p> <p>pursuant [1] - 3:13</p> <p>put [7] - 3:22; 11:5; 13:10; 17:17; 18:9; 19:6</p> <p>putting [1] - 21:15</p>	<p style="text-align: center;">R</p> <p>rationaly [1] - 6:5</p> <p>raw [2] - 11:15; 13:4</p> <p>read [1] - 16:7</p> <p>ready [2] - 10:7, 10</p> <p>reality [1] - 5:19</p> <p>really [4] - 6:13; 7:3; 10:2, 6</p> <p>reason [1] - 16:11</p> <p>rebuild [1] - 20:4</p> <p>recognizes [2] - 6:18, 20</p> <p>recreational [1] - 9:8</p> <p>refine [1] - 13:19</p> <p>reflected [1] - 15:5</p> <p>Registered [1] - 22:16</p> <p>regulation [1] - 9:18</p> <p>regulations [3] - 9:13; 10:1; 18:14</p> <p>regulatory [3] - 5:18, 22</p> <p>renewable [1] - 8:8</p> <p>Reporter [1] - 22:16</p> <p>representations [1] - 12:3</p> <p>require [1] - 20:6</p> <p>required [2] - 10:12; 11:7</p> <p>requires [3] - 9:21; 10:16; 11:8</p> <p>resource [1] - 6:15</p> <p>resources [1] - 9:15</p> <p>respects [1] - 17:22</p> <p>responsibility [1] - 9:11</p> <p>result [1] - 19:16</p> <p>review [5] - 10:5; 11:4; 14:6, 16, 18</p> <p>reviewed [1] - 11:8</p> <p>reviewing [1] - 12:13</p> <p>Rhode [2] - 20:13, 15</p> <p>River [3] - 1:17; 18:9; 19:14</p> <p>river [1] - 19:16</p> <p>rivers [1] - 16:10</p> <p>road [2] - 7:17; 10:13</p>	<p>rods [1] - 17:2</p> <p>room [1] - 3:20</p> <p>rough [1] - 13:7</p> <p>round [1] - 17:10</p> <p>rules [1] - 18:14</p> <p>run [1] - 5:7</p> <p>running [2] - 4:21; 12:21</p> <p>runs [1] - 16:19</p> <p style="text-align: center;">S</p> <p>sale [1] - 20:13</p> <p>sanctuaries [1] - 8:14</p> <p>Sanctuary [2] - 8:6</p> <p>sand [1] - 8:8</p> <p>scale [5] - 8:15, 20; 9:1</p> <p>scenic [1] - 18:12</p> <p>schedule [2] - 9:19, 21</p> <p>science [3] - 7:7; 10:23; 12:22</p> <p>Sea [2] - 15:20; 16:1</p> <p>seaward [1] - 16:20</p> <p>second [3] - 10:13; 13:18; 16:18</p> <p>Secretary [5] - 3:2, 7; 7:5</p> <p>SECRETARY [5] - 3:4; 16:15; 17:21; 20:1; 21:5</p> <p>secretary [1] - 3:11</p> <p>sections [1] - 12:4</p> <p>see [6] - 12:5, 19; 13:6; 16:23; 19:13; 21:16</p> <p>sense [6] - 5:23; 8:23; 11:7, 18; 12:20; 13:5</p> <p>sent [1] - 18:20</p> <p>series [1] - 3:15</p> <p>session [1] - 14:9</p> <p>Session [2] - 1:11; 3:1</p> <p>sessions [1] - 14:9</p> <p>set [1] - 7:10</p> <p>shaping [1] - 13:7</p> <p>share [1] - 17:22</p> <p>shore [1] - 17:17</p> <p>short [1] - 7:9</p>	<p style="text-align: right;">4</p> <p>shorter [1] - 11:13</p> <p>sign [1] - 3:20</p> <p>sign-in [1] - 3:20</p> <p>signed [2] - 6:12; 21:6</p> <p>significant [2] - 8:2; 10:20</p> <p>simple [1] - 4:15</p> <p>sit [2] - 12:9; 14:11</p> <p>sites [1] - 15:13</p> <p>siting [1] - 7:11</p> <p>sits [1] - 19:22</p> <p>situation [2] - 18:8</p> <p>size [1] - 9:3</p> <p>slide [1] - 14:19</p> <p>slow [1] - 20:12</p> <p>small [5] - 4:18; 12:3; 17:5, 11; 18:21</p> <p>social [3] - 6:4, 8; 12:1</p> <p>sole [1] - 9:11</p> <p>soliciting [1] - 11:18</p> <p>someone [1] - 17:16</p> <p>soon [1] - 21:3</p> <p>space [1] - 6:6</p> <p>speaking [1] - 14:23</p> <p>specific [2] - 12:6; 13:20</p> <p>specifically [3] - 8:3; 14:3; 17:4</p> <p>spend [1] - 20:16</p> <p>sponsored [1] - 19:19</p> <p>spring [3] - 6:13; 7:4; 10:10</p> <p>stakeholder [1] - 12:7</p> <p>standards [2] - 7:11; 8:4</p> <p>start [5] - 11:16; 13:5, 7, 19; 20:8</p> <p>started [2] - 3:5; 16:9</p> <p>State [1] - 19:5</p> <p>state [12] - 3:16; 5:19; 7:16, 20; 8:20; 9:4; 14:1; 16:18, 20; 19:19; 20:3</p> <p>state's [1] - 3:13</p> <p>States [1] - 12:17</p> <p>stay [2] - 4:4; 21:13</p> <p>stenographic [1] -</p>
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<p>22:9 step [2] - 11:15; 13:18 Step [3] - 13:18, 21; 14:16 steps [2] - 11:14; 13:16 stewardship [1] - 7:12 Street [1] - 16:2 structure [1] - 5:18 structured [1] - 10:3 study [2] - 18:12 subject [2] - 9:9; 17:11 submit [2] - 9:22; 10:4 submitted [1] - 14:5 submitting [1] - 4:8 successive [1] - 13:16 summer [2] - 6:13; 10:10 supply [1] - 7:19 supposed [1] - 17:6 sustainable [1] - 7:23</p>	<p>Town [1] - 8:21 transcription [1] - 22:8 transparent [1] - 18:2 transporting [1] - 16:4 tremendous [1] - 10:21 triangle [1] - 17:9 true [1] - 22:8 trust [2] - 6:15; 7:12 try [1] - 19:3 trying [1] - 4:13 tug [1] - 20:11 tugboat [1] - 16:4 turbines [1] - 8:22 two [1] - 10:11 type [1] - 19:7</p>	<p>16:10, 20 ways [3] - 11:5; 12:2; 13:12 web [3] - 4:10, 23; 15:11 website [1] - 21:8 welcome [2] - 3:9; 21:10 whale [1] - 12:8 whole [1] - 12:17 wide [3] - 3:16; 14:1; 16:19 wild [1] - 18:11 wind [2] - 7:17; 8:20 windmill [1] - 17:16 winter [2] - 10:9; 14:10 wish [2] - 19:23; 20:22 works [2] - 10:19; 17:3 world [3] - 11:19; 12:17, 19 written [1] - 4:8</p>
T	U	
	<p>under [3] - 8:5, 7, 10 United [1] - 12:17 up [11] - 4:5, 17; 5:5; 10:6; 14:12; 15:21; 17:5; 18:22; 20:11, 19; 21:6 upset [1] - 18:23 uses [10] - 5:13, 16; 6:6, 21-22; 7:15; 8:1, 5; 9:9</p>	Y
	V	<p>years [2] - 11:8; 18:19</p>
<p>table [1] - 13:4 Taunton [2] - 18:9; 19:14 term [4] - 10:14; 11:1, 11, 13 terms [1] - 11:13 thinking [1] - 9:6 thinks [1] - 8:23 third [3] - 16:19; 17:4, 10 Thoughts [1] - 15:7 thoughts [2] - 11:21; 14:21 thousands [1] - 19:3 three [1] - 19:18 titled [1] - 14:20 tonight [2] - 4:18; 13:14 took [1] - 18:17 total [1] - 18:14</p>	<p>video [1] - 4:20 videos [1] - 4:22 videotaping [1] - 4:21 view [1] - 4:23</p>	Z
	W	<p>Zone [1] - 3:11</p>
	<p>wake [1] - 18:22 Wall [1] - 16:2 walls [1] - 13:11 wants [2] - 20:4 watch [1] - 12:8 water [3] - 17:7, 13; 19:7 waters [8] - 5:13, 16; 7:12, 18; 8:20, 22;</p>	