

1 IN THE UNITED STATES PATENT TRADEMARK OFFICE

2 BEFORE THE PATENT TRIAL AND APPEAL BOARD

3 CASE IPR2024-01179

4 PATENT NO. 11,780,689

5 ISSUE DATE: OCTOBER 10, 2023

6
7 SOLARIS OILFIELD SITE SERVICE OPERATING, LLC AND SOLARIS

8 OILFIELD SITE SERVICES PERSONNEL, LLC,

9 Petitioners,

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11 V.

12
13 MASABA, INC.,

14 Patent Owner

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19
20 DEPONENT: DAN BRINKMAN

21 DATE: JUNE 18, 2025

22 REPORTER: NIYA JORDAN

APPEARANCES

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Smith, Notary Public

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19
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21
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INDEX

	Page
PROCEEDINGS	6
DIRECT EXAMINATION BY MR. MORICIO	7
CROSS-EXAMINATION BY MR. NYDEGGER	162

EXHIBITS

Exhibit	Page
1043 - Proposal	137
1045 - Email From Jeremy Weinstein	79
1046 - Specification Sheet	79
1060 - Declaration of Dan Brinkman	111

STIPULATION

The deposition of DAN BRINKMAN was taken at WOODS,
FULLER, SHULTZ & SMITH P.C. 300 SOUTH PHILLIPS AVENUE,
UNIT 300, SIOUX FALLS, SD 57104 on Wednesday the 18th
day of JUNE 2025 at approximately 8:30 a.m.; said
deposition was taken pursuant to the Rules of Civil
Procedure.

It is agreed that NIYA JORDAN and RACHEL SMITH, being a
Notary Public and Court Reporter for the State of SOUTH
DAKOTA, may swear the witness and that the reading and
signing of the completed transcript by the witness is
not waived.

PROCEEDINGS

THE REPORTER: We are on the record. My name is Niya Jordan, court reporter on behalf of Planet Depos. Today is June the 18, 2025. It's 8:30 a.m., and we are here for the deposition of Dan Brinkman.

Will everyone, but the witness, please state your appearance starting with the plaintiff's counsel?

MR. MORICIO: Paul Moricio with the law firm of Baker Botts, with me is Brian Hausman on behalf of the Petitioner, Solaris.

MR. NYDEGGER: Chad Nydegger of Workman Nydegger on behalf of the Patent Owner, Masaba.

THE REPORTER: Thank you. And then at this time, Rachel, do you want to swear in Mr. Brinkman?

THE REPORTER: Mr. Brinkman, please raise your right hand. Do you solemnly swear or affirm that the testimony you're about to give will be the truth, the whole truth, and nothing but the truth?

THE WITNESS: Yes.

THE REPORTER: All right, Counsel, you may

1 begin.

2 MR. MORICIO: Okay. Thank you.

3 DIRECT EXAMINATION

4 BY MR. MORICIO:

5 Q. Mr. Brinkman, could you just state your full
6 name for the record?

7 A. Dan Brinkman.

8 Q. And where do you reside, sir?

9 A. In Yankton, South Dakota.

10 Q. Okay. Have you ever been deposed before?

11 A. No.

12 Q. Okay. You understand that your testimony here
13 today is under oath, and is the same -- carries the same
14 weight as though you were testifying in court?

15 A. Yes.

16 Q. Okay. So far you're doing pretty well, just a
17 couple of ground rules for the deposition today. It's
18 really important for the reporter that you let me finish
19 my question before you answer; is that okay?

20 A. Yes.

21 Q. All right. Also, if there's anything about my
22 question, you don't understand, I would ask you to ask

1 me to clarify, or explain why you don't understand it,
2 otherwise, I'll assume you understood my question when
3 you answered it, fair?

4 A. Okay.

5 Q. All right. Also, you'll need to give audible
6 responses. Shaking your head or nodding your head is
7 not appropriate. We need audible responses from you.

8 Do you understand that?

9 A. Yes.

10 Q. Okay. Finally, is there any reason why you
11 can't give truthful testimony today?

12 A. No. No reasons.

13 Q. Okay. So in preparation for your deposition
14 today, other than your counsel, did you speak with
15 anybody?

16 A. No.

17 Q. Okay. Did you speak with a Mr. Mike Stanton
18 at all in connection with this matter?

19 A. I spoke with Mike Stanton when we were working
20 on the project.

21 Q. When you say the project, you mean the design
22 project for Solaris?

1 A. The design project for Anchor.

2 Q. Yeah, okay. And you're making that
3 distinction because it was Anchor who hired Masaba; is
4 that right?

5 A. Yes.

6 Q. Okay. And since that project ended you -- is
7 it your testimony you've had no discussions with Mr.
8 Stanton?

9 A. I've talked to Mike maybe once or twice since
10 the project ended.

11 Q. Okay. And what was the context in which you
12 spoke with Mr. Stanton after the project ended?

13 A. A couple times or -- more or less seeing how
14 the project was going, once it was up and running, and
15 then some communication about some additional units
16 being built.

17 Q. Okay. Did you have any discussions with him
18 since the lawsuit by Masaba was filed against Solaris?

19 A. Yes.

20 Q. Okay. And when was the first time you had a
21 conversation with him after the lawsuit was filed?

22 A. I -- it probably been couple years -- a year

1 for sure.

2 Q. Okay. When was the last time you had a
3 conversation with him?

4 A. A year ago.

5 Q. Okay. Do you know that he submitted a
6 declaration in connection with this petition before the
7 U.S. Patent and Trademark office?

8 A. Yes.

9 Q. Okay. Did you read out reach out to Mr.
10 Stanton about submitting the petition in this matter?

11 A. Can you restate that?

12 Q. Yes. Did you have any discussions with Mr.
13 Stanton about his declaration in this case?

14 A. No.

15 Q. Okay. Did you have any conversations with Mr.
16 Stanton about your declaration in this matter?

17 A. No.

18 Q. Okay. And so the last time you spoke with
19 him, you said was about a year ago; is that right?

20 A. Yes, that is correct.

21 Q. Okay. And what was the nature of your
22 conversations with Mr. Stanton at that time?

1 A. The nature was to find additional key
2 spokesmen that we could use for the case.

3 Q. Okay. And why did you think Mr. Stanton could
4 be a key spokesman for the case?

5 A. Because he's very familiar with the industry
6 and was a key part of the project between Masaba and
7 Solaris.

8 Q. Okay. At the time you had discussions with
9 Mr. Stanton, was he still employed at Anchor?

10 A. No.

11 Q. Okay. What in substance do you recall of the
12 conversations you've had with him since the lawsuit was
13 filed?

14 A. In substance? You mean --

15 Q. What'd you talk about, in simple terms?

16 A. More or less, if he would be willing to work
17 with Masaba and then, you know, if he'd be -- help us
18 through this case.

19 Q. Okay. And why did you think he might be able
20 to help you in this case?

21 A. The fact that he was a -- a key component
22 between Masaba and Solaris, so he knew a -- a lot of

1 what happened throughout the year -- the years.

2 Q. Okay. Had you had any involvement or work
3 with Mr. Stanton prior to the Solaris project?

4 A. No.

5 Q. Okay. Had Masaba worked with Anchor on any
6 projects prior to the Solaris project?

7 A. No.

8 Q. Has Solaris worked with Anchor since the --
9 I'm sorry, has Masaba worked with Anchor since the
10 Solaris project?

11 A. On projects, no.

12 Q. Okay. You hesitated there for a second. What
13 you must have been thinking about, perhaps you worked
14 with them on something else?

15 A. There was a -- we did a second project while
16 this project was finishing.

17 Q. Okay. And what was the second project for?

18 A. Solaris

19 Q. I see, you're talking about the second unit
20 that you-all were building for them?

21 A. We designed the second unit. We also made a
22 belt conveyor that goes between the silos.

1 Q. So this is a device that is not the
2 transportable unit, but something that goes between two
3 silos?

4 A. Yes. It goes between the six silos.

5 Q. I see. Okay. As far as you know, that design
6 was not the subject of this dispute?

7 A. Correct, that is not.

8 Q. Okay. Do you know if Masaba ever built a unit
9 of that type for Solaris?

10 A. Which type?

11 Q. The belt conveyor between the two silos, the
12 second project you talked about?

13 A. Yes. We built one unit between -- that goes
14 between the six silos.

15 Q. Okay. Okay. Now, your background is in
16 industrial engineering; is that right? Your degree is
17 in industrial engineering; is that fair?

18 A. Yes.

19 Q. Okay. And when did you get your degree?

20 A. 2003.

21 Q. Okay. And where did you get it?

22 A. School of Mines.

1 Q. In Colorado?

2 A. South Dakota.

3 Q. Oh, okay, so I see -- and was that a
4 bachelor's in industrial engineering?

5 A. Yes.

6 Q. Okay. How would you characterize industrial
7 engineering?

8 A. I would characterize industrial engineering as
9 a -- a way to make improvements and process changes to
10 make the business better.

11 Q. Okay. So it is it fair to say it's mostly
12 focused on manufacturing processes in connection with
13 the production of products?

14 A. The title is, yes.

15 Q. Okay. In connection with your industrial
16 engineering design or engineering classes, did you take
17 any mechanical engineering classes?

18 A. Yes.

19 Q. Which ones?

20 A. All the calc classes, stats dynamics, fluids.

21 Q. Strength of materials?

22 A. I didn't have to do that one, no.

1 Q. Okay. Thermodynamics?

2 A. Yes.

3 Q. Okay. Did you have to take any electrical
4 engineering classes as part of your degree?

5 A. Yes.

6 Q. Okay. Linear circuits?

7 A. No, I didn't take that, that I remember.

8 Q. Okay. Which -- do you remember which
9 electrical engineering class you took?

10 A. I started out as an electrical engineer, so I
11 took three or four different classes. Of course, you
12 take a EE 101, 201, 222, and then I think there's a lab
13 in there as well.

14 Q. Okay. And your current position at Masaba is
15 director of -- is it engineering or manufacturing?

16 A. Current role is director of manufacturing
17 engineering.

18 Q. Okay. Is there someone else who holds the
19 title of director of engineering?

20 A. Yes.

21 Q. And who is that?

22 A. Dave.

1 Q. Dave. I'm sorry, his full name?

2 A. Dave Carda.

3 Q. Okay. And how long has Mr. Carda been with
4 the company?

5 A. About two and a half years.

6 Q. Okay. In connection with the Solaris project,
7 who on the Masaba side was the project lead; was it you?

8 A. Yes.

9 Q. Okay. And at that time, your position, or
10 your title, was what?

11 A. Engineering manager.

12 Q. Okay. And how is it that -- and your
13 interface at Anchor, was Mr. Stanton?

14 A. Interface, being who we talked to?

15 Q. Correct?

16 A. Yes, Mike Stanton.

17 Q. Okay. And how is it that you became connected
18 with Mr. Stanton in connection with the Solaris project?

19 A. So Anchor reached out to Masaba through our
20 sales department. Our sales department worked through
21 engineering, by working through those, that is how we
22 worked through the project.

1 Q. Okay. And then your sales department brought
2 you -- involved to lead the project?

3 A. Being the engineering manager, I assume that
4 role for several hundreds of projects throughout the
5 years as an engineering manager.

6 Q. Okay. How many people report to you?

7 A. For engineering manager I had anywhere from 13
8 to about 18 employees.

9 Q. Okay. And what about in your current role as
10 director of manufacturing engineering?

11 A. Currently, five direct reports.

12 Q. And how many report to those five direct
13 reports?

14 A. Probably another 20.

15 Q. Okay. And what are the positions of the five
16 direct boards?

17 A. Three manufacturing engineers.

18 Q. And what about the other two?

19 A. A BOM and quote analyst. Bill of material and
20 quote analyst.

21 Q. Okay. And what about the fifth one?

22 A. Fab department lead.

1 Q. Okay. Is the fab department lead in charge
2 of, sort of, building prototypes and testing?

3 A. No.

4 Q. Who would that fall under?

5 A. It doesn't fall under that. We don't have a,
6 per se, person that does that -- that's working through
7 engineering that leads that.

8 Q. I see. Okay. Are you a licensed professional
9 engineer in any state?

10 A. No.

11 Q. Approximately, how many people work at Masaba?

12 A. About 200.

13 Q. Okay. And how would you characterize Masaba's
14 business?

15 A. Manufacturer that can design and build heavy
16 equipment for the world.

17 Q. So you both design and manufacture the
18 equipment; is that fair?

19 A. Yes.

20 Q. Okay. Is that common amongst your
21 competitors?

22 MR. NYDEGGER: Objection. Form.

1 BY MR. MORICIO:

2 Q. Sure. So some companies do just design,
3 engineering design work; is that fair?

4 A. Yes.

5 Q. Okay. And some companies just do
6 manufacturing of products that's designed -- that have
7 been designed, correct?

8 A. Yes.

9 Q. Okay. But Masaba does both, correct?

10 A. Yes.

11 Q. Okay.

12 A. Others do both as well.

13 Q. Okay. Okay. Does Anchor do both?

14 MR. NYDEGGER: Objection. Foundation.

15 BY MR. MORICIO:

16 Q. Okay. Do you do you know what Anchor's
17 business is?

18 A. Not 100 percent, no.

19 Q. Okay. Do you know what their role was in the
20 Solaris project?

21 A. Yes.

22 Q. Okay. Can you describe what you understood

1 their role to be?

2 A. Their role was working with a customer to get
3 their documentation on what they are looking for and
4 then find a company to help design and build that
5 product.

6 Q. Okay. What involvement, if any, did they have
7 in the design?

8 A. The design side? Not a lot. Just a lot of
9 Teams meetings for us to go through the information and
10 the designs that they have been working through.

11 Q. Okay. And who is the individuals at Anchor
12 that you worked with, or that were involved, in those
13 design meetings?

14 A. Mike Stanton. And then Dan Trantham.

15 Q. Anyone else you can think of?

16 A. They were in the meetings, those two.

17 Q. And do you know what Dan's position was at
18 Anchor?

19 A. I believe Dan is the president there, or co-
20 president.

21 Q. Do you have any sense of how big Anchor is?

22 A. I do not.

1 Q. Okay. You mentioned the manufacturing
2 department. You've mentioned engineering department.

3 What other departments are there within
4 Masaba?

5 A. Sales, assembly, weld, fab, paint.

6 Q. How many -- approximately the 200 employees of
7 the company, how many -- approximately how many are
8 engineers?

9 A. Thirty -- 30 to 35.

10 Q. And you mentioned, roughly, five direct
11 reports and about 20 fall under you, did the rest of the
12 engineering folks report to Mister -- is it Carda?

13 A. Yes.

14 Q. Okay.

15 A. Some of them are also -- our leadership are
16 also engineers.

17 Q. Say that again, I'm sorry.

18 A. Our leadership is also engineers as well.

19 Q. I see. Mr. Brenden? Jason Brenden? Are you
20 familiar with him?

21 A. Yes.

22 Q. And Tyler Dewitt?

1 A. Yes.

2 Q. Okay. Are they both still employed by Anchor
3 -- I'm sorry, no, Masaba?

4 A. By Masaba, yes.

5 Q. Okay. And they were employed by Masaba during
6 the time of the Solaris project; is that right?

7 A. Yes.

8 Q. Okay. And Mr. Brenden, at that time, did he
9 report to you?

10 A. Yes.

11 Q. Okay. And the same with Mr. Dewitt?

12 A. Yes.

13 Q. Okay. And what is their backgrounds? Do they
14 have bachelor's degrees?

15 A. Yes.

16 Q. Okay. In what disciplines? Let's start with
17 Mr. Brenden.

18 A. Mechanical engineer.

19 Q. Okay. And what about Mr. Dewitt?

20 A. Mechanical engineer.

21 Q. Do they still report -- do they report to you
22 today in your current role?

1 A. Yes and no. Tyler does. Jason does not.

2 Q. Okay. Who does Mr. Brenden report to today?

3 A. Dave.

4 Q. I see. Okay. At the time during the Solaris
5 project, did Masaba have a director of manufacturing
6 engineering and a director of engineering? Were those
7 two separate positions at that time?

8 A. No.

9 Q. Okay. How would you characterize Mr.
10 Brenden's role in the design work that was done for
11 Anchor in connection with the Solaris project?

12 A. Engineer that worked on the majority of the
13 project.

14 Q. And what about Tyler's role?

15 A. Engineer that worked on -- it's again,
16 majority of the project, three-fourths at least.

17 Q. Okay. Is it fair to say that those two were
18 -- the two guys sort of in the weeds of the design?

19 MR. NYDEGGER: Objection. Form. Compound.

20 THE WITNESS: Yes.

21 BY MR. MORICIO:

22 Q. Okay. What involvement did you have in the

1 project?

2 A. A lot of involvement working with the
3 engineers.

4 Q. In connection with the design choices that
5 were made with respect to the design, did you have any
6 involvement with that?

7 A. Yes.

8 Q. Okay. Can you describe what involvement you
9 had with respect to the design?

10 A. Help them work with and determine key
11 components. Help them make daily decisions on where
12 they were in the design. Help them line up calls and
13 keep the project moving.

14 Q. Okay. Were there any control -- does Masaba
15 employ any control systems engineers?

16 A. Define control systems.

17 Q. Sure. Electrical engineers, that design
18 motors, that sort of thing?

19 A. No, we do not have any electrical engineers.

20 Q. Okay. The conveyor that you built -- designed
21 and built for Anchor, and in turn, for Solaris, that
22 employed motors, correct?

1 A. Yes.

2 Q. Okay. And who -- so those motors, were they
3 just off the shelf motors?

4 A. Yes.

5 Q. Okay. So Masaba's has never built a
6 customized motor for a product; has it?

7 MR. NYDEGGER: Objection. Foundation.

8 THE WITNESS: Yes, we have.

9 BY MR. MORICIO:

10 Q. Okay.

11 A. Just to expand on that, what are you talking
12 the windings, the casing, the motor, no.

13 Q. No.

14 A. We help the supplier determine what shaft --
15 output shaft should be on it, other than that, that's
16 the only design choice we have in motors.

17 Q. Okay. So in other words, motors have
18 different horsepower and different shafts sizes, that
19 sort of thing, through the design process you have
20 involvement in making those selections, but actually
21 building the motor, that's something you don't do; is
22 that fair?

1 A. Correct.

2 Q. Okay. Was there anything about the motor
3 selection or design for the Solaris project that was
4 unique?

5 A. No.

6 Q. Okay. Did you have any involvement in this --
7 at some point, the elevator went from a conveyor type of
8 design to a bucket elevator; is that fair?

9 A. Yes.

10 Q. Okay. Did you have any involvement in the
11 decision to make that change?

12 A. I help the engineers put the e-mails together
13 to say, here's the direction we think you should go.

14 Q. Okay. And in part that -- was that decision
15 driven by Solaris's goal of having a transportable
16 conveyor that had a small footprint in this -- in the
17 area?

18 MR. NYDEGGER: Objection. Form.

19 THE WITNESS: It helped decrease the -- the
20 footprint.

21 BY MR. MORICIO:

22 Q. Right. Okay. In fact, when the decision was

1 made to go to a 90-degree elevator, was a bucket
2 elevator the only real choice?

3 MR. NYDEGGER: Objection. Vague.

4 THE WITNESS: No.

5 BY MR. MORICIO:

6 Q. Okay. What other design options were there
7 for an elevator that was a component of the conveyor
8 that was going to be vertical?

9 MR. NYDEGGER: Objection. Form.

10 BY MR. MORICIO:

11 Q. Let's get some common terminology. You
12 understand what I'm talking about when I'm talking about
13 the elevator section of the conveyor?

14 A. The incline section?

15 Q. Incline section, okay. What would you call,
16 just so we have the common nomenclature today, what
17 would you call the system that you built or designed for
18 Solaris? What would the, sort of, system be called
19 generally? What would you call it?

20 A. Silo loader.

21 Q. Okay. And the silo loader has an incline
22 section; is that right?

1 A. Yes.

2 Q. Okay. And that's the --

3 A. Vertical or incline, it can be either.

4 Q. Okay.

5 A. Ours is definitely vertical.

6 Q. Okay. And then there is a section that
7 actually delivers the frac sand to the silos, right? A
8 generally horizontal section; is that right?

9 A. Yes.

10 Q. What would you call that section?

11 A. On our design, our final design, articulated
12 conveyors.

13 Q. Okay. And then there's a section of the silo
14 loader where proppant or frac sands are delivered to the
15 silo loader, correct, by a truck, generally; is that
16 right?

17 A. Call that the hopper or truck unloader.

18 Q. Okay. Any other, sort of, major components to
19 the silo loader? I just want to make sure we have
20 common nomenclature for today.

21 A. Yes.

22 Q. What are the other sort of major components?

1 A. You have the outriggers, hydraulic unit,
2 control unit, telescoping spout, lift cylinders, lift
3 arms, undercarriage, ramps.

4 Q. Okay. And the control unit, is that the
5 electronics that run the system?

6 A. That's the panel that houses the components
7 for running the motors.

8 Q. And who designed that?

9 A. A panel shop we work with.

10 Q. Is that a company outside of Masaba?

11 A. Yes.

12 Q. Okay. So I assume there's software that runs
13 the control unit; is that right?

14 A. I believe we had a PLC on there, yes.

15 Q. Okay. And this outside company, they did all
16 of the work in connection with that, in programming the
17 control units?

18 A. Yes.

19 Q. Okay. What's the name of that company?

20 A. Automated Drive. Automated Drive Systems.

21 Q. And is that a company you've worked with
22 before?

1 A. Yes.

2 Q. Okay. The lift cylinders, what major
3 component is that part of?

4 A. That's what lifts the entire unit up into the
5 air.

6 Q. Okay.

7 A. A set that lifts the bucket elevator and a set
8 that lifts the articulating conveyors.

9 Q. I see. Okay. These are the hydraulic arms
10 that basically lift the -- those different components
11 from the transport position to the operating position?

12 A. Yes.

13 Q. I see, okay. And are there two such
14 cylinders, one set for the incline section, one set for
15 the articulated conveyor?

16 A. Yes.

17 Q. Okay. And those are controlled or operated by
18 the control unit; is that right?

19 A. Hydraulic power unit.

20 Q. Which in turn is controlled by the control
21 unit?

22 A. No.

1 Q. So it's independent?

2 A. Yes.

3 Q. Okay.

4 A. The hydraulic unit is typically independent of
5 a control unit.

6 Q. Okay. And is that operated manually by a --
7 by a human, generally?

8 A. Yes.

9 Q. Okay. So these are like levers where, I don't
10 know, someone out in the oilfield, for example, in
11 connection with this, would basically lift these
12 different components using levers in the hydraulics?

13 A. Yes.

14 Q. I see. Okay. The ramps, are those for the
15 truck unloader section?

16 A. Yes.

17 Q. Okay. And the outriggers, those are basically
18 arms that stabilize the base of the unit; is that right?

19 A. Yes.

20 Q. Okay. And the silo loader that you designed
21 for Solaris, that had -- that was a transportable unit,
22 correct?

1 A. Yes.

2 Q. Okay. And it was intended to be basically
3 transported with a -- is it -- was is it a tractor or
4 trailer? I always get -- I guess it would be a tractor.
5 Tractor truck?

6 A. Yes.

7 Q. Okay.

8 A. Semi.

9 Q. Okay. And the unit itself would be the
10 trailer in this instance; is that right?

11 A. Correct.

12 Q. Okay. Prior to the Solaris project, had you
13 designed transportable units before for customers?

14 A. Yes.

15 Q. Okay. In what industries?

16 A. Aggregate, frac, mining.

17 Q. How -- what are you defining aggregate as?

18 A. Aggregate, I would define as rock quarries,
19 small or large rock quarries. So they could manufacture
20 sand, stone, rock.

21 Q. Would frac be included in your definition of
22 aggregate?

1 A. Probably not. No.

2 Q. Okay. What comes to mind when you build sort
3 of a driveway -- I had a driveway built to my house, not
4 that long ago, where they put down some crush granite or
5 gravel, and then they put the concrete over it. Would
6 the crushed stone in that context be aggregate in your
7 mind?

8 A. There's crushed stone under the concrete.
9 There's crushed stone inside of the concrete as well.

10 Q. And would both --

11 A. So aggregate would be in both.

12 Q. Both of those. Okay. So it's basically rock
13 that's been mined and crushed, and then later used for
14 industrial use; is that fair?

15 A. Yes, that's pretty fair.

16 Q. Okay.

17 A. Some, they don't always crush or some could be
18 sand. Some could be small particles that they just wash
19 out as well.

20 Q. Okay. You may have -- I know I asked this and
21 I apologize. Your answer with respect to frac sand as
22 to whether that was aggregate was what?

1 A. For us, no.

2 Q. Okay.

3 A. We typically define frac sand as a different
4 industry than the aggregate.

5 Q. Okay. Why is that?

6 A. Frac sand does not flow like aggregate.

7 Q. Is it finer than aggregate?

8 A. Yes.

9 Q. Okay. So smaller diameter material?

10 A. Yes.

11 Q. Okay. Are there any other differences? Is it
12 -- let me ask you this. Are both considered dry
13 materials?

14 A. No.

15 Q. Okay. Which or both are not? Let me break it
16 down. Is frac sand generally considered a dry material?

17 A. For this project, it was. On other project,
18 it is not.

19 Q. Okay.

20 A. Frac sand goes through a mining process, comes
21 out of the ground wet. They dry it down, and then coat
22 it.

1 Q. Okay. But by the time it gets transported
2 through a silo loader, such as the one that was being
3 designed for Solaris, it's dry at that point; is that
4 fair?

5 A. No. They -- Solaris does everything dry. I
6 know others do it transport and pile stuff wet.

7 Q. Okay. The use that Solaris had contemplated
8 for its silo loader, was that supposed to be dry?

9 A. Yes. I believe they also talked about trying
10 to do and use it in wet form as well.

11 Q. Okay. Was the system intended to be --
12 designed to deliver wet frac sands from the truck to the
13 silos?

14 A. No.

15 Q. Was that a design constraint?

16 A. No.

17 Q. Okay. So the intent to go from the truck to
18 the silos, the material, the frac sands that was
19 supposed to be delivered, that was intended to be dry.

20 A. Yes.

21 Q. Okay. Is there anything different in the
22 diameter size of the material between aggregate and frac

1 sand?

2 MR. NYDEGGER: Objection. Foundation.

3 THE WITNESS: No. The frac sand or sand
4 depends on how you pull it out of the earth and
5 separate it, could be the same size.

6 BY MR. MORICIO:

7 Q. Okay. Where -- what is the source generally
8 of frac sand to your understanding?

9 A. Not a -- not 100 percent on how to answer that
10 one, but fields or, you know, kind of flat areas where
11 they have abundance of this type of sand. It's not
12 found everywhere or anywhere.

13 Q. Okay. Is Beach sand the type of sand we're
14 talking about?

15 A. No.

16 Q. No. Okay. But it's not soil either, right?

17 A. Correct.

18 Q. Okay. You said you've also done some work in
19 designing equipment for the mining industry. Can you
20 describe generally what type of equipment that is?

21 A. So all of our equipment can be portable or
22 stationary. For them, we would do conveyors or

1 crushers, screens, screen plants.

2 Q. So you've designed some of the crushers and
3 the screens that are used to filter out the material?

4 A. No.

5 Q. Okay. How about any of the mining equipment
6 itself?

7 MR. NYDEGGER: Objection. Vague.

8 THE WITNESS: What type of mining equipment?

9 BY MR. MORICIO:

10 Q. So the equipment that's actually used to mine
11 the rock or the material of interest.

12 A. No.

13 Q. Okay. So is -- your sort of focus on the
14 devices that convey the mined material?

15 A. No. We --

16 Q. Conveyor type systems or -- sorry.

17 A. Yeah. No. No. We do pretty much anything
18 from conveyors to wash plants to screen plants to
19 crushers. It could be whatever the customer is looking
20 for.

21 Q. Okay. Has -- did -- had Masaba designed any
22 systems for the handling of frac sands prior to the

1 Solaris project?

2 A. Yes.

3 MR. NYDEGGER: Objection. Foundation.

4 BY MR. MORICIO:

5 Q. Okay. And which types of systems? What other
6 frac related systems had you designed?

7 MR. NYDEGGER: Objection. Foundation.

8 THE WITNESS: Conveyor.

9 BY MR. MORICIO:

10 Q. And in what -- how many different types?

11 MR. NYDEGGER: Same objection.

12 THE WITNESS: Define times for me, please.

13 BY MR. MORICIO:

14 Q. The types. I'm sorry. What -- let me just
15 ask you this. So -- was it one or more conveyors you
16 had -- for frac sands you had designed prior to the
17 Solaris project?

18 A. More than one.

19 MR. NYDEGGER: Objection. Foundation.

20 THE WITNESS: More than one.

21 BY MR. MORICIO:

22 Q. Approximately how many?

1 MR. NYDEGGER: Same objection.

2 THE WITNESS: I don't know exact number. We've
3 designed many units over the years.

4 BY MR. MORICIO:

5 Q. How many had you personally designed prior to
6 the Solaris project?

7 A. Personally? None.

8 Q. Okay. How about, do you know if Mr. Brenden
9 had designed any frac conveyors prior to the Solaris
10 project?

11 A. Yes.

12 Q. Okay. How about Mr. Dewitt?

13 A. Hard to remember. Maybe both done hundreds of
14 designs.

15 Q. Okay. Do you know anything about the frac
16 conveyor that Mr. Brenden had designed prior to the
17 Solaris project?

18 A. Details, off the top of my head, no.

19 Q. Okay. Were these transportable conveyors?

20 A. Yes.

21 Q. Okay. And were they for use in conveying frac
22 sands to silos?

1 A. Define silos.

2 Q. Okay. Storage containers, vertical storage
3 containers.

4 A. No.

5 Q. Okay. What were these conveyors, what was the
6 context in which they were used?

7 MR. NYDEGGER: Objection. Foundation.

8 THE WITNESS: When you say context, what are
9 you trying to --

10 BY MR. MORICIO:

11 Q. Yeah. So the Solaris conveyors were designed
12 to deliver frac sands to silos, right, to deliver them
13 from sort of ground level to some vertical distance,
14 vertical heights; is that fair?

15 A. Yes.

16 Q. Okay. And you talked about there were prior
17 conveyors Masaba and in particular, Mr. Brenden had
18 designed involving frac sands prior to the Solaris
19 project. My question was, what types of conveyors were
20 they -- were these? Let me just maybe ask the more
21 general question.

22 MR. NYDEGGER: Objection. Foundation.

1 THE WITNESS: As all conveyors, they're
2 conveyors to convey material, a little with -- and a
3 little bit of an incline.

4 BY MR. MORICIO:

5 Q. Were any of them designed to deliver them to
6 silos that were tens of feet high?

7 MR. NYDEGGER: Objection. Foundation.

8 THE WITNESS: Sure, ten-feet high, something
9 like that.

10 BY MR. MORICIO:

11 Q. Okay. What about 70-feet high?

12 A. No.

13 Q. Okay. So is it fair to say that the silo
14 loader that Masaba was designing for Solaris was the
15 first silo loader that Masaba had designed that was
16 intended to deliver frac sands at a height of say 50 or
17 70 feet?

18 MR. NYDEGGER: Objection. Foundation.

19 THE WITNESS: Yes, I believe so.

20 BY MR. MORICIO:

21 Q. Okay. What was the closest product to the
22 Solaris design that Masaba had designed previously?

1 MR. NYDEGGER: Objection. Vague with -- vague
2 and foundation.

3 BY MR. MORICIO:

4 Q. Well, let me ask you. What would you
5 characterize as the most relevant prior experience
6 Masaba had in connection with doing the design and
7 manufacturing work for Solaris?

8 A. There are several. Our truck and motors, we
9 do quite often and there's a conveyor on pretty much
10 every product that we design and build.

11 Q. And so these are -- these conveyors -- so a
12 truck will deliver material to the conveyor, and then
13 the conveyor will deliver it someplace else?

14 A. No.

15 Q. Okay. Help me understand what truck unload or
16 conveyors that you're talking about. What are these?

17 A. If you look on this diagram, pretty much that
18 first portion of that entire unit is a truck and motor.

19 Q. What are you pointing to? Is this your
20 declaration?

21 A. Declaration on Page 3.

22 Q. So can you just maybe circle the part that

1 you're referring to? Actually, I'll give you a red pen.
2 If you could just circle the truck unloader part that
3 you -- had Masaba had previously did some design work
4 on.

5 MR. NYDEGGER: Objection. Misstates the
6 testimony.

7 BY MR. MORICIO:

8 Q. Can you just circle the component you just
9 testified about?

10 A. Yes.

11 Q. Okay.

12 MR. NYDEGGER: Can I see that?

13 BY MR. MORICIO:

14 Q. You did not circle the inclined section in
15 Paragraph 4; is that right?

16 A. Correct.

17 Q. Had Masaba designed any inclined sections
18 previously for the delivery of frac sands prior to the
19 Solaris project?

20 A. Yes.

21 Q. Okay. And what was the angle of incline of
22 those sections that it previously designed?

1 MR. NYDEGGER: Objection. Vague. Compound.

2 THE WITNESS: Can you rephrase that?

3 BY MR. MORICIO:

4 Q. Yeah. So you previously designed inclined
5 sections for the delivery of frac sands, correct?

6 A. Yes.

7 Q. Okay. Were any of those inclined sections at
8 90 degrees?

9 A. No.

10 Q. Okay. What was the largest angle of an
11 inclined section Masaba had previously designed for the
12 delivery of frac sand prior to Solaris project?

13 MR. NYDEGGER: Objection. Foundation. Also,
14 Paul, can you tell me how this is related to his
15 declaration? He's not here on a personal deposition
16 that's open to anything and everything. The
17 testimony is supposed to be limited to examination
18 on his declaration. And I've let you go, but can
19 you help me understand how these prior projects are
20 related to his declaration?

21 MR. MORICIO: Sure. Absolutely. I mean, his
22 whole declaration talks about his prior experience

1 and Masaba's prior experience in designing these
2 systems. We're talking about Paragraph 4 of his
3 declaration in connection with the prior work that
4 he's done.

5 MR. NYDEGGER: The declaration talks about the
6 evolution of this project. The declaration does not
7 talk about all the prior projects that Masaba did.

8 MR. MORICIO: Sure. The evolution of this
9 project builds on prior projects. I'm just trying
10 to get an understanding of what his experience is
11 going into this project, what their prior background
12 is.

13 MR. NYDEGGER: I'll let -- we'll see -- let you
14 go a little longer, see if you actually tie it to
15 the declaration. If not, then we'll ask you to move
16 on.

17 BY MR. MORICIO:

18 Q. Can you answer that question?

19 A. Can you repeat the question?

20 Q. Sure. Had you designed -- what was the angle
21 of incline for the inclined section for the prior frac
22 sand delivery systems you had worked on prior to the

1 Solaris project?

2 A. Most all conveyors have a range of 18 to 21
3 degrees on conveyors. Frac sand flows like water. So
4 frac sand has a angle less than 18 degrees, probably
5 closer to 10 to 12 degrees.

6 Q. Okay. And whose decision was it in connection
7 with the Solaris project to impose a 90-degree angle for
8 the incline section?

9 MR. NYDEGGER: Objection. Vague.

10 THE WITNESS: The team's decision.

11 BY MR. MORICIO:

12 Q. Okay. Was that based on Solaris' constraint
13 of having a small footprint in the space?

14 A. It was based on that and several other factors
15 as we worked through the entire design.

16 Q. Okay. Had -- now the design for Solaris
17 project, the inclined section used a bucket elevator,
18 correct?

19 A. Yes.

20 Q. Okay. Had Masaba used bucket elevator designs
21 in the past?

22 MR. NYDEGGER: Objection. Foundation.

1 THE WITNESS: When you say bucket elevators,
2 for what?

3 BY MR. MORICIO:

4 Q. I'll leave it open for the time being. I'm
5 going to -- I'll narrow it, but had you used bucket
6 elevators for the delivery of any sort of component;
7 aggregate, frac, sand, anything prior to the Solaris
8 design?

9 A. Not that I can recall.

10 Q. Okay. How many -- did you have any meetings
11 with anyone from Solaris during the design of the
12 Solaris silo loader?

13 A. Yes.

14 Q. Do you recall who you met with?

15 A. Jeremy Weinstein was who we met with.

16 Q. Anybody else?

17 A. Scott Lambert.

18 Q. Do you recall anyone else?

19 A. I can't remember her name, Ashley, I believe.

20 Q. Okay. Can you remember anyone else?

21 A. Those are the three that I remember.

22 Q. Okay.

1 A. They were others there. Those are the three I
2 remember.

3 Q. Okay. And where were those meetings held?
4 Let me ask you this. Was there more than one meeting?

5 A. Yes.

6 Q. Okay. And where was the first meeting?

7 A. I believe our first meeting was actually
8 onsite in Texas, although we could've had a phone call
9 before then.

10 Q. And where were the subsequent meetings? Do
11 you know how many subsequent meetings were had after
12 that first meeting?

13 MR. NYDEGGER: Objection. Vague.

14 THE WITNESS: Can you repeat that, please?

15 BY MR. MORICIO:

16 Q. Yeah. So you had a first onsite meeting in
17 Texas. You said that there were -- there was more than
18 one meeting, correct?

19 A. Yes.

20 Q. Can you recall where the other meeting or
21 meetings occurred?

22 A. Most of our meetings were online.

1 Q. Were there any other in-person meetings?

2 A. Yes.

3 Q. And where were they?

4 A. They were at Masaba.

5 Q. The meeting in Texas, at what stage of the
6 development was the system at that point?

7 A. The preliminary stage.

8 Q. So it wasn't -- nothing had been built or
9 tested at that stage?

10 A. Correct.

11 Q. Okay. At some point there was a test that was
12 conducted on a system that was built, correct?

13 A. Yes.

14 Q. And where was that test conducted?

15 A. Near Vermillion, South Dakota.

16 Q. Do you recall approximately when that was?

17 A. June, July of -- was that '21?

18 Q. And Mr. Weinstein was present there for that
19 test?

20 A. Yes.

21 Q. Okay. Do you know if Mr. Lambert was there?

22 A. Yes.

1 Q. And is that detailed in your declaration?

2 There's some photographs in your declaration, correct?

3 A. Correct.

4 Q. Okay. So what paragraph are you referring to?

5 A. Paragraph 16 when we tested it in July and
6 early August.

7 Q. I see. Okay. And there's some photographs
8 that are shown on basically Pages 10 through -- at least
9 10 through 18. Those photographs on Pages 10 through 18
10 of your declaration. Are those photographs of the
11 system that was tested roughly in June and July of 2021
12 near Vermillion?

13 A. The dates were July through August -- July and
14 early August, and they were of the testing.

15 Q. Okay. And Mr. Weinstein was present for that,
16 correct?

17 A. Yes.

18 Q. Okay. What tests were run during that time?

19 A. I'm just trying to figure out the best way to
20 say that. It was more or less a -- a shake down on the
21 unit to run material through the entire unit. First
22 test was to stand it up for the first time. Last test

1 was to unload material into the silos.

2 Q. Okay. And at some point, how was the trailer
3 -- how did it arrive? Is it -- is this land that's in
4 Vermillion, is this owned by Masaba? Is this at
5 Masaba's facilities or is it someplace else?

6 A. So if you look at the declaration, the first
7 two pictures were at Masaba, Paragraph 18. The next few
8 pictures are at a gravel pit nearby Masaba.

9 Q. I see. Okay. Who supplied the silos?

10 A. Solaris.

11 Q. I see. And so was the truck driven to the
12 location that's shown on 18 from Masaba facilities?

13 MR. NYDEGGER: Objection. Vague.

14 THE WITNESS: Yeah. The silo unloader or the
15 silo loader?

16 BY MR. MORICIO:

17 Q. Uh-huh.

18 A. You mentioned truck.

19 Q. Yeah.

20 A. The silo loader.

21 Q. Okay. Sorry. Yeah. Okay. So the silo
22 loader showed in Figure 12 or the photo in Figure -- the

1 photo on Page 12, let me be more precise of your
2 declaration. And just so the record is clear, your
3 declaration is Masaba Exhibit 205 in this IPR. The
4 photo on Page 12, that photo of the silo loader that's
5 at Masaba facilities, correct?

6 A. No.

7 Q. Okay. Where is that?

8 A. Look on Page 11, 18, this was at the gravel
9 pit that we brought it to.

10 Q. Eleven through 18. I see. So -- oh, is it
11 Page 10 that it was sitting at Masaba's facilities?

12 A. Yes, Page 10 and a couple other pages.

13 Q. I see. Okay. How -- what was the distance
14 between Masaba's facilities and the gravel pit?

15 A. About 7 to 9 miles.

16 Q. Okay. I understand at some point, the silo
17 unloader had an axle that failed; is that right?

18 A. Silo loader?

19 Q. Yes.

20 A. Yes.

21 Q. Okay. When did that occur relative to these
22 tests that were done in the July to August, 2001 -- 2021

1 timeframe?

2 A. After the August timeframe.

3 Q. Okay. So it wasn't in the transport from
4 Masaba's location to the gravel pit for the tests? It
5 was after that.

6 A. Correct.

7 Q. Okay. And where was the silo loader going
8 when the axle failed?

9 MR. NYDEGGER: Paul, what -- how is this
10 relevant to the declaration?

11 MR. MORICIO: It's relevant to -- he talked
12 about how successful this product was. The product
13 collapsed. I think I'm entitled to ask him about
14 that. Unless you want to withdraw your commercial
15 success evidence and his declaration in connection
16 with that, then I'll move on. Are you doing that?

17 MR. NYDEGGER: Well, certainly we're not
18 withdrawing every -- anything, but how is the
19 commercial success of the product relevant to an
20 axle failure during transport?

21 MR. MORICIO: So the system that was designed
22 failed. That's not commercial success.

1 MR. NYDEGGER: No. Commercial success is how
2 the product has been received in commerce.

3 MR. MORICIO: Are you instructing him not to
4 answer?

5 MR. NYDEGGER: Tie this to the declaration.

6 MR. MORICIO: Okay. Maybe now would be a good
7 time to take a break.

8 MR. NYDEGGER: Okay.

9 THE REPORTER: All right. We are off the
10 record.

11 (A recess was taken.)

12 THE REPORTER: We're back on the record. It is
13 9:41 a.m.

14 BY MR. MORICIO:

15 Q. Okay. Mr. Brinkman, if you could refer to
16 Paragraph 5 of your declaration. Actually, make it
17 Paragraph 4. You see where it says, "The project was
18 originally presented to Masaba as requiring a high
19 capacity belt conveyor in order to obtain the desired
20 material flow rates and a high angle of incline in order
21 to minimize the footprint of the system." Do you see
22 that?

1 A. Yes.

2 Q. Is it your understanding -- who was it that presented
3 those as the design constraints to your understanding?

4 A. Anchor provided those through Solaris's
5 direction.

6 Q. Okay. And so Solaris gave a set of
7 specifications to Anchor, which in turn were
8 communicated to Masaba for the design; is that right?

9 A. Yes.

10 Q. Okay. What did you understand or mean when
11 you say high capacity belt conveyor?

12 A. High capacity so that it can unload a truck
13 quickly. When a truck is 50 ton and you want to do it
14 quickly, you got to have higher capacity to do that.

15 Q. Okay. And do you know what the flow rates of
16 the frac sand that's being unloaded are?

17 A. When you say "unloaded," what do you mean
18 unloaded?

19 Q. Well, so let me ask you this, and as part of
20 this design. How is the frac sand delivered from the
21 truck -- the dump truck, for lack of a better word, to
22 the system? How is it unloaded? Is it just gravity

1 fed?

2 A. It's a bottom dump trailer That the door is
3 open and the frac sand flows out via gravity into the
4 silo loader.

5 Q. Okay. So as part of the design, did do you
6 consider what the flow rate was out of the bottom dump
7 of the truck?

8 A. Partially. That flow rate can be variable,
9 depending on how open or how closed that door is.

10 Q. Okay. Was that a design consideration,
11 though, what that flow rate was in terms of what the
12 conveyor had to meet in order to be a high capacity belt
13 conveyor to satisfy the design constraints?

14 A. The adjustability of that door was considered.

15 Q. Okay. How about the flow rates associated
16 with the adjustability?

17 A. From the truck to the truck unloader, not
18 necessarily. We just knew that we needed to unload a
19 truck, 50,000 pounds, in a certain amount of time.

20 Q. Okay. Was the speed or the -- was the flow
21 rate of the belt conveyor a consideration in the design?

22 MR. NYDEGGER: Objection. Vague.

1 THE WITNESS: When you say, "flow rate," how do
2 you -- what do you mean there?

3 BY MR. MORICIO:

4 Q. I mean, that's the velocity times the volume
5 of the material, correct?

6 A. The feet per minute of the belt? Yes. We
7 consider that for all conveyors.

8 Q. Were the constraints given in this design as
9 to what the flow rate coming out of the truck was
10 supposed to be, or be able to handle?

11 A. Out of the semi-trailer?

12 Q. Yes.

13 A. No.

14 Q. Okay. How did you select -- what impact, if
15 any, did the flow rate of the frac from the truck being
16 delivered weigh into the design of the incline section?

17 A. You're asking for the impact of the truck
18 unloading to the incline section?

19 Q. Yes. The capacity.

20 A. The impact is somewhat minimal. With bucket
21 unloaders you can feed that, and you have a little bit
22 of a -- a little bit of a hopper at the bottom of that

1 bucket unloader that the bucket unloader that can reach
2 into and grab and fill up the entire bucket.

3 Q. Okay. So is it as the bucket -- so the bucket
4 conveyors, those are a series of buckets that go around
5 the conveyor, correct?

6 A. The bucket elevator --

7 Q. Sorry.

8 A. -- has a series of buckets.

9 Q. Okay. And the frac sand comes from the dump
10 truck. I want to make sure I'm using the right
11 terminology. I'm calling it a dump truck, but what do
12 you -- what's the term of the truck that delivers the
13 frac sand on site?

14 A. The correct trailer is a bottom dump trailer.

15 Q. Bottom dump. Okay.

16 A. Semi-trailer would mean the same thing to me.

17 Q. Okay. Is the chute for the bottom dump open
18 and close for each bucket that comes, or is it a
19 continuous flow type of system?

20 A. So between the bucket and the semi-trailer,
21 there's several pieces in between that, so, no. The
22 answer is no, it doesn't go directly from the semi to

1 the bucket.

2 Q. Okay. There's a --

3 A. It goes --

4 Q. There's actually a conveyor in between those
5 two; is that right?

6 A. Yes.

7 Q. Okay. Is that -- I think I've seen the term
8 somewhere, is that -- would you consider the base
9 conveyor?

10 A. The truck unloader, base conveyor --

11 Q. I see.

12 A. -- can be about the same.

13 Q. Okay. So the aggregate comes from the bottom
14 dump onto a base conveyor and then it's delivered into
15 the bucket elevators; is that right?

16 A. Yes.

17 Q. Okay. So the design that was presented to
18 Masaba, it says here that it also sort of required a
19 high angle incline in order to minimize the footprint.
20 So that was a design constraint communicated from --
21 communicated by Anchor from Solaris in the design,
22 correct?

1 A. You said the design submitted to Masaba.
2 There wasn't a design. There was only criteria
3 submitted to us.

4 Q. Oh, okay. So -- but one of the design
5 criteria submitted through Anchor by Solaris was that
6 the incline section have a high angle of incline in
7 order to minimize the footprint of the system, correct?

8 A. I'm not -- can't remember if the spec sheet
9 said that exactly, but in order to go from ground to 60
10 feet up, there's got to be some sort of incline, so...

11 Q. Okay. Are there other conveyors besides
12 bucket elevators that you are aware of that deliver
13 either aggregate or frac sand at a 90 degree angle?

14 A. Yes.

15 Q. Okay. What type of conveyors are those?

16 A. I don't know the name of it. I've never seen
17 one in real life. But there's a conveyor where the --
18 it goes on a horizontal section. Then as it goes
19 vertical, the belt wraps around the entire aggregate,
20 squeezes it, and then it can go straight up a wall. I
21 don't remember what the name of that is.

22 Q. Okay. Yeah. I think that --

1 A. There's also a -- a belt wall conveyor. I
2 think there's several manufacturers of a belt wall type
3 conveyors, conveyor belting.

4 Q. Okay. I may have asked you this before and if
5 I did, I apologize. Did you say you had Masaba had used
6 bucket elevators in designs prior to the Solaris
7 project?

8 A. Did I say?

9 Q. Yeah, I --

10 A. Did I answer the question? No, I didn't
11 answer the question.

12 Q. Oh, okay. I thought I did. I couldn't
13 remember if I asked you. So let me ask you that
14 question then.

15 A. Did we use a bucket elevator in the past?

16 Q. Correct.

17 MR. NYDEGGER: Objection. Foundation.

18 THE WITNESS: On previous projects, no.

19 BY MR. MORICIO:

20 Q. No. Okay. Had Masaba ever built incline
21 sections before that were at 90 degrees?

22 MR. NYDEGGER: Objection. Foundation.

1 THE WITNESS: When you say "incline sections,"
2 yes, everything has an incline to it. Whether it be
3 a vertical wall for a hopper or something else.

4 BY MR. MORICIO:

5 Q. Okay. So Masaba had designed systems before
6 that had inclined conveyors that were inclined at 90
7 degrees; is that right?

8 A. Conveyors inclined at 90 degrees?

9 Q. Yes.

10 MR. NYDEGGER: Objection. Foundation.

11 THE WITNESS: I don't recall a conveyor
12 designed at 90 degrees.

13 BY MR. MORICIO:

14 Q. Okay. In Paragraph 4, you go on and says, "In
15 August of 2020, Masaba generated an initial concept
16 which is shown in the drawing reproduced below." Do you
17 see that?

18 A. Yes.

19 Q. Who generated the drawing that's shown there?

20 A. The drawing was done by our sales team.

21 Q. So it wasn't done by either yourself, Mr.
22 Brenden, or Mr. Dewitt?

1 A. The drawing was not done by either of -- any
2 of us.

3 Q. Okay.

4 A. It was done by our sales drawing team.

5 Q. Do you know who the individual was who drew
6 it?

7 A. Yes.

8 Q. Who?

9 A. Dillan.

10 Q. Does Mr. Dillon have a last name?

11 A. Yes.

12 Q. What is it?

13 A. Dillon Borchardt.

14 Q. Okay. So Paragraph 5 it says, "Seen in the
15 drawing above, the August 2020 concept involved a truck
16 unloader that feeds a 76-foot walled belt conveyor." So
17 a walled belt conveyor, that's one of the designs you
18 talked -- that was the initial design for the incline
19 section?

20 A. That was the initial concept was to use a belt
21 wall type conveyor belting.

22 Q. Okay. And so what is a walled belt conveyor?

1 A. A conveyor that conveys material from one end
2 to the other end.

3 Q. Does it have walls on the side?

4 A. Yes.

5 Q. I see. So that's so the material won't fall
6 over?

7 A. Fall off. And not necessarily fall over, but
8 fall off.

9 Q. Okay. Is it completely enclosed or just walls
10 on the side?

11 A. It's not completely enclosed.

12 Q. Okay. And then it says it was mounted at 60
13 degree incline angle. Do you know how 60 degrees was
14 chosen?

15 A. I believe that came from working with the belt
16 wall supplier in their initial recommendation.

17 Q. Okay. And who is the company you worked with
18 in connection with the belt wall conveyor design?

19 A. I believe it's called Beltwall, is the actual
20 company. I don't think it's belt servicing. I think
21 it's Beltwall was who we worked with.

22 Q. Okay. And then it talks about, "in turn feeds

1 a 27-foot articulating air slide system." Do you see
2 that?

3 A. Yes.

4 Q. Okay. And the air slide system, that is the
5 articulated conveyor; is that right?

6 A. No.

7 Q. Okay. What is that then?

8 A. The air slide system is that top portion, with
9 the arrow to it.

10 Q. Okay. Can I just have you circle it, just so
11 that we're on the same page. Okay.

12 MR. NYDEGGER: Can I see that? Okay.

13 BY MR. MORICIO:

14 Q. What -- is the articulated conveyor we talked
15 about it earlier, is that shown at all in the figure
16 that's shown in Paragraph 4.

17 A. No. Paragraph 4 doesn't talk about
18 articulated conveyor.

19 Q. Okay. Oh, so did the articulated conveyor
20 replace the articulating air slide?

21 A. Through various design iterations, we started
22 with the air slide and eventually came to the conclusion

1 of articulating conveyors.

2 Q. I see. Okay. And is the air slide an
3 enclosed system?

4 A. The air slide in that drawing is a closed
5 system.

6 Q. Okay. And is it telescoping?

7 A. No.

8 Q. Okay. So it's just one piece? Is it -- oh,
9 it's articulated, so it's two pieces; is that right?

10 A. It's several pieces.

11 Q. But it has two pivot points; is that right?

12 A. That is correct.

13 Q. I see. So that's -- is that why it's called
14 articulated?

15 A. Yes.

16 Q. I see. Okay. So somewhere -- so the initial
17 design had an articulated air slide system, but then the
18 final design ended up having an articulated conveyor; is
19 that right?

20 A. Correct.

21 Q. I see. Okay. And why was the design changed
22 from an articulated air slide to an articulated

1 conveyor?

2 A. As mentioned through the mini design
3 iterations, we identified pros and cons to each parts of
4 the design. And as we went through the -- moved through
5 the design, there are definitely more cons for, let's
6 say, an air slide versus a articulating conveyor.

7 Q. And what were some of the cons associated with
8 the air slide?

9 A. Cons associated with the air slide as it's
10 enclosed to keep dust down. We assumed that it was
11 lighter weight because there's no motors, no anglers,
12 and -- and there's not a lot of moving parts with it.

13 Q. Okay. And why is that a con?

14 A. Oh, sorry. That would be -- definitely be a
15 pro. I think both of those were pros.

16 Q. Oh, I see.

17 A. Yeah.

18 Q. Okay. What were the cons associated with it?

19 A. The cons were the angle. So with that, there
20 is additional height that would take up valuable space
21 for travel.

22 Q. That's because you need more height to get

1 gravity for it to deliver?

2 A. Yes.

3 Q. Okay. And was the calculation done at that
4 time as to what that angle needed to be in order to meet
5 the delivery criteria?

6 A. There was a test done, not necessarily a
7 calculation.

8 Q. I see. Test done on a unit that was built or
9 a simulation?

10 A. A lab test.

11 Q. I see. Okay. And through that testing, is
12 that when you did determine that the angle was going to
13 be too great for -- to make the system too big for
14 transportation?

15 A. There're additional cons to this as well,
16 where the biggest con is being it's not long enough to
17 reach all the conveyors.

18 Q. Okay. And that -- okay.

19 A. All the silos.

20 Q. Had Masaba used articulating air slide systems
21 before the design for Solaris?

22 A. No.

1 Q. Okay. Had it used articulated conveyors
2 before?

3 MR. NYDEGGER: Objection. Foundation.

4 THE WITNESS: Not that I can remember.

5 BY MR. MORICIO:

6 Q. Okay. Turn to Paragraph 6. It says, "Solaris
7 decided to move forward. In order to accommodate
8 Solaris expedited and demanding timetable, Masaba gave
9 the project top priority. Masaba pulled engineers from
10 other project and assigned them to the project." Do you
11 see that?

12 A. Yes.

13 Q. Do you know how many engineers had you
14 assigned to the project at that time?

15 A. Two.

16 Q. Okay. And that was Mr. Brenden and Mr.
17 Dewitt?

18 A. No.

19 Q. Oh, okay. Who were the other individuals?

20 A. Aaron.

21 Q. What's Aaron's last name?

22 A. Sudbeck.

1 Q. And who was the other one?

2 A. Jason Brenden.

3 Q. Okay. And so the Arron and Jason were
4 involved before you increased the team?

5 A. Didn't increase the team. What we did was
6 moved engineers around, depending on what projects --
7 additional other projects we had for customers in the
8 pipeline.

9 Q. Okay. At what point -- - was -- had Mr.
10 Dewitt working on the project at that point?

11 A. No, he was working on a different project.

12 Q. Okay. So when did he get involved? Was it at
13 this time you brought him in or later?

14 A. In Paragraph 7 there, mid-January, I believe
15 it was. Early to mid-January.

16 Q. That's when you brought in Mr. Dewitt?

17 A. Yep.

18 Q. Okay. Did you bring in any other engineers at
19 that point?

20 A. Probably not to do the heavy lifting. More or
21 less to help with parts and pieces.

22 Q. Okay. Okay. In Paragraph 7, you go on, "And

1 in that timeframe, January 2021, as the work on the
2 project continued engineers came up -- some engineers
3 came up with a design iteration which the incline for
4 the belt conveyor was about 55 degrees. And were
5 thinking that the air slide would be replaced with a
6 gravity fed tube in tube extending chute as seen in the
7 diagram below." What is a gravity fed tube in tube
8 extending chute?

9 A. More or less a -- a pipe?

10 Q. Is it like a telescoping chute?

11 A. Yeah, a pipe within a pipe.

12 Q. I see. And so that's -- and that would make
13 it collapse and therefore take up less space? Was that
14 the reason that was considered?

15 A. Yes.

16 Q. I see. But ultimately that design was
17 replaced by the articulated conveyor, correct?

18 A. Correct.

19 Q. Okay. And what were the sort of -- I assume a
20 pro of the gravity fed tube in tube was you can get a
21 greater angle and therefore a higher feed rate; is that
22 right?

1 A. The pros were with everything to get within
2 our constraints to travel, fold, and deliver material.

3 Q. Okay. It was lightweight as well, just like
4 the prior design?

5 A. Yeah.

6 Q. Okay. And what were the cons? Why did you
7 move away from that design?

8 A. As you can see in that picture, that
9 telescoping tube is centered above the center silo.
10 What we thought we could do is just rotate that tube 360
11 degrees and reach all six silos. Unfortunately, the
12 silos had the inlet hatches in different locations, so
13 nothing was mirrored or -- nothing was mirrored or
14 symmetrical across all six silos. So --

15 Q. So --

16 A. -- the silos would have to be modified to
17 accept that.

18 Q. Okay. So in other words, you'd have to either
19 move the truck or modify the silo to get the material in
20 all six silos; is that right?

21 A. No.

22 MR. NYDEGGER: Objection. Form.

1 THE WITNESS: No, he wouldn't have to do both.

2 He would do one or the other.

3 BY MR. MORICIO:

4 Q. One or the other. Okay. And that's because
5 it didn't have -- the articulating nature, it didn't
6 have the additional degrees of motion; is that right?

7 A. Correct.

8 Q. I see. And who proposed the gravity fed tube
9 in tube configuration?

10 A. Masaba did.

11 Q. Okay. And who at Masaba, I'm talking about
12 the specific engineer.

13 A. Jason.

14 Q. Jason did. Okay. Had Masaba used gravity fed
15 tube in tube design shoots before and any other designs?

16 A. I believe so. Just do formed -- formed plate
17 versus tube in tube kind of the same thing.

18 Q. Okay. Paragraph 8, it says, "Solaris
19 communicated that it wanted to explore increasing the
20 inclined angle of the belt conveyor to 90 degrees." Do
21 you see that?

22 A. Yes.

1 Q. If possible to decrease the footprint of the
2 system. So that was -- do you know who at Solaris
3 communicated that? Was it Mr. Weinstein?

4 A. Off the top of my head, most of our
5 conversations came from Jeremy. So I would assume that
6 that was -- or I believe he was the right -- the one
7 that said that.

8 Q. Okay. So you had -- did you have discussions
9 directly with Mr. Weinstein?

10 A. We had discussions on Teams calls.

11 Q. Okay. So at some point during the design Mr.
12 Weinstein said, we'd like the belt conveyor to go to 90
13 degrees to minimize the footprint; is that fair?

14 A. If remember correctly, that is correct.

15 Q. Okay. And that design criteria is ultimately
16 what led to the use of the bucket elevator, correct?

17 A. Through many design iterations and a lot of
18 trials, we looked at the belt -- belt wall system quite
19 a while, quite a few weeks. Jason was looking at the
20 belt wall, while Tyler was exploring other options of
21 how could we go vertical with material.

22 Q. Okay. And so was it Tyler who settled -- or

1 -- on the -- through -- let me strike that. How was the
2 belt wall going to achieve 90-degree lift?

3 A. Are you familiar with the belt wall conveyor,
4 or CNN, or know much about it?

5 Q. No. I'm trying to visualize it.

6 A. Probably the best way is to explain it. So --

7 Q. Okay.

8 A. A belt wall conveyor is a -- pretty much a
9 conveyor belt. Let's just say a flat surface with
10 walled sections on each side of it. Every so many feet
11 or inches, there's a -- a tread or a step there to hold
12 it going backwards. So you got -- you're enclosed on
13 the sides. You're enclosed on the back. So a cleat
14 about every 2, 3, 4, 5 feet, whatever it's. So that
15 belt wall conveyor, as you can see in all the pictures,
16 there's a horizontal section at the bottom of the belt
17 wall conveyor. That horizontal section is necessary to
18 drop frac sand in and fill up that cavity. So let's
19 just say there's a cleat and a wall, and then another
20 cleat a couple feet forward, that horizontal section is
21 necessary to fill up that box, let's call it. Or that
22 area between the walls and the two cleats.

1 Q. I see.

2 A. You can only move so fast with a belt wall
3 conveyor because you want to fill that area up as much
4 as you can. You don't want to fill the half full
5 quarter full or, you know, not completely full.

6 Q. I see. So that horizontal section that
7 separates the different sections of the belt, that's
8 what's holding the material as it's going up vertically?

9 A. The cleats hold the material.

10 Q. I see. Okay.

11 A. So the cleats are behind the material. As the
12 conveyor belt slowly increases in vertical height, those
13 cleats are the backstop for the material. So if your
14 material is filled up in this box, the material will
15 eventually settle back against the cleat, and not let it
16 flow outside the belt or down -- back down the belt.

17 Q. Okay. Did you do any -- conduct any tests to
18 see if that in fact would happen, whether it would
19 prevent the -- whether the material would sort of flow
20 out of the system?

21 A. No. We didn't do any tests. We were working
22 with the Beltwall engineer directly.

1 Q. Okay. And did he do any simulations or any --
2 at some point, a conclusion was made that that wasn't
3 going to work, right? For this 90 degree angle
4 constraint?

5 A. Yes. Through, we call them belt analyst runs
6 or belt runs, those belt runs tell you the exact feed
7 and speed, or give you different scenarios for feed and
8 speed about how many tons per hour you can move on that
9 conveyor belt. So as that conveyor belt actually
10 increases in angle, let's say from 60, at 60 degrees,
11 you can hold more volume of material at 60 degrees. At
12 90 degrees you can't hold as much material. Therefore
13 you decrease your tons per hour.

14 Q. Okay. So was the issue, you weren't getting
15 enough product delivered at the 90 degrees using that
16 design, or was it the concern over loss of material, or
17 both?

18 A. The issue was not able to get the correct tons
19 per hour. The issue was not being able to fold this and
20 move this. The issue was additional motors, additional
21 bends, additional pulleys, additional idlers, and
22 additional weight.

1 Q. And those engineering considerations are the
2 type of considerations that your belt conveyor engineers
3 typically take into account in their designs?

4 MR. NYDEGGER: Objection. Form.

5 THE WITNESS: Can you repeat the question?

6 BY MR. MORICIO:

7 Q. Yeah. I mean, these are design constraints
8 they had. They knew they had to take these design
9 constraints into account, and so that helped dictate the
10 ultimate design; is that fair?

11 A. The constraints are always part of trying to
12 make this a system.

13 Q. Okay. Paragraph 9 says it was, "At this point
14 the Masaba team suggested using a belt elevator instead
15 of an incline belt conveyor to Mr. Stanton." Do you see
16 that?

17 A. No. Suggested using a bucket elevator --

18 Q. I'm sorry. Bucket elevator.

19 A. -- instead of incline belt conveyor.

20 Q. I'm sorry, I misspoke. Yeah.

21 Q. I'm going to hand you -- I have two copies for
22 him. It says two. There's two of them.

1 MR. NYDEGGER: Oh, there are?

2 MR. MORICIO: Yeah, yeah. For some reason,
3 Chad, these are not marked, but they are -- I am
4 told and we will represent that these are Exhibits
5 1045 and 1046 from the IPR, so they are already --
6 they already have exhibit numbers. For some reason,
7 I don't know why these two versions don't have it.
8 I guess I'll have the court reporter go ahead and
9 mark them.

10 THE REPORTER: Okay. What are they marked as?

11 MR. MORICIO: Exhibit 1045 is the e-mail, and
12 1046 is the sheet.

13 (Exhibit 1045 was marked for identification.)

14 (Exhibit 1046 was marked for identification.)

15 BY MR. MORICIO:

16 Q. She'll mark these exhibits and then hand them
17 to you.

18 A. Yeah.

19 Q. And then she'll hand them to you.

20 A. Okay.

21 Q. So Mr. Brinkman, the court reporter has handed
22 you what's previously been marked as Exhibits 1045 and

1 1046. 1045 is an e-mail from Mr. Weinstein to Mr.
2 Stanton, copying Mr. Lambert, and it says, "Revised Belt
3 Wall Spec" and the date of this is around October 28,
4 2020. And then Exhibit 1046 is a copy of the spec that
5 is attached to the e-mail. Earlier we talked about
6 Masaba giving you some design criteria. The question I
7 have is the spec sheet that is found in 1046 -- or that
8 is Exhibit 1046. Was this spec sheet ever communicated
9 from Anchor to Masaba as part of the design?

10 MR. NYDEGGER: Objection. Foundation.

11 THE WITNESS: This is the spec sheet they sent
12 us from Mike Stanton.

13 BY MR. MORICIO:

14 Q. Okay. So this -- Solaris sent it to Stanton,
15 and then Stanton in turn sent it to Masaba?

16 A. Yes.

17 Q. Okay.

18 MR. NYDEGGER: Objection. Foundation.

19 BY MR. MORICIO:

20 Q. And so this e-mail is dated October 28, 2020.
21 Do you recall just around what time Masaba received this
22 spec sheet from Solaris?

1 MR. NYDEGGER: Objection. Foundation.

2 THE WITNESS: No, I don't recall the exact date
3 or time, but it was somewhere around that October-
4 November timeframe.

5 BY MR. MORICIO:

6 Q. Okay. And was this document 1046, was this
7 used in generating the initial design for the silo
8 loader that Masaba was designing for Solaris?

9 MR. NYDEGGER: Objection. Foundation.

10 THE WITNESS: This spec sheet was used as a --
11 a loose guideline of what we were trying to achieve.

12 BY MR. MORICIO:

13 Q. Okay. And just so the record's clear, Solaris
14 engaged Anchor, and then Anchor engaged Masaba to design
15 a system generally in conformance with the criteria set
16 forth in 1046, correct?

17 A. Yes.

18 Q. Okay. So it wasn't as though Masaba had a
19 system designed and went to either Anchor -- already
20 designed and went to either Anchor or Solaris and said,
21 hey, we have this design for a silo loader you may want
22 to consider buying from us?

1 A. No.

2 Q. Okay. So is it the primary business of Masaba
3 to do -- to design engineering and manufacture work for
4 systems like the silo loader that we have been talking
5 about today?

6 MR. NYDEGGER: Objection. Vague.

7 THE WITNESS: Yes, we design and build
8 equipment for a lot of industries for -- and for a
9 lot of customers.

10 BY MR. MORICIO:

11 Q. Okay. Does Masaba also build equipment and
12 sell it directly to customers?

13 A. Yes.

14 Q. Okay. Roughly what percentage of Masaba's
15 business is that?

16 MR. NYDEGGER: Objection. Foundation.

17 THE WITNESS: Can you define customers?

18 BY MR. MORICIO:

19 Q. So I guess what I'm getting at, there's
20 customers you -- that hire you to do designs, correct?

21 A. Yes.

22 Q. Okay. And then there's another class of

1 customers where you have an existing equipment that you
2 manufacture and just sell that equipment to the
3 customers, correct, the end customer?

4 A. Yes.

5 Q. Okay. And I'm just trying to get a sense of,
6 is the primary business the design and manufacturing
7 part of the business, or is it the supply of product
8 directly to customers?

9 MR. NYDEGGER: Objection. Vague.

10 THE WITNESS: Can you ask those as separate
11 questions?

12 BY MR. MORICIO:

13 Q. Okay. Are there any products that you supply
14 directly, for example to the oil and gas industry, that
15 you manufacture?

16 A. Throughout the years, we have designed and
17 built other equipment for oil and gas. Aggregate about
18 every -- every type of industry out there.

19 Q. Okay. So for example, if I came to you today
20 and said, I want to buy some equipment. I am an oil and
21 gas producer and operator. Do you have equipment that
22 you could just sell me directly as the, sort of,

1 producer?

2 A. Yes. But it also depends on your needs. If
3 you wanted something completely custom, completely new
4 and different, we would look at that. If you wanted
5 something that is on our standard portfolio or standard
6 -- standard product line, we could do that as well.

7 Q. Okay. That's a good term to use. Okay, so
8 you have some standard products, conveyors presumably,
9 that you market to different industries; is that fair?

10 A. Yes.

11 Q. Okay. So you have conveyors and other
12 equipment that you market directly to the oil and gas
13 industry, standard pieces of equipment; is that right?

14 A. Yes. Our equipment can be used in several
15 industries. It's not just -- you know, with a conveyor
16 you are moving material from one end to the other end.

17 Q. I see.

18 A. You could use that in many, many industries.

19 Q. Okay. Have you built any more of these
20 systems like the one you did for Solaris to sell as a
21 standard piece of equipment to the industry?

22 A. Are you talking about the silo loader?

1 Q. Correct.

2 A. No, we have not built another one.

3 Q. Okay. So in reference to 1046, there -- in
4 Item 2 there's some transport dimensions. Do you see
5 that?

6 A. Yes.

7 Q. Okay. And maximum portable length, maximum
8 height, maximum width axial legal, and maximum total
9 weight. Do you see those?

10 A. Yes.

11 Q. Okay. So those were some dimensional design
12 constraints that Solaris imposed on the design; is that
13 right?

14 A. As I said before, these are some guidelines
15 that we used from their spec sheet to design a unit.

16 Q. Okay. On Item 6, it talks about an air slide
17 distributor discharge sheet. Do you see that?

18 A. Yes.

19 Q. And it talks about "The air slide shall handle
20 the full rate capacity of the elevator conveyor." Do
21 you see that?

22 A. Yes.

1 Q. That's 6.1. So that was basically saying that
2 the air slide had to be able to accommodate the flow
3 rate that was coming off of the belt conveyor, correct?

4 A. Yes.

5 Q. Okay. And is that one of the design
6 constraints that led away actually from the air slide?
7 Was it able to handle those rates or not, the original
8 design?

9 A. I'm just trying to think the best way to
10 answer. We never took it far enough to say that it
11 could. Talking with the air slide manufacturer, they
12 told us that it would be able to, but we never took it
13 to full concept.

14 Q. Okay. The next --

15 A. You'll see that air slide -- this document,
16 1046, was created after our initial sales drawings.

17 Q. I see, okay. The second constraint, 6.2,
18 says, "It shall be able to reach each of the six silos
19 with a conveyor position 270 degrees around the Solaris
20 six-pack." Do you see that?

21 A. Yes.

22 Q. Okay. The air slide was not capable of doing

1 that without moving the truck, correct?

2 A. No.

3 Q. No, meaning my statement's correct, or my
4 statement's not correct? Sorry, sometimes there's too
5 many double negatives there.

6 A. Yeah. Repeat the statement.

7 Q. Sure, sure. So it says, "It shall be able to
8 reach six silos with a conveyor position 270 degrees
9 around the Solaris six-pack." Do you see that?

10 A. Yes.

11 Q. And my question was, the air slide was not
12 capable of doing that without moving the silo loader,
13 correct?

14 A. Based on our drawings, we felt that the air
15 slide was capable of reaching all six silos without
16 moving the entire silo or silo loader.

17 Q. But you would've had to have made changes to
18 the silos, correct?

19 A. No. From our drawings, that silo loader with
20 the air slides -- with the air slides being articulated,
21 you could reach more than 270 degrees.

22 Q. Oh, because the air slide was articulated,

1 okay. But then the interim design, after the air slide
2 you went to the interim design for the horizontal
3 conveyor, was what?

4 A. In which timeframe are you talking?

5 Q. So sort of the second iteration, if you will.
6 So the first iteration was the air slide. That was
7 articulated, correct?

8 A. Yep.

9 Q. And then earlier --

10 A. The first --

11 Q. I'm sorry, go ahead.

12 A. The first iteration was an articulated air
13 slide.

14 Q. Okay. And what was the second iteration?

15 A. On -- on Paragraph 7 of my declaration, a
16 gravity-fed tube and tube extending chute.

17 Q. And that was a telescoping chute, correct?

18 A. Extending chute, yes.

19 Q. Okay. That telescoping chute would not have
20 met this design constraint of 270 degree articulation,
21 correct?

22 A. It would've. The telescoping chute would have

1 to rotate 360 degrees almost to reach all six if the
2 portholes that we could fill into were all inside of
3 that diameter -- or on that diameter to rotate that
4 chute above.

5 Q. I see. And if they weren't, then you'd need
6 to go to the articulating design?

7 A. If they weren't all on that diameter, it
8 wouldn't work.

9 Q. Okay.

10 A. A different idea would have to be created.

11 Q. Is that why you-all -- the final design went
12 back to an articulated design because you needed that
13 degree of movement in order to fill all the silos?

14 A. It simplified the ability to reach all six
15 silos.

16 Q. The articulated conveyor that was settled on
17 for the final design, is that something that Masaba made
18 in-house, or did you have that manufactured by a third
19 party?

20 A. Masaba designed and manufactured it in-house.

21 Q. Okay. And you have those capabilities where?
22 Here in South Dakota?

1 A. At our -- at our plant, at our Masaba plant in
2 Vermillion.

3 Q. Okay. So the sketch or design that was shown
4 in Paragraph 9 of your declaration, that was done by Mr.
5 Dewitt; is that right?

6 A. That is correct.

7 Q. Okay. And that iteration had a bucket
8 elevator and a telescoping chute; is that right?

9 A. No, that's not right. The picture shows a
10 bucket elevator with a telescoping belt conveyor.

11 Q. Oh, okay. So was the iteration for the
12 horizontal part, first it was an articulated air slide,
13 then it was a telescoping belt conveyor, and then it
14 became an articulated conveyor? Were those the
15 iterations for the horizontal component?

16 A. The -- no, the iterations were an articulating
17 air slide, then the telescoping extended chutes, and
18 then the telescoping belt conveyor. As you can see in
19 Paragraph 9, that drawing, we were still determining
20 what is our best option, so we had in that Paragraph 9,
21 telescoping belt conveyor or air slide or gravity-fed
22 chute.

1 Q. Okay. And then the final was the articulated,
2 so there were actually four iterations of that design;
3 is that fair?

4 A. There was four. Yeah, four major iterations
5 for that top portion.

6 Q. Correct.

7 A. But you also have the -- yeah, the belt wall
8 would've been another major iteration, so there's
9 actually five major iterations for that design.

10 Q. Okay. The articulated air slide design,
11 that's something that Masaba didn't invent; is that
12 right? Was that already -- that design was already out
13 there?

14 A. Correct. We were working with the
15 manufacturer.

16 Q. Okay. And what about the telescoping extended
17 chute? Were there designs out there that you employed
18 that?

19 A. That would've been our own design.

20 Q. Okay. Designed from a prior project, or a
21 design that you were working on for this specific
22 project?

1 A. A design we were iterate to get through to
2 work on this project specifically.

3 Q. Okay. And what about the telescoping belt
4 conveyor? Were those already out there?

5 A. We designed and manufacture quite a few
6 telescoping belt conveyors already. With our experience
7 and knowledge of telescoping belt conveyors, we thought
8 that might be a good option for us on this project.

9 Q. Okay. And then the articulated conveyor,
10 there were -- those existed in the marketplace as well,
11 that basic design, correct?

12 A. Yes.

13 Q. Okay. Paragraph 12, you talk about, "When
14 pursuing the bucket elevators on -- Masaba engineers
15 were aware the DYNATEK EconoLoader articulated belt
16 convector" -- excuse me, conveyor. Do you see that?

17 A. Yes.

18 Q. That -- so the DYNATEK EconoLoader articulated
19 belt conveyor, that is an articulated conveyor system,
20 correct?

21 A. Yes. It's Appendix A.

22 Q. Okay. Had you used that system in any prior

1 designs for any other customers?

2 A. No.

3 Q. Okay. When you say, "Masaba engineers were
4 aware of that design," who are you talking about there?
5 Is it Mr. Brenden and Mr. Dewitt?

6 A. All of us. I did some footwork and was
7 looking for, you know, other conveyors out there to --
8 to make this work, and I showed that to Jason and Tyler.

9 Q. Okay. So was your first awareness of the
10 DYNATEK EconoLoader in connection with the design for
11 the Solaris, or was it in connection with design --
12 previous designs for other customers?

13 A. We identified DYNATEK as a manufacturer of
14 these during this project.

15 Q. Okay. So you hadn't had any prior dealings
16 with DYNATEK before?

17 A. No.

18 Q. Okay. So how did you find out about the
19 DYNATEK EconoLoader system?

20 A. Like, most things, we were -- just general
21 searches on the Internet just to identify what
22 manufacturers and what type of equipment is out there

1 that can help us.

2 Q. Okay. And so that's an articulated conveyor.
3 It's not a telescope belt conveyor, correct?

4 A. It is an articulated conveyor.

5 Q. Okay. And the telescoping belt conveyors, are
6 those where one arm slides over the other arm?

7 A. For us a telescoping conveyor is when one arm
8 slides inside of the other arm.

9 Q. Not on top of?

10 A. Not on top of. Inside of.

11 Q. Okay. So the design you were doing for
12 Solaris, did you -- were you employing that design of
13 belt conveyor, where it slides inside of?

14 A. Yes. Per that drawing, that's what we were
15 doing, was a conveyor -- outer conveyor with that inner
16 conveyor inside of the outer.

17 Q. Okay. And by doing that, it -- does that mean
18 that it took less space on the trailer when in the
19 transport position?

20 MR. NYDEGGER: Objection. Vague. Form.

21 THE WITNESS: No. In doing that, it would
22 actually take more space, not on the trailer, but

1 more space for the vertical height to get it down
2 the road.

3 BY MR. MORICIO:

4 Q. I see, okay. Would in the vertical height,
5 that's a constraint whereby the trailer that -- in this
6 case the silo loader, it has to be below a certain
7 height to get under bridges and that sort of thing
8 during transport; is that right?

9 A. That is correct.

10 Q. Okay. So that was one of the design
11 constraints you had to deal with in connection with
12 building this thing as a transportable system, fair?

13 A. Yes.

14 Q. Okay. So one of the design constraints in
15 coming up with the horizontal extended conveyor piece of
16 this system was the amount of vertical space it took in
17 the transport position, correct?

18 A. That is one of the constraints, yes.

19 Q. Okay. Was that one of the constraints that
20 led to the articulated conveyor design, in the sense
21 that it had a reduced vertical height in the transport
22 configuration?

1 A. As we discussed earlier, there's many pros and
2 cons to each iteration. Unfortunately, the telescoping
3 conveyor had more cons than it did pros.

4 Q. But one con would've been it occupied more
5 vertical height than the articulated conveyor design; is
6 that fair?

7 A. Correct.

8 Q. Okay. And the articulated conveyor design,
9 that actually occupies less vertical height because when
10 it folds it -- upon itself, it can sit side by side with
11 the base frame, such that the lower section actually
12 sits below the upper section, correct, and thereby
13 occupy less vertical space?

14 A. Correct. It occupies less space above the
15 base bucket elevator.

16 Q. One of the design constraints also imposed by
17 mister -- or by Solaris -- strike that. Was this weight
18 -- is that right? This weight constraint of 80,000
19 pounds. Did I read that right?

20 A. No, you didn't read that right. Maximum axle
21 weight -- with a maximum axle weight, with a maximum
22 total weight of 80,000 pounds.

1 Q. Okay. So what does that mean, to your
2 understanding?

3 A. Like with vertical height, the DOT has
4 allowable maximum weight you can have on an axle for all
5 vehicles. So with this being a large trailer, they
6 needed the axle weight to be less than 80,000.

7 Q. Okay.

8 A. And it depends on the number of axles
9 underneath the unit.

10 Q. And was that a design criteria that was
11 employed in the design?

12 A. Yes.

13 Q. Okay. 3.1 says a minimum convey rate -- I'm
14 sorry, just -- I am on 1046, the spec sheet. It says,
15 "Minimum convey rate of 10,000 pounds per minute at a
16 conveyor angle of 60 degrees with 110 pound foot sand."
17 Do you see that?

18 MR. NYDEGGER: Objection.

19 THE WITNESS: No.

20 MR. NYDEGGER: You misread the exhibit.

21 MR. MORICIO: Oh, okay. I'm sorry about that.

22 THE WITNESS: It was 100 foot-pounds of sand.

1 BY MR. MORICIO:

2 Q. Oh, okay.

3 A. You said 110. It says 100.

4 Q. Oh, I'm -- okay, I'm sorry. Do you do you see
5 that?

6 A. Yes, I see that.

7 Q. Okay. So the minimum conveyor rate of 10,000
8 pounds per minute, that was the conveyor of the elevator
9 section, the conveyor rate?

10 A. No, that's the conveyor rate for the entire
11 system.

12 Q. The entire system, okay. So it had to go from
13 effectively the truck delivering the frac sand into the
14 silos at that rate. Is that what -- was that your
15 understanding?

16 A. The goal was a truck filled with 50,000 pounds
17 of frac sand can be unloaded in five minutes. 50,000
18 divided by five is 10,000. That is where that number
19 came from.

20 Q. Okay. So that does -- that sort of criteria
21 dictated some of the design choices; is that fair?

22 A. Yes.

1 Q. Okay. And the dimensional constraints in
2 number 2, that also dictated some of the design
3 constraints, correct?

4 A. Yes.

5 Q. Including some of the dimensions and sizes of
6 the various components, correct?

7 A. Yes.

8 Q. Okay. There under 7, there's a whole list of
9 electrical design constraints. Do you see that?

10 A. Yes.

11 Q. Who on your team was responsible for meeting
12 those electrical design constraints?

13 A. There's several that work together to convey
14 those -- the customer requirements and constraints to
15 the panel shop.

16 Q. Sure. But who on the team was responsible for
17 making sure that those criteria were met with the
18 design?

19 A. As a team effort, it was between sales,
20 engineering, and our master electrician.

21 Q. Okay. So you don't have any double Es working
22 at the company, but you have a master electrician; is

1 that right?

2 A. Yes.

3 Q. I see, okay. In Paragraph 15 of your
4 Declaration, you discuss belt mistracking as a
5 phenomenon? Actually, I guess it's -- sorry, it's
6 Paragraph 14. If you can turn to Paragraph 14.

7 A. Okay.

8 Q. It says, "When the conveyor belt mistracks, it
9 can result in damage to the conveyor belt, damage to the
10 components that the" -- I'm in the middle of the
11 paragraph -- "that the belt is running up against and
12 material spillage." Do you see that? It's about
13 halfway down Paragraph 14.

14 A. The end of Paragraph 14?

15 Q. In the middle of Paragraph 14. I mean, feel
16 free to read the whole thing. I was just going to ask
17 you some questions about this mistracking phenomenon.

18 A. Okay.

19 Q. Okay. And you said, "We addressed these
20 tracking issues for the articulated slider bed belt
21 conveyors by deploying a system on substantial level
22 ground." Do you see that?

1 A. No. What paragraph is that?

2 Q. It's the next -- it's the next sentence in
3 that paragraph after the mistracks.

4 MR. NYDEGGER: Are you in Paragraph 14 still?

5 MR. MORICIO: Yeah. Yeah.

6 BY MR. MORICIO:

7 Q. Sorry. I'm at -- I jumped to the middle of
8 the paragraph. My apologies. So the first sentence I
9 sort of directed to you is the one that starts, "When a
10 conveyor belt mistracks, it can result in damage." Do
11 you see that sentence?

12 A. Yep.

13 Q. And then the next sentence talks about the
14 different things you did to address those issues. You
15 talk about having substantial level ground, making the
16 belt elevator vertically plumb, by having outriggers,
17 adjustable legs, hydraulic adjustable legs after the
18 belt elevator intention guide wires. Do you see that?

19 A. Yes.

20 Q. Okay. Those --

21 A. I've got an older copy. That's why I'm not
22 following you 100 percent.

1 Q. Oh, okay. Is that in Paragraph 14, though,
2 for you?

3 A. I think I have an older copy.

4 Q. Well, maybe I have the wrong copy because --

5 A. Okay.

6 Q. Okay. So you -- it's in -- what I just read
7 was Paragraph 14 for you?

8 A. No. I -- that was the next revision after
9 this version -- revision that I had.

10 Q. So what I just read -- the version you're
11 looking at doesn't -- isn't in Paragraph 14?

12 A. I made a mistake and I printed it off the
13 older version -- the one -- one of the older revisions
14 of my declaration.

15 Q. Okay. What paragraph were you looking at with
16 respect --

17 A. 14.

18 Q. 14. Okay. Okay. I was going to ask you
19 about these additional features, the substantial level
20 ground, outriggers. So one of the ways you were able to
21 level it was use the use of outriggers?

22 A. Yes.

1 Q. Okay. That was nothing new to this design,
2 correct?

3 MR. NYDEGGER: Objection. Vague.

4 BY MR. MORICIO:

5 Q. You had used outriggers before in connection
6 with transportable systems to stabilize them?

7 A. Yes.

8 Q. Is that fair? Okay. And you used tension
9 guide wires before for that purpose as well, right?

10 A. We don't use a lot of tension guide wires for
11 outriggers. We use them for other things as well.

12 Q. Well, okay. But it's one of the known
13 mechanisms for stabilizing a trailer, correct?

14 A. It's known for stabilizing many things, yes.

15 Q. Okay. And the hydraulically adjustable legs
16 after the bucket elevator, that was something that has
17 been used before to stabilize trailers, correct?

18 A. Yes.

19 Q. Okay. These are sort of all known mechanisms
20 for stabilizing or solving a mistracking issue, correct?

21 A. Those are common ways, but they don't -- they
22 play a small part in mistracking. Mistracking happens

1 at the belt and not down at the ground. So one thing
2 you do is you get everything as level and as straight
3 and vertical as you can. The other thing you do to keep
4 a belt from mistracking is you put guide rollers on it
5 to keep the belt starting straight and keep it ending
6 straight. By doing those two things, that also helps
7 you keep it from mistracking.

8 Q. And those are all --

9 A. And we also have head pulleys and tail pulleys
10 that allow you to track that belt down the center of the
11 conveyor, and conventional conveyors I-version also help
12 you track the belt.

13 Q. So those are all techniques you've used to
14 solve the mistrack problem in other designs; is that
15 fair?

16 A. We use those on a lot. Guide rollers you
17 don't use on a lot of conveyors.

18 Q. But you've used them on some before, fair?

19 A. Yes.

20 Q. Okay. Were guide rollers used in the final
21 design for Solaris?

22 A. Yes.

1 Q. Okay. What changes -- so the unit that's
2 shown on Page 10 -- or maybe I should be more clear and
3 say Paragraph 17. There's some photos in Paragraph 17
4 of --

5 A. Uh-huh.

6 Q. Okay. The unit that's shown there, were there
7 any changes between the unit shown in that figure or
8 photograph and the final system that was delivered for
9 the first sort of completed unit, if you will?

10 A. So this is -- that picture is the first
11 completed unit. Yes, there were changes between final
12 manufacturing testing. Between testing and delivery,
13 there were changes, yes.

14 Q. Okay. So what we're looking at here, which
15 the photos here, this was the system that was built and
16 then the subject of the tests where Solaris and Anchor
17 personnel were present in South Dakota, correct?

18 A. Yes.

19 Q. Okay. And then some changes were made between
20 that and final delivery to Solaris; is that right?

21 A. Yes.

22 Q. Okay. Can you just describe generally what

1 changes were made between the system that's shown in the
2 photo -- on these photographs in Paragraph 17 of your
3 declaration and the system that was finally delivered?

4 A. Off the top of my head, there were a few
5 changes. You can look at the -- the ramps there. I
6 believe portions of the ramps were removed. Another big
7 one was the hopper on the truck and loader was changed
8 dimensionally to -- I believe it got a little bit
9 smaller that allowed the material to not splay out as
10 much when the material was dumped out of the bottom dump
11 of the trailer. We kind of directed it towards the
12 middle of the belt, so we made that hopper a little bit
13 smaller. We changed the camera system up at the
14 telescoping chute so that we can better see and
15 visualize the tops of the silos and the ports that were
16 on top of the silos.

17 Q. And who do those cameras assist? Is it the
18 operator so that they can see what's going on when
19 they're positioning the equipment?

20 A. Yes.

21 Q. Okay. Where is that -- the screen for that
22 camera? Is it somewhere around the trailer itself?

1 A. Yes.

2 Q. Okay. And, like, who designed that electrical
3 part of the system, the cameras and the screens?

4 A. The manufacturer that we purchased them from.

5 Q. I see. Okay. So there was nothing specially
6 designed as part of that piece of the equipment?

7 A. No.

8 Q. Okay. What about the axle? Was there any
9 changes to the axle between the version that's shown in
10 these photos in Paragraph 17 and the final unit that was
11 delivered?

12 A. Yes.

13 Q. What changes were made to the axle?

14 A. We increased the through shaft and bushing on
15 the walking beam.

16 MR. MORICIO: I'm sorry. Can you repeat that
17 or reread it? Apologies.

18 (The requested answer was read back.)

19 THE REPORTER: I'm sorry. Is that what --

20 THE WITNESS: We increased the axle shaft and
21 the through bushings that go into the walking beam.

22 BY MR. MORICIO:

1 Q. The locking unit?

2 A. Walking beam axles.

3 Q. So are these the axles that the wheels of the
4 trailer sit on?

5 A. Yes.

6 Q. Okay. Any other changes to the design?

7 A. There are. I don't -- at this point in time,
8 I don't remember them all. There was a -- a little bit
9 of a list that we worked through and took care of.

10 Q. Okay. In Paragraph 20 it says, "At the
11 testing, the first unit was clearly marked 'patent
12 pending' in several places as shown in the photos
13 below." Do you see that?

14 A. Yes.

15 Q. Okay. Did you have any involvement in the
16 filing of the patent?

17 A. Yes.

18 Q. Okay. What was your involvement?

19 A. All of it, working with the patent lawyers and
20 reviewing and help creating and giving information
21 needed to develop the patent.

22 Q. Okay. Why did you put in Paragraph 20 -- why

1 did you make it a point to say that the first unit was
2 marked with "patent pending"?

3 A. I did that because that was something that we
4 had started the patent process on quite a few months
5 before -- before the testing -- about a month before the
6 testing before it even went outside to the yard.

7 Q. Okay. And all this predated or preceded the
8 time when the trailer was delivered and the axle failed,
9 is that right, just from a time standpoint?

10 A. Yes.

11 Q. Okay.

12 A. It was predated before it even left our
13 building or left our yard.

14 Q. Okay. Do you know if any changes were made to
15 the patent after it was filed to incorporate some of the
16 changes that were made for the final system that was
17 delivered?

18 A. We did review the patent and a couple changes
19 were made. I don't remember what those exactly were.

20 Q. Okay. Did -- was Mr. Stanton aware that you
21 had filed a patent?

22 A. Yes.

1 Q. Okay. And what were the circumstances under
2 which he was made aware of that?

3 MR. NYDEGGER: Objection. Foundation.

4 THE WITNESS: When you say circumstances --
5 BY MR. MORICIO:

6 Q. Sure. Let's just do it from a timing
7 standpoint. Did Mr. Stanton know that Masaba had filed
8 a patent on the system before these tests were
9 conducted?

10 A. Yes.

11 MR. NYDEGGER: Objection. Foundation.
12 BY MR. MORICIO:

13 Q. Okay. So was a second unit actually ordered
14 from Solaris?

15 A. From Anchor, yes.

16 Q. Okay. And was that actually built and
17 delivered?

18 A. No.

19 Q. Okay. And what -- okay.

20 MR. NYDEGGER: Paul, I think we're about due
21 for another break.

22 MR. MORICIO: Yeah. I think that's fine.

1 MR. NYDEGGER: Is this a good time?

2 MR. MORICIO: Yeah, it's a good time.

3 THE REPORTER: We are off the record.

4 (A recess was taken.)

5 THE REPORTER: We are back on the record.

6 MR. MORICIO: Okay. So what I'd like to do,
7 just so we have completeness, is mark the version
8 he's looking at as Exhibit 1060. Just make that
9 separate, clean exhibit since -- it appears that
10 there may be some discrepancies between the
11 exhibits, just so that there's clarity in the
12 record.

13 (Exhibit 1060 was marked for identification.)

14 MR. NYDEGGER: Okay.

15 MR. MORICIO: So if you can just mark the front
16 page of it, Madam Court Reporter, that'd be great.

17 MR. NYDEGGER: Yeah. Just -- you can just give
18 that to the reporter.

19 BY MR. MORICIO:

20 Q. Mr. Brinkman, I guess Exhibit A --

21 MR. NYDEGGER: Oh, we're back on the record,
22 right?

1 BY MR. MORICIO:

2 Q. Yeah. Exhibit A, there's a copy of this
3 DYNATEK Articulated Loading Systems brochure. Do you
4 see that?

5 A. Yes.

6 Q. Okay. And so -- is this a document you found
7 on the Internet?

8 A. Yes.

9 Q. Okay. And that was in connection with
10 considering options for the horizontal section of a silo
11 loader for Solaris, correct? Solaris Design?

12 A. Yes.

13 Q. Okay. Did you ever reach out to anyone at
14 DYNATEK or have any discussions with them in connection
15 with the design during the design phase for Solaris?

16 A. Yes.

17 Q. Oh, okay. Who did you contact?

18 A. I don't remember his name. Their sales guy
19 there, we talked to him about the -- the air slide and a
20 little bit about the belt conveyor.

21 Q. Okay. And what about the articulated loading
22 system, which is shown in Exhibit -- Appendix A, or are

1 you considering that to be the belt conveyor?

2 A. Yes, that is the belt conveyor.

3 Q. I see. Okay. So do they also market air
4 slides?

5 A. Yes.

6 Q. Okay. Had you previously -- by you, I mean
7 Masaba -- previously purchased air slides from DYNATEK?

8 MR. NYDEGGER: Objection. Foundation. Paul,
9 do you want me -- the reason that I'm objecting to
10 foundation on these is that Dan hasn't been there
11 for the entire timeframe of Masaba.

12 MR. MORICIO: Oh, okay. Okay. Fair enough.

13 MR. NYDEGGER: And so if you want to limit your
14 questions to his knowledge or to his time at Masaba,
15 that would -- I don't have to keep objecting.

16 MR. MORICIO: Okay. That's fine. I'm fine
17 with that stipulation.

18 BY MR. MORICIO:

19 Q. So whenever I say Masaba, for the record, to
20 be clear -- and I'm fine -- it's your knowledge while at
21 Masaba. I'm not trying to import, per se. It's just
22 easier -- well, I'll just ask you.

1 MR. NYDEGGER: That -- that's great.

2 MR. MORICIO: Okay. Okay. Sure.

3 BY MR. MORICIO:

4 Q. Did you -- had you, in your work at Masaba,
5 ever purchased any air slides or any other products from
6 DYNATEK previously?

7 A. I haven't purchased any, no.

8 Q. Okay. Are you aware of anyone at Masaba who
9 had?

10 A. No.

11 Q. Okay. So you found out about them for the --
12 just in connection with doing an Internet search for
13 different conveyor systems that you might use or
14 consider incorporating into the Solaris design; is that
15 fair?

16 A. Yes. There's several manufacturers out there
17 that do similar stuff.

18 Q. Okay. But you didn't -- like, had you heard
19 of that company's name before?

20 A. No.

21 Q. Okay. So -- and do you know what your search
22 query was when the system that's shown in Appendix A --

1 strike that. Do you recall what your search query was
2 when you found the brochure that's in Appendix A of your
3 declaration?

4 A. No, I do not recall.

5 Q. Okay. What -- at the time you were looking or
6 came across the brochure that's in Appendix A, what
7 aspect of the system were you looking for?

8 A. If we go back to the original drawing, we were
9 looking at ways to convey material in a simpler fashion.
10 So one of those ways was an air slide. DYNATEK came up
11 in the search as a manufacture of air slides. It just
12 happens that they also manufacture several other things
13 as well.

14 Q. I see. But the component you were focusing on
15 was the horizontal delivery mechanism for the silo
16 loader; is that fair?

17 A. Partially fair. The horizontal section and
18 then we have the telescoping chute at the end of the
19 horizontal section.

20 Q. Okay.

21 A. Those two combined, DYNATEK provides both of
22 those.

1 Q. Okay. And just so we're clear, looking at the
2 telescoping chute section, I think it's -- I think I
3 know what you're referring to, but sometimes a picture
4 is worth a thousand words. Is that shown anywhere on
5 the first page of the of the DYNATEK brochure?

6 A. Yes.

7 Q. Can you circle that telescoping chute in red,
8 just so we have clarity of what you're talking about?

9 A. They call it retractable loading spout --

10 Q. Okay.

11 A. -- but yeah.

12 Q. Okay. So it's the end at the last -- the
13 second conveyor section that actually -- the vertical
14 chute that actually delivers it into the silo, that
15 piece?

16 A. Yes. That extends and retracts its telescope.

17 Q. I see.

18 MR. NYDEGGER: Paul, can I interrupt for a
19 moment?

20 MR. MORICIO: Sure.

21 MR. NYDEGGER: So Dan is now using a complete
22 copy as filed.

1 MR. MORICIO: Okay.

2 MR. NYDEGGER: And now that he has marked on
3 this, I just want you to be aware that this is now a
4 different document that does not have an Exhibit
5 number, because he's not using the one he was using
6 earlier that he marked.

7 MR. MORICIO: Okay. Now I'm confused.

8 MR. NYDEGGER: So earlier --

9 MR. MORICIO: Okay.

10 MR. NYDEGGER: -- this morning, he was
11 referring to that.

12 MR. MORICIO: I see.

13 MR. NYDEGGER: During the break, we printed out
14 this, which has -- which is as filed.

15 MR. MORICIO: I see. Okay.

16 MR. NYDEGGER: And so now he has made a marking
17 on this Exhibit 2005. And now that it has been
18 marked on, it's different from what is in the
19 record.

20 MR. MORICIO: I see. Okay.

21 MR. NYDEGGER: I just want to make you aware.

22 MR. MORICIO: Okay.

1 MR. NYDEGGER: So that if you think that you've
2 already marked this document as an exhibit, you have
3 not.

4 MR. MORICIO: Okay. Okay. But it's already an
5 exhibit in the case.

6 MR. NYDEGGER: It is, but it doesn't have his
7 circle that he just drew on it. That's why I'm
8 drawing it to your attention.

9 MR. MORICIO: Okay. All right. So just so the
10 record is clear, before the break, we -- he gave
11 testimony about his declaration, which I marked as
12 Exhibit 1060, sort of a version he printed out for
13 the deposition, correct?

14 MR. NYDEGGER: That's correct.

15 MR. MORICIO: Okay. Since the start of this
16 new session, he has a complete copy of the as-filed
17 version of his declaration, which includes Appendix
18 A, correct?

19 MR. NYDEGGER: That's correct.

20 MR. MORICIO: And that's what he's referring to
21 or has been referring to since the start of this
22 most recent session?

1 MR. NYDEGGER: That's correct.

2 MR. MORICIO: Okay. All right. That's fine.

3 That just -- thank you for that clarification. And
4 we'll go ahead and continue the rest of the
5 afternoon on the as-filed version, just for clarity.

6 BY MR. MORICIO:

7 Q. Does the system that ultimately -- the final
8 system that was delivered -- first final unit that was
9 delivered to Solaris, does it have this telescoping
10 chute or a telescoping chute at the end of the
11 horizontal conveyor section?

12 A. Yes.

13 Q. Okay. Had Masaba designed -- what do you call
14 that section, that piece, again, that component?

15 A. You're talking the telescoping chute?

16 Q. Yeah.

17 A. That's what I call it.

18 Q. Okay. The telescoping chute. It's, like --
19 it's -- sometimes the generic description is the best.
20 Okay. Had Solaris designed telescoping chute before the
21 Solaris project for any other customers?

22 A. You said had Solaris designed?

1 Q. Oh, Jesus. I'm sorry. Talking about in
2 general.

3 MR. NYDEGGER: Also, Paul, one other -- we've
4 been referring to also the telescoping chute of the
5 second iteration.

6 MR. MORICIO: Yeah.

7 MR. NYDEGGER: So I just want to make you aware
8 that --

9 MR. MORICIO: I know what he is talking about.
10 Yeah.

11 MR. NYDEGGER: -- could generate some confusion
12 between -- using that term for both parts.

13 MR. MORICIO: No. Yeah. Let's fix it.

14 MR. NYDEGGER: Call this spout. Is that --

15 MR. MORICIO: Could we go off this record for a
16 second?

17 THE REPORTER: We are off the record.

18 (A recess was taken.)

19 THE REPORTER: We are on the record.

20 MR. MORICIO: All right. Thank you to Counsel
21 for clarifying a few issues. I'll try and get some
22 of this on the record so that the record is clear.

1 BY MR. MORICIO:

2 Q. So Mr. Brinkman, you just circled a device you
3 called a telescoping chute on Appendix A of your
4 declaration?

5 A. No. Telescoping spout.

6 Q. Oh, okay. I was just going to make clear that
7 off the record, we talked about, to try and make things
8 clear to distinguish that from the second iteration of
9 this telescoping chute, which was one of the components
10 of an earlier design of the system for the horizontal
11 section of the silo loader for the Solaris project. For
12 clarity, the telescoping spout is the section at the
13 very end that you circled in Appendix A, the DYNATEK?

14 A. Yes.

15 Q. Okay. And so we're going to refer to that as
16 a telescoping spout, and we're going to refer to the
17 second iteration of the horizontal member of the
18 conveyor section of the silo loader for Solaris as the
19 second iteration telescoping chute; is that correct?

20 A. That is correct.

21 Q. Okay. And earlier you testified about there
22 being a camera in the system that was delivered to

1 Solaris being disposed or near the telescoping chute.
2 As I understand it from our discussion off the record,
3 that camera was actually positioned near the section
4 that we're calling this telescoping spout; is that
5 correct?

6 A. Yes.

7 Q. Okay. All right. And I presume that camera
8 is there to give eyes to the operator so that he or see
9 -- he or she can see where that telescoping spout is
10 relative to the silo; is that right?

11 A. Yes.

12 Q. Okay. Because what you want to do is when
13 you're setting this thing up, you want to be able to
14 have that telescoping spout over the opening to whatever
15 silo you're filling.

16 A. That's correct.

17 Q. I see. And the camera gives you eyes right
18 there so that you can -- so that that person can do the
19 alignment; is that correct?

20 A. Yes.

21 Q. Okay. The telescoping spout that was -- had
22 you designed or used telescoping spouts previously in

1 any conveyor delivery mechanisms prior to the design
2 Masaba was doing for Solaris?

3 A. At my time at Masaba, no, we have not used
4 telescoping spouts, nor do we design telescoping spouts.

5 Q. Have you ever used them before in any of your
6 previous design work?

7 A. No.

8 Q. Okay. Was the first time you saw a
9 telescoping spout for the end section of the horizontal
10 component -- horizontal conveyor component of the silo
11 loader the one you had seen in the DYNATEK brochure, or
12 had you seen other telescoping spout previously?

13 A. I've seen others.

14 Q. Okay. And is the purpose of the telescoping
15 spout to provide effectively, a funnel that prevents the
16 material from spilling out over the silo as it's being
17 delivered?

18 A. No. The function of the telescoping spout is
19 to close that gap from the articulating conveyors down
20 to approximately 6 to 8 feet down below, which is where
21 the top of the silo is.

22 Q. I see. So it's to have a protected chute or,

1 in this case, spout from the top of the articulating
2 conveyor to, effectively, the opening in the silo?

3 A. No, it's not there to protect. It's there to
4 fill that gap or fill that length because on the top of
5 the silos, there's a -- what I would call a big doghouse
6 on the top. So with the spout retracted, we can get
7 above and around and over that doghouse. With the chute
8 extended, we can go down below the doghouse to the top
9 of the silo and the fill port.

10 Q. Okay. But the basic purpose of the
11 telescoping spout is so that the material just doesn't
12 fall that 8 feet distance into the silo and potentially
13 spill over or blow away; is that fair?

14 A. It -- it's the last component to direct it
15 directly into the silo.

16 Q. Okay. I'm sorry. So earlier you had
17 mentioned you actually talked to somebody at DYNATEK; is
18 that right?

19 A. Yes.

20 Q. Who was it again?

21 A. Their sales guy. I don't remember the name.

22 Q. Okay. And what did you discuss with the sales

1 guy at DYNATEK?

2 A. We discussed getting them a sample of material
3 so that they can look at what the angle or reposing of
4 the material is, to see how much of an angle is required
5 to make that material flow. Then we talked briefly
6 about their air slide product, and I don't think we
7 really talked too much about the EconoLoader belt
8 conveyor.

9 Q. What do you recall, if anything, you talked
10 about concerning the EconoLoader?

11 A. The belt conveyor, just general dimensions.
12 As you can see on the exhibit, it has a lot of
13 information there with the main piece being that it can
14 only reach 27 feet from center line to center line. So
15 the belt conveyor is their standard product line. For
16 them to do something above and beyond that, would be a
17 complete custom product.

18 Q. Okay. So if they were going to build a
19 horizontal component of the silo unloader as a
20 subcontractor for you, they would had to have customized
21 the system shown that's in exhibit -- or Appendix A?

22 A. Yes.

1 Q. Okay. Did you consider having them do that or
2 not?

3 A. I don't remember. I probably considered it
4 for a brief second, but being that we're in the business
5 of designing conveyors, we could handle that part.

6 Q. Okay. Were you considering the air slide?
7 What component of the air slide product were you
8 considering from them? Was it also for the horizontal
9 section?

10 A. Yes.

11 Q. Okay. And would they have had to customize --
12 custom build that for the loader -- the silo loader that
13 you were designing for Solaris?

14 A. Yes, it would have to be custom-built.

15 Q. Okay. Is that something DYNATEK, to your
16 understanding, do they do custom systems, or were they
17 only mainly selling standard silo loader systems?

18 MR. NYDEGGER: Objection. Form.

19 BY MR. MORICIO:

20 Q. Were you able to gather that from your
21 discussions with the sales guy?

22 A. In my discussions with him, I think they would

1 do some customization, but they wouldn't do a complete
2 unit -- one-off unit.

3 Q. I see. Okay. You were talking about material
4 delivery rates. You said you had discussions with the
5 sales guy about that. What is that in reference to?

6 A. What component are you talking?

7 Q. That's what I was asking you. I was -- it
8 wasn't clear to me what components you were talking
9 about. Was it in connection with either the EconoLoader
10 or the air slide that you were considering from them?

11 A. I had that discussion with the belt wall guys
12 and the DYNATEK guys.

13 Q. I see. Okay. So you were considering the
14 obvious -- so you were considering the belt wall design.
15 You were considering the DYNATEK designs. And as part of
16 your consideration, you wanted to know what their
17 delivery capacity was; is that fair?

18 A. Yes.

19 Q. Okay. And then you also wanted to know what
20 their design capacity or interest was, as to whether
21 they would be a supplier or subcontractor for you, in
22 connection with the -- either the air slide or

1 articulating conveyor; is that fair?

2 A. Yes.

3 Q. Okay. And so they weren't really interested
4 in an one-off design, as I understand; is that correct?

5 A. I don't believe they were. It would've been a
6 lot of work from both sides.

7 Q. Okay. So you decided it would just be --
8 probably made more sense, because you guys did design
9 and manufacture, and just to do it yourself, fair?

10 A. Yes.

11 Q. Okay. In Paragraph 24 of your declaration,
12 you make reference -- it says, "At some point after
13 that, I became aware that Solaris had made copies of the
14 first unit. I was given a copy of the Solaris spec
15 sheet shown in Appendix B, which shows both Masaba's
16 first unit on the first page and a system offered by
17 Solaris that is substantially identical to the first
18 unit delivered to Solaris by Masaba on the ensuing
19 pages." Do you see that?

20 A. Yes.

21 Q. Okay. And then you make reference to sort of
22 this comparison to the spec sheets. Do you see that?

1 A. Yes.

2 Q. Okay. In connection with this analysis you
3 were doing concerning your view that the Solaris system
4 was a copy, did you do any inspection of the Solaris
5 product itself, or was it based just on a comparison of
6 these spec sheets?

7 A. It's based on a comparison of the spec sheets
8 and the picture I saw of them building several more
9 units.

10 Q. Okay. Did you do any type of analysis to
11 compare the claims of the Masaba patent to the Solaris
12 design in connection with coming up with this opinion of
13 copying?

14 A. No, I did not compare their spec sheet to our
15 patent. The spec sheet and their drawings look very
16 comparable to the unit that we had spent the last year
17 and a half designing.

18 Q. Okay. And you make some reference to -- and
19 to be clear, the Masaba first unit that's shown on the
20 left, in Paragraph 24, that was the system that you
21 built for Solaris, correct?

22 A. Yes.

1 Q. Okay. And that was built using the design
2 criteria that Solaris had given you, which is found in
3 Exhibit 1040 -- 1046?

4 A. The spec sheet, like I said before, was used
5 more as a guideline. So that spec sheet does not match
6 the final unit.

7 Q. Okay. But the design -- the Masaba design was
8 done using that as a design criteria, the spec sheet
9 given by Solaris, correct?

10 A. Was used as a guideline, yes.

11 Q. Okay. And throughout the process, Mr.
12 Weinstein and others at Solaris provided some design
13 input in the design, correct?

14 A. The spec sheet that we used as a guideline was
15 part of that design criteria. We would also review,
16 over Teams meetings, the design and where we were with
17 the design, and talk through any questions we had or any
18 questions they had.

19 Q. Okay. And Mr. Weinstein provided some input
20 during those discussions, correct?

21 A. Yes, everyone on the call provided input.

22 Q. Okay. The -- when you said Solaris spec

1 sheet, just a minute ago, just so the record's clear,
2 you're talking about that Exhibit 1046 that we just
3 referred to earlier, correct?

4 A. Yes, 1046 is that spec sheet.

5 Q. Okay. Not the Solaris spec sheet that's shown
6 in Paragraph 24?

7 A. Correct.

8 Q. Okay. I just want to make sure we were clear
9 on that. Okay. So the -- so your opinion, Paragraph
10 24, about copying was based on your comparison of the
11 Masaba first unit to the Solaris spec sheet that's shown
12 in Paragraph 24, correct?

13 A. Yes.

14 Q. Okay. And it wasn't based on any analysis you
15 did of any of the claims of the Masaba patent against
16 the Solaris spec sheet, correct?

17 A. The components on the Masaba unit look a lot
18 like the components on the Solaris unit.

19 Q. Okay.

20 A. Therefore, I did not go and look at each claim
21 on our patent to compare.

22 Q. Okay. Have you ever done that? Have you ever

1 looked at the claims of the patent in connection with,
2 let's say, preparing your declaration here?

3 A. I hadn't looked at it a while ago, a couple
4 years ago. I did not look at it for preparing --
5 preparing for today, I guess.

6 Q. Did you review the patent application before
7 it was filed?

8 A. Yes.

9 Q. Okay. Was it your decision to file the patent
10 application?

11 A. No. My manager at the time, him and I,
12 determined that we should file a patent. So he told me
13 to file it, and I took over the process from there.

14 Q. In the discussions you had with that
15 individual, why -- what was the reason behind filing the
16 patent?

17 A. The reasoning is, is no one else is doing
18 this. There is a -- a unique piece of equipment that we
19 have spent a lot of time, energy, and effort to design
20 and build. So with that, we wanted to protect that and
21 have that as part of our -- as part of Masaba.

22 Q. Okay. And was the intent that after it became

1 clear that Solaris wasn't going to order any more units,
2 that Masaba might want to build and sell these systems
3 itself?

4 A. Can you repeat that?

5 MR. MORICIO: Can we just reread it. Repeat it
6 please.

7 THE REPORTER: Okay.

8 (The requested question was read back.)

9 MR. NYDEGGER: Objection. Vague.

10 THE WITNESS: When you say, "was it the
11 intent," that's -- so there's other companies out
12 there that are in the frack industry, right? So I
13 guess the question, was it the intent at that time?
14 The intent was, there's the potential we could go to
15 other customers if Solaris was not going to buy
16 this. Anchor and Solaris were not going to buy this
17 through Masaba.

18 BY MR. MORICIO:

19 Q. I see. Okay. And has Masaba approached any
20 other customers and sold any of these systems to anyone
21 else?

22 A. No, we have not sold to anyone else. I

1 believe the sales team did approach others, though.

2 Q. Okay.

3 A. But I'm not 100 percent on that, if they did
4 or didn't.

5 Q. Do you know if any proposals were ever
6 submitted with pricing, and that sort of thing, to sell
7 units?

8 A. I don't know that.

9 Q. Okay. Have you been involved in the filing of
10 patent applications for any other designs that you have
11 done for customers in the past?

12 A. Yes. We have -- I have put out there three
13 other patents during my time as a manufacturer -- or as
14 the engineering manager.

15 Q. Okay.

16 A. Some of those are on all of our products, and
17 some of those are on just the one product.

18 Q. I see. Would be fair to say that most of them
19 are for products -- standard products that you sell
20 directly to the industries?

21 A. Three of them were, and one of them was not.

22 Q. Okay. So in your tenure at Masaba, is it fair

1 to say there were two patents you filed in connection
2 with designs that were done for a customer, is that
3 fair, this one and one other?

4 A. Yes.

5 Q. Okay. You said mister -- you had discussions
6 with Mr. Stanton, or he knew that you had filed the
7 patent before the testing that was done with Solaris and
8 Anchor; is that right?

9 A. Yes, he knew that we had applied for a patent.

10 Q. Okay. And why did you tell him you had done
11 that?

12 A. As part of the team we told them. In
13 addition, when they came to our facility to visit, we
14 had the patent pending stickers on the machine as well.
15 So anybody that came through and saw that, whether it be
16 Anchor, Solaris, Masaba, or any other customer, they
17 would see those.

18 Q. Okay. So you told Mr. Stanton, did you tell
19 Mr. Weinstein at any point in time?

20 A. I showed him when it was on the shop floor,
21 they saw those patent pending decal stickers, and knew
22 they were there.

1 Q. So you pointed to the sticker and you said,
2 hey, look, we filed a patent on this?

3 A. I believe I did, yes.

4 Q. You're certain about that?

5 A. Yes.

6 MR. MORICIO: Okay. Think it's good time for
7 lunch?

8 MR. NYDEGGER: Okay.

9 MR. MORICIO: Is that good for you?

10 MR. NYDEGGER: Yeah, we can --

11 MR. MORICIO: Okay.

12 THE REPORTER: We are off the record.

13 (A recess was taken.)

14 THE REPORTER: We are on the record.

15 BY MR. MORICIO:

16 Q. So thank you, Mr. Brinkman. I have just a few
17 more questions for you. I have an exhibit, and kind of
18 a new exhibit, I want to give you, which I now
19 understand hasn't been used before yet.

20 MR. MORICIO: So let's go ahead and mark this.

21 Okay. Sorry. If you can just mark this as 1043.

22 It is a -- well, may I first ask you if you've seen

1 this before?

2 (Exhibit 1043 was marked for identification.)

3 A. No, I have not seen this document.

4 MR. NYDEGGER: I'm going to lodge an objection.
5 Lack of foundation and lack of authentication.

6 BY MR. MORICIO:

7 Q. Okay. Is there any information in this
8 document -- I understand you haven't seen the document
9 in the form that it's presented. Have you -- this
10 document, it was a proposal that was made to Mr.
11 Weinstein by Mr. Stanton, and it has some -- it has some
12 information about the design. Is it -- did -- my
13 question is: Did Masaba have any involvement in the
14 system being quoted here?

15 MR. NYDEGGER: Objection. Vague and
16 foundation.

17 THE WITNESS: What was the question?

18 BY MR. MORICIO:

19 Q. Yeah. So this is a proposal, a cost proposal
20 to build the silo loader from Mr. Stanton to Mr.
21 Weinstein. And it's got certain design metrics in it.
22 My only question is -- well, let me ask you the first

1 question. The date of this document, September 1, 2020,
2 had Anchor engaged Masaba to do the Solaris design by or
3 before September 2020, September 1st?

4 A. I don't remember the exact month or day that
5 we started on it. July 2020 they approached Masaba.

6 Q. Okay. They, meaning Anchor?

7 A. Yes.

8 Q. Okay. So did Masaba provide any sort of
9 design constraints in the bidding that Anchor ultimately
10 made to Solaris, to your knowledge?

11 A. How would you define constraints?

12 Q. Okay. So this document sets out certain
13 materials. It talks about a portable belt silo conveyor
14 and a portable truck unloader. My only -- and then it
15 lists sort of components of what's being quoted. My
16 question really is just directed did Masaba have any
17 involvement in putting together what the components of
18 the system were going to be for terms of Anchor's
19 pricing?

20 MR. NYDEGGER: Objection. Foundation.

21 THE WITNESS: So it's bits and pieces of our
22 quote that went to Anchor. Anchor put that in their

1 quote.

2 BY MR. MORICIO:

3 Q. Okay.

4 A. And submitted that to Solaris.

5 Q. Okay.

6 A. This is the sales drawing. That is the first
7 drawing in my declaration.

8 Q. Okay. There's a drawing at the end of this
9 Anchor proposal, on the last page. Do you see that?

10 A. Yep.

11 Q. Did Masaba prepare that drawing, which is at
12 the -- on the last page of Exhibit 1046?

13 A. Yes.

14 Q. 1043, sorry.

15 A. Yes.

16 Q. I see. Okay. So Masaba prepared sort of a
17 basic design for the system that, in turn, Anchor used
18 to quote to Solaris; is that right?

19 A. Yes.

20 Q. I see. Okay. So the design on the last page
21 of 1043 Masaba came up with, fair?

22 A. Yes.

1 Q. Okay. And this was sort of the initial
2 proposal that was given, ultimately, to Solaris,
3 correct?

4 A. Yes.

5 Q. Okay. And in this initial design, there was a
6 portable belt silo conveyor and a portable truck
7 unloader, correct?

8 A. Yes.

9 Q. Okay. Was there a reason why the two were not
10 connected or integrated in the original design?

11 A. Yes.

12 Q. And why was that?

13 A. The reason being that portable truck unloader
14 is a standalone, somewhat standard that can be --
15 somewhat standard unit that can be customized to meet
16 different requirements.

17 Q. I see.

18 A. So a truck unloader is typically paired with a
19 -- with a conveyor. So in this case, a truck unloader
20 could also be paired with a conveyor, no matter the
21 incline.

22 Q. And so just -- so a truck unloader in this

1 context is the trailer that carries the rest of the
2 conveying equipment?

3 A. Truck unloader is what I circled earlier for
4 us, is that portion on the right side of that drawing.

5 Q. Yeah. The bottom part, the part that has the
6 axles and the wheels that -- those components, correct?

7 A. Yes.

8 Q. I see. So did Masaba have a standard truck
9 unloader that it was -- that it used as part of the
10 design?

11 MR. NYDEGGER: Objection.

12 BY MR. MORICIO:

13 Q. Initial design?

14 A. Yes. That drawing shows our standard unit.

15 Q. I see. Okay. And then there's a belt
16 elevator there, correct, shown?

17 A. Sidewall belt conveyor.

18 Q. Okay. And the component that's shown in that
19 initial drawing, was that also a standard piece of
20 equipment, or had some design work already been put into
21 what's shown on the last page of 1043 for purposes of
22 preparing the quote to Solaris?

1 A. Which component?

2 Q. The belt conveyor?

3 A. The sidewall belt conveyor is custom for this
4 project.

5 Q. I see.

6 A. Which is shown in Paragraph 4 in my
7 declaration.

8 Q. Okay. So is the picture that's on the last
9 page of 1043, is that the same picture of what's shown
10 in Paragraph 4 of your Declaration?

11 A. Yes, I believe it is.

12 Q. I see. Okay. It -- and at some point, is it
13 the case that Solaris asked that the truck unloader be
14 integrated with the rest of the system? Do you recall
15 Mr. Weinstein asking about those two components being
16 made as a single unit?

17 A. I believe, to my recollection, someone asked.
18 I'm not sure who exactly asked.

19 Q. Is it fair to say it was communicated from
20 Anchor, as to whether it came from Anchor or Solaris,
21 you don't know. But it was communicated to Masaba to do
22 that, correct?

1 A. It was requested to Masaba to look into that
2 to see if we can get it into one unit.

3 Q. I see. Okay. Do you know why that was
4 requested at all?

5 A. I believe the request came to simplify and
6 just have one truck going down the road versus two or -
7 - or more.

8 Q. I see. So with the two separate systems, the
9 sidewall belt conveyor would have to have been delivered
10 by a separate truck or trailer?

11 A. Yes.

12 Q. I see. And the truck unloader that we're
13 talking about in this context, that's the component that
14 has the ramps where the delivery truck would drive over
15 to deposit the frac sand to be delivered to the silos,
16 correct?

17 A. Yes.

18 Q. Okay. Do you know what the pricing was by
19 Masaba to Anchor for this first system?

20 MR. NYDEGGER: Objection. Vague.

21 THE WITNESS: I don't recall the exact number,
22 but I believe it was less than the total amount on

1 this quote.

2 BY MR. MORICIO:

3 Q. So was this quote -- did this quote -- I --
4 let me ask. I assume Anchor had some sort of a markup;
5 is that fair?

6 MR. NYDEGGER: Objection. Foundation.

7 BY MR. MORICIO:

8 Q. Do you know if Anchor marked up the quote that
9 Masaba gave to Anchor?

10 A. I don't know the exact amount, if they did or
11 didn't, but it looks like this number could have been
12 marked up.

13 Q. Okay. So what -- looking at it, we could even
14 look at the -- I guess they're one and the same, the
15 figure that's shown in Paragraph 4 of your declaration
16 or the figure that's on the last page of 1043. What
17 contributions, if any, would you say you, Dan Brinkman,
18 made to the design?

19 A. For the design led the team in the direction
20 to continue to progress forward in coming up with a -- a
21 new product that would be able to fill silos that are
22 50, 60 feet up in the air. By leading that team, I was

1 able to show them different ways of -- and different
2 materials and items to look at to come up with different
3 ideas for the system.

4 Q. Okay. So we talked about a couple of
5 iterations of the side belt conveyor, as well as the
6 incline section. We've also talked about the
7 telescoping spout. Did you have a hand in any of those
8 aspects?

9 MR. NYDEGGER: Objection. Vague.

10 THE WITNESS: What do you mean, have a hand in
11 those?

12 BY MR. MORICIO:

13 Q. Like, the selection of the design, or the
14 design components to be used?

15 MR. NYDEGGER: Objection. Vague.

16 BY MR. MORICIO:

17 Q. Let me ask a simpler question. What
18 contributions did you have in connection with any
19 specific component of the design?

20 MR. NYDEGGER: Objection. Vague.

21 THE WITNESS: There's quite a few components on
22 this system, so to recall all of those is going to

1 be tough to do.

2 BY MR. MORICIO:

3 Q. That's fair. Is there any component or aspect
4 of the system that sort of stands out in your mind that
5 you contributed to?

6 MR. NYDEGGER: Objection. Vague.

7 THE WITNESS: So on the initial concept, just
8 identifying components that could be used, and
9 talking with different manufacturers out there, and
10 identifying potential air slide was something that I
11 helped contribute.

12 BY MR. MORICIO:

13 Q. Okay. What about the articulated conveyor?
14 Were you were you involved in the decision to go with
15 that as part of the final design?

16 MR. NYDEGGER: Objection. Vague.

17 THE WITNESS: With a system this big, it was
18 definitely a team and a group effort to get from
19 Iteration 1 all the way up to Iteration 5. There
20 was a lot of decisions and a lot of engineering
21 work, and a ton of time put into this by several
22 individuals to get to a final product.

1 BY MR. MORICIO:

2 Q. Do you know whose idea it was to use an
3 articulating conveyor as -- for the incline section?

4 A. The incline section is different than the
5 articulating conveyor section. So I'm not quite sure
6 what you're asking there.

7 Q. Okay. I'm sorry, you're right. I just use my
8 terms that -- articulated conveyor. That horizontal
9 component, who was it that decided you should settle on
10 the articulated conveyor design, or suggested that?

11 MR. NYDEGGER: Objection. Vague.

12 THE WITNESS: Well, as stated, the team worked
13 together. So between Jason and Tyler, they had a
14 great majority of design -- design decisions to go
15 into.

16 BY MR. MORICIO:

17 Q. But you were involved in searching, and found
18 the DYNATEK system, correct?

19 A. Yes, I identified the DYNATEK air slide could
20 potentially be a way to move material.

21 Q. Okay. In the project, was -- how did Masaba
22 bill Anchor. Were you charging sort of an hourly rate,

1 or was it just a project rate for doing the design work?

2 A. It was part of the project. If you look at
3 that there, 1043, it spells out approximately how Masaba
4 had quoted it.

5 Q. Okay. But for example, Masaba sent invoices
6 to Anchor in connection with the design and construction
7 work, correct?

8 A. All invoices went to Anchor as far as I know.

9 Q. Okay. And would those invoices have reflected
10 an hourly rate or was it a project rate?

11 MR. NYDEGGER: Objection. Foundation.

12 THE WITNESS: Can you ask those -- that
13 question in two questions?

14 BY MR. MORICIO:

15 Q. Sure. It -- did -- would -- was Anchor billed
16 an hourly rate for the design work that Masaba did?

17 A. No.

18 Q. So there wouldn't be any records that would
19 pull that would show how many hours, for example, you
20 devoted to the project; is that fair?

21 A. No.

22 Q. Was that standard practice for Masaba in

1 bidding jobs of this type, was to do sort of a project
2 rate as opposed to, like, an hourly engineering rate?

3 A. Yes.

4 Q. Okay. Do you or others at the company,
5 including the inventors of the patents, do you guys have
6 an hourly rate that you charge customers for any design
7 work?

8 MR. NYDEGGER: Objection, compound and
9 foundation.

10 THE WITNESS: Sales, when they quote stuff, is
11 -- it's all part of the entire project. So
12 engineering is part of the project. Paint's part of
13 the project. Assembly's part of the project.
14 Everything is all project-based.

15 BY MR. MORICIO:

16 Q. Okay. Going back to the DYNATEK brochure,
17 which I guess is Appendix A, I think of your Declaration
18 205. There's a picture on the bottom left of the front
19 page. Just go to that front page. So the DYNATEK
20 design uses -- so it's an articulated system, correct?

21 A. Yes. It appears to be articulated.

22 Q. Okay. And so it -- is it -- pivot in a couple

1 of spots?

2 A. Yes.

3 Q. Okay. So it's got -- how would you define the
4 different conveyors? Is there sort of an inboard
5 segment and an outboard segment? Or an inner conveyor,
6 an outer conveyor? What would you use to define the two
7 different -- the two conveyors there?

8 A. For our unit, we call them an inner and an
9 outer.

10 Q. Inner and outer conveyor?

11 A. Yes.

12 Q. Okay. And so the inner conveyor pivots
13 relative to -- I guess this is called a mounting
14 pedestal here; is that right?

15 A. Yes.

16 Q. Okay. In the Solaris silo design, it pivots
17 relative to -- is it the incline section?

18 A. The incline section has a hydraulic -- couple
19 hydraulic cylinders and a base pad on it that the inner
20 conveyor is mounted onto.

21 Q. And does it rotate or pivot about any of those
22 components?

1 A. Yes.

2 Q. Which of those components does it pivot about?

3 A. Rotates along the -- around the entire base
4 unit that the inner conveyor's mounted to.

5 Q. I see. So can it pivot 360 degrees around the
6 incline section?

7 A. No.

8 Q. What range of motion does it have?

9 A. I don't know in angles how far the range of
10 motion is. The range of motion is going to be up and
11 next to the vertical belt conveyor from one side. And
12 then all the way around to the vertical bucket elevator
13 of the other side. It cannot go through or around the
14 bucket elevator frame.

15 Q. Could it -- does that have a range of motion
16 of at least 270 degrees?

17 A. Yes, I believe so.

18 Q. Okay. Because that was a design constraint
19 proposed by Mr. Weinstein and Solaris, correct?

20 A. Yes. As I mentioned before, those design
21 constraints came off of our sales drawing after we sent
22 them to sales drawing.

1 Q. And then the articulated conveyors for the
2 Solaris design system, that pivots between the inner
3 conveyor and the outer conveyor; is that right?

4 A. Yes.

5 Q. Okay. And the conveyors, what type of
6 conveyors are used in the articulated conveyor that was
7 incorporated into the Solaris design, the final design?

8 A. Per my declaration, Paragraph 12, slider bed
9 belt conveyors are what we use on the inner and outer
10 conveyors.

11 Q. What kind of those? I'm sorry. Slider belt
12 conveyors?

13 A. Slider bed belt conveyors.

14 Q. Okay. And what is a slider bed belt conveyor?

15 A. On Page 7, I'll just read that. "Masaba
16 slider bed belt conveyors use a conveyor belt sliding on
17 a plastic-coated steel pan. And do not have any idler
18 rollers, making it much lighter and having a lower
19 height profile than conventional belt conveyors, such as
20 the belt conveyors used in the DYNATEK EconoLoader."

21 Q. So what is a plastic-coated steel pan?

22 A. A plastic-coated steel pan is our -- really

1 the structural portion of the conveyor that allows us to
2 reduce weight and height, and give it strength to hold
3 both conveyors. That steel pan is, like I said,
4 structural, but also has several pieces of UHMW plastic
5 mounted on top of it. So it gives the belt a little bit
6 of lubricity to move across that slider bed.

7 Q. Okay. So there are no rollers in the system?

8 A. There are no idlers in the inner and outer
9 articulating conveyors.

10 Q. Okay. So the only -- the motors though that
11 drive them, those are cylindrical?

12 A. What was -- repeat that term?

13 Q. Yeah. The motors that drive the conveyor
14 belts in the conveyor belt sliding design that you used
15 for the Solaris, the those are driven by motors,
16 correct?

17 A. On the inner and outer articulating conveyors,
18 we have motorized head pulleys. Most conveyors, like on
19 the DYNATEK system, have -- are driven at the head end
20 of the -- of the conveyor. Our units have the motor --
21 motorized head pulleys at the tail end of the conveyor.
22 This way, we are actually pushing the belt across the

1 slider beds. And we're also moving the weight of those
2 conveyors towards the main part or the main structure of
3 the unit.

4 Q. So it would be -- I'm trying to think of a car
5 design. So it's like having a rear wheel drive versus
6 front wheel drive?

7 A. Opposite. So with conveyors, look at a
8 conveyor the way that the material moves. The tail end
9 is going to be where it starts, the head end is going to
10 be where it ends.

11 Q. Right. And so in the design for the Solaris
12 system, you had the motor at the tail end?

13 A. Yes.

14 Q. Okay. And in the DYNATEK system, it was in
15 the head end, for lack of a better word?

16 A. Yes.

17 Q. I see. Okay. And had DYNATEK -- I'm sorry.
18 Had Masaba designed belt conveyors previously that were
19 driven from the rear?

20 A. Yes.

21 Q. Okay. Had you designed any of that were
22 driven from the head section?

1 A. Yes.

2 Q. I see. Okay. But both the DYNATEK conveyors
3 and the one in the Solaris design, final design, both of
4 those are belt driven conveyors, correct?

5 MR. NYDEGGER: Objection, vague.

6 THE WITNESS: Yeah. So the -- a belt driven
7 conveyor is different than a belt conveyor. So you
8 have your tail pulleys, you have your head pulleys.
9 On the driven pulley, you have a motor, a gearbox,
10 and between the motor and the gearbox, you have
11 belts. Therefore, the motor is driving a gearbox,
12 which then turns the head pulley, which then turns
13 the conveyor belt. So all conveyors have a belt to
14 them that -- driven by a belt is -- could be a
15 direct mount motor or it could be a belt driven
16 motor.

17 BY MR. MORICIO:

18 Q. I see. So how they're driven may be
19 different, but the belt itself is the same; is that
20 fair?

21 MR. NYDEGGER: Objection, vague.

22 THE WITNESS: No. The belt is not the same for

1 all conveyors.

2 BY MR. MORICIO:

3 Q. Okay. What's the material that the belt was
4 made out of for the Solaris design?

5 A. It's been a while since I've looked at the
6 drawing and the model. Most belts are rubber belt like
7 what you would have on your shoes. I believe this belt
8 was a -- kind of a hybrid belt that had a fabric backing
9 on it. And then kind of a rubber/plastic top on it.

10 Q. I see. Okay. The articulated conveyors, did
11 they have any side portions on them for the Solaris
12 final design?

13 MR. NYDEGGER: Objection, vague.

14 THE WITNESS: You'd have to define side
15 portions for me.

16 BY MR. MORICIO:

17 Q. Okay. How -- was there anything to confine
18 the frac sand from tipping over or falling off the
19 sides?

20 A. Yes.

21 Q. What mechanism was used for that purpose?

22 A. The entire conveyor. The pan of the conveyor

1 is the bottom and it's the sides.

2 Q. So it's just not flat belt? It has some sort
3 of a trough to it; is that fair?

4 A. The pan is troughed to keep material centered
5 on the belt and to somewhat track it a little bit. But
6 most of the tracking is done with the tail pulley head,
7 head pulley, and guide anglers.

8 Q. I see. Okay. Was there anything about the
9 design of the belt itself that was unique for the
10 Solaris design?

11 MR. NYDEGGER: Objection. Vague.

12 THE WITNESS: Well, which conveyors?

13 BY MR. MORICIO:

14 Q. Yeah. Yeah. So the conveyors for the
15 articulating conveyor. The belts in that, were those
16 specially designed as part of the Solaris project, or
17 did you have those belts already available to you?

18 A. The belts were unique for this project. I
19 don't remember 100 percent, but I believe they were
20 cleated and then had the fabric bottom on the bottom on
21 them.

22 Q. And the cleated is what separates sections of

1 the belt from -- is that right? Back to front?

2 A. No. Cleats are, more or less -- let's say --
3 say you got tread on the bottom of your shoes, a cleat
4 would be similar to tread on the top of the belt.

5 Q. Oh, I see to keep the material from sort of
6 falling off or blowing away?

7 A. To keep the material flowing forward.

8 Q. Okay. Are the cleats designed so as to urge
9 -- or do they have a particular design such as to force
10 the sand forward, for example?

11 A. The cleats were -- are not very big. They're
12 -- might be a quarter inch tall, three-eighths inch,
13 half inch tall. They're not very big cleats. They're
14 just there as an additional way to ensure material is
15 moving.

16 Q. I see. Okay. So it's sort of a retaining
17 design to make sure that the frac sand stays on the
18 belt.

19 A. It helps the material move to where it needs
20 to go.

21 Q. I see. Okay. Is there anything -- difference
22 between the design of the inner conveyor and the outer

1 conveyor that was used in the Solaris design? Or are
2 they -- or they both use the same design that you just
3 described with the belt?

4 A. The inner conveyor is different than the outer
5 conveyor in -- in -- they are not the same.

6 Q. In what ways is it different?

7 A. If you look on Page 7, you can see the inner
8 conveyor is a truss design. By a truss, I mean the
9 lattice structure or the angle iron on the sides is V-
10 shaped. The outer conveyor is -- does not have a truss
11 design. It does not use a lattice structure. It uses a
12 lot of sheet metal form to make it into a structural
13 component.

14 Q. And is that because the inner conveyor bears
15 more of the load, and therefore, it needs to be more
16 structurally robust?

17 A. Yes.

18 Q. I see. Okay. We talked about aggregate
19 earlier, and I can't remember if I asked these exact
20 questions. We talked a little bit about concrete or
21 cement. Would you consider dry cement to be aggregate?

22 A. In what form?

1 Q. Before it's mixed. So in other words, the
2 powder that's used, the components -- okay. I think I
3 understand what your confusion is. Cement is made with
4 lye, right? Lime -- limestone, generally?

5 A. I believe so.

6 MR. NYDEGGER: Object. Foundation.

7 BY MR. MORICIO:

8 Q. Okay.

9 A. I don't know.

10 Q. Okay. I mean, there's some concrete that has
11 pebbles in it, correct? Mixed into it, like corrugated
12 concrete?

13 A. Yes. Some concrete does. Most concrete has a
14 stone mixed into it, like an aggregate or crushed.

15 Q. Okay. The powder portion of the cement, would
16 you consider that aggregate or just the crushed stone
17 that's contained within it?

18 A. Yes.

19 Q. Okay. When it's all mixed together and it's
20 wet, would you consider that to be aggregate?

21 A. Honestly, I've never thought of -- of calling,
22 you know, mixed and formed it's like asking is ice water

1 or is water ice, right?

2 Q. That's fair. Is Masaba a manufacturer for any
3 conveyor systems for wet cement?

4 A. In what way?

5 Q. So delivery of wet -- conveying wet cement.
6 Have you designed any systems for that?

7 A. Not that I can recall. A majority of our
8 units are conveying material up into the batch plants.
9 The batch plants are mixing all of the materials and the
10 water. And then the batch plant is dumping wet concrete
11 into a cement truck.

12 Q. I see. Okay. So you guys probably have it up
13 here because of the oil and gas industry. We have a lot
14 of this down in Houston. You have these silos that are
15 along roads that are used to basically build the roads
16 for the oil and gas industry. And the silos are used
17 basically for mixing cement. Are you following me?
18 Have you seen -- do you know what I'm talking about?

19 A. Are you talking about a batch plant?

20 Q. Yes. You're familiar with those, obviously?

21 A. We are familiar with batch plants.

22 Q. I see. So you designed conveyors for

1 delivering the aggregate to those silos. Is that what
2 you're saying previously?

3 A. Yes.

4 Q. I see. Okay. All right. That's fine.
5 Barring any follow-up questions, or from your counsel, I
6 don't have any other questions, Mr. Brinkman.

7 A. Okay.

8 Q. Okay.

9 CROSS-EXAMINATION

10 BY MR. NYDEGGER:

11 Q. Dan, I have just a couple of very short
12 follow-up questions. This is -- actually this is just
13 for the record. Previously, Exhibits 1045 and 1046 were
14 represented to be already exhibits in the record.
15 Whereas they -- we've now discovered they were not
16 previously exhibits in the record. I'm just going to
17 object on the grounds of authentication, as well.
18 Because they -- I didn't make that objection earlier
19 because they were represented to be part of the record.
20 So I just want to preserve that objection.

21 If you can turn to the document that we've
22 been referring to as 1046. That's the Solaris

1 specification sheet.

2 A. Yes.

3 Q. Mr. Brinkman, do you know whether multiple
4 versions of this specification sheet was conveyed to
5 Masaba throughout the design process?

6 A. Yes. I believe they were.

7 Q. Do you know how many different versions were
8 provided?

9 A. This -- our Exhibit 1046 looks to be the first
10 version. Once we got the first version, the Masaba team
11 took a hard look at it and made a bunch of red lines to
12 it. Crossed off things, identifying things that may not
13 be achieved, and then we sent that back to them. I
14 believe another version was sent back to us.

15 Q. So to your recollection, there were at least
16 two versions?

17 A. Yes, I believe so.

18 Q. Do you recall if there were more than two
19 versions?

20 A. I do not remember there being more than two.

21 MR. NYDEGGER: Okay. That's all I have.

22 MR. MORICIO: I don't have any others.

1 MR. NYDEGGER: Okay.

2 THE REPORTER: Okay. And before we go off the
3 record, how would you like your transcript, Paul?

4 MR. MORICIO: Brian?

5 MR. HAUSMAN: Whatever is easiest.

6 MR. MORICIO: Probably, I guess, expedited.
7 Yeah.

8 THE REPORTER: You do have the same day rush,
9 and then you want electronic?

10 MR. MORICIO: That'd be good. Yeah.

11 THE REPORTER: All right. And Chad?

12 MR. NYDEGGER: We'll just wait and see what
13 they file. But we do want to reserve and sign.

14 THE REPORTER: Okay. So you don't want a
15 transcript right now?

16 MR. NYDEGGER: No.

17 THE REPORTER: No. And then you would like to
18 have him read the transcript?

19 MR. NYDEGGER: Yes.

20 THE REPORTER: And I can send that to you or...

21 MR. NYDEGGER: Yes. That would be great.

22 Thank you.

1 THE REPORTER: All right. And we are off the
2 record.

3 (The deposition concluded at 1:24 p.m. CT)
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CERTIFICATE OF REPORTER

STATE OF SOUTH DAKOTA

I do hereby certify that the witness in the foregoing transcript was taken on the date, and at the time and place set out on the Title page here of by me after first being duly sworn to testify the truth, the whole truth, and nothing but the truth; and that the said matter was recorded digitally by me and then reduced to type written form under my direction, and constitutes a true record of the transcript as taken, all to the best of my skill and ability. I certify that I am not a relative or employee of either counsel, and that I am in no way interested financially, directly or indirectly, in this action.

Rachel Smith
RACHEL SMITH,

NOTARY

MY COMMISSION EXPIRES ON:04/04/203

SUBMITTED ON:07/02/2025



NIYA JORDAN,

COURT REPORTER

A			
aaron	94:22, 96:9,	35:22, 47:7,	54:9, 57:7,
69:20	96:11, 100:5,	59:13, 60:13,	65:15, 68:17,
aaron's	110:13, 110:16,	60:19, 83:17,	68:19, 72:11,
69:21	116:13, 116:14,	159:18, 159:21,	72:14, 72:20,
ability	122:3, 124:17,	160:14, 160:16,	75:15, 87:15,
89:14, 166:11	153:22, 162:12	160:20, 162:1	89:1, 89:2,
able	addition	ago	89:7, 89:13,
11:19, 57:10,	135:13	10:4, 10:19,	89:14, 93:6,
77:18, 77:19,	additional	33:4, 131:1,	97:4, 103:19,
86:2, 86:7,	9:15, 11:1,	132:3, 132:4	104:8, 104:13,
86:12, 86:18,	67:20, 68:15,	agreed	108:8, 108:19,
87:7, 102:20,	70:7, 73:6,	5:10	109:7, 118:9,
122:13, 126:20,	77:20, 77:21,	ahead	119:2, 120:20,
144:21, 145:1	77:22, 102:19,	79:8, 88:11,	122:7, 134:16,
above	158:14	119:4, 136:20	143:4, 145:22,
63:15, 72:9,	address	air	146:19, 148:8,
89:4, 96:14,	101:14	30:5, 65:1,	149:11, 149:14,
124:7, 125:16	addressed	65:4, 65:8,	151:12, 155:13,
absolutely	100:19	65:20, 65:22,	156:1, 160:19,
44:21	adjustability	66:2, 66:4,	161:9, 162:4,
abundance	56:14, 56:16	66:17, 66:22,	163:21, 164:11,
36:11	adjustable	67:6, 67:8,	165:1, 166:10
accept	101:17, 103:15	67:9, 68:20,	allow
72:17	affirm	71:5, 85:16,	104:10
accommodate	6:18	85:19, 86:2,	allowable
69:7, 86:2	after	86:6, 86:11,	97:4
account	9:12, 9:21,	86:15, 86:22,	allowed
78:3, 78:9	48:11, 53:2,	87:11, 87:14,	106:9
achieve	53:5, 86:16,	87:20, 87:22,	allows
75:2, 81:11	88:1, 101:3,	88:1, 88:6,	153:1
achieved	101:17, 102:8,	88:12, 90:12,	almost
163:13	103:16, 109:15,	90:17, 90:21,	89:1
across	128:12, 132:22,	91:10, 112:19,	along
72:14, 115:6,	151:21, 166:5	113:3, 113:7,	151:3, 161:15
153:6, 153:22	afternoon	114:5, 115:10,	already
action	119:5	115:11, 125:6,	79:5, 79:6,
166:14	again	126:6, 126:7,	81:19, 91:12,
actual	21:17, 23:15,	127:10, 127:22,	92:4, 92:6,
64:19	119:14, 124:20	144:22, 146:10,	118:2, 118:4,
actually	against	147:19	141:20, 157:17,
25:20, 28:7,	9:18, 76:15,	alignment	162:14
37:10, 43:1,	100:11, 131:15	122:19	also
45:14, 48:7,	aggregate	all	3:3, 7:21, 8:5,
54:16, 59:4,	32:16, 32:17,	6:22, 7:21,	12:21, 21:15,
77:9, 86:6,	32:18, 32:22,	8:5, 8:18,	21:16, 21:18,
91:2, 91:9,	33:6, 33:11,	14:20, 29:15,	35:9, 36:18,
	33:22, 34:4,	36:21, 41:1,	44:13, 59:18,
	34:6, 34:7,	45:7, 46:2,	61:1, 82:11,

84:2, 91:7, 96:16, 99:2, 104:6, 104:9, 104:11, 113:3, 115:12, 120:3, 120:4, 126:8, 127:19, 130:15, 140:20, 141:19, 145:6, 153:4, 154:1 although 48:8 always 32:4, 33:17, 78:11 amongst 18:20 amount 56:19, 95:16, 143:22, 144:10 analysis 129:2, 129:10, 131:14 analyst 17:19, 17:20, 77:5 anchor 9:1, 9:3, 11:9, 12:5, 12:8, 12:9, 16:13, 16:19, 19:13, 20:11, 20:18, 20:21, 22:2, 23:11, 24:21, 55:4, 55:7, 59:21, 60:5, 80:9, 81:14, 81:19, 81:20, 105:16, 110:15, 133:16, 135:8, 135:16, 138:2, 138:6, 138:9, 138:22, 139:9, 139:17, 142:20, 143:19, 144:4, 144:8, 144:9, 147:22, 148:6, 148:8, 148:15	anchor's 19:16, 138:18 angle 43:21, 44:10, 45:20, 46:4, 46:7, 54:20, 59:19, 60:6, 60:13, 64:13, 67:19, 68:4, 68:12, 71:21, 73:20, 77:3, 77:10, 97:16, 125:3, 125:4, 159:9 anglers 67:11, 157:7 angles 151:9 another 17:14, 75:19, 82:22, 85:2, 91:8, 106:6, 110:21, 163:14 answer 7:19, 33:21, 36:9, 45:18, 54:4, 58:22, 61:10, 61:11, 86:10, 107:18 answered 8:3 any 8:10, 9:17, 10:12, 10:15, 12:2, 12:5, 14:17, 15:3, 18:9, 20:6, 20:21, 24:5, 24:14, 24:15, 24:19, 26:6, 26:10, 28:18, 34:11, 37:5, 37:21, 39:9, 41:5, 43:17, 44:7, 47:6, 47:10, 49:1, 57:15, 63:1, 70:18, 73:15,	76:17, 76:21, 77:1, 83:13, 84:19, 92:22, 93:1, 93:15, 99:21, 105:7, 107:8, 108:6, 108:15, 109:14, 112:14, 114:5, 114:7, 119:21, 123:1, 123:5, 129:4, 129:10, 130:17, 131:14, 131:15, 133:1, 133:19, 133:20, 134:5, 134:10, 135:16, 135:19, 137:7, 137:13, 138:8, 138:16, 144:17, 145:7, 145:18, 146:3, 148:18, 149:6, 150:21, 152:17, 154:21, 156:11, 161:2, 161:6, 162:5, 162:6, 163:22 anybody 8:15, 47:16, 135:15 anyone 20:15, 47:11, 47:18, 47:20, 112:13, 114:8, 133:20, 133:22 anything 7:21, 26:2, 35:21, 37:17, 39:15, 44:16, 47:7, 53:18, 125:9, 156:17, 157:8, 158:21 anywhere 17:7, 36:12, 116:4 apologies 101:8, 107:17 apologize 33:21, 61:5	appeal 1:2 appearance 6:8 appearances 2:1 appearances (cont- inued 3:1 appears 111:9, 149:21 appendix 92:21, 112:22, 114:22, 115:2, 115:6, 118:17, 121:3, 121:13, 125:21, 128:15, 149:17 application 132:6, 132:10 applications 134:10 applied 135:9 approach 134:1 approached 133:19, 138:5 appropriate 8:7 approximately 5:6, 18:11, 21:6, 21:7, 38:22, 49:16, 123:20, 148:3 area 26:17, 75:22, 76:3 areas 36:10 arm 94:6, 94:7, 94:8 arms 29:3, 30:9, 31:18 around 58:4, 60:19,
--	--	---	--

70:6, 80:3, 80:21, 81:3, 86:19, 87:9, 106:22, 124:7, 151:3, 151:5, 151:12, 151:13 arrive 51:3 arron 70:3 arrow 65:9 articulated 28:11, 30:15, 65:5, 65:14, 65:18, 65:19, 66:9, 66:14, 66:17, 66:18, 66:22, 69:1, 71:17, 87:20, 87:22, 88:7, 88:12, 89:12, 89:16, 90:12, 90:14, 91:1, 91:10, 92:9, 92:15, 92:18, 92:19, 94:2, 94:4, 95:20, 96:5, 96:8, 100:20, 112:3, 112:21, 146:13, 147:8, 147:10, 149:20, 149:21, 152:1, 152:6, 156:10 articulating 30:8, 65:1, 65:20, 66:1, 67:6, 68:20, 73:5, 89:6, 90:16, 123:19, 124:1, 128:1, 147:3, 147:5, 153:9, 153:17, 157:15 articulation 88:20 as-filed 118:16, 119:5	ashley 47:19 asked 33:20, 61:4, 61:13, 142:13, 142:17, 142:18, 159:19 asking 57:17, 127:7, 142:15, 147:6, 160:22 aspect 115:7, 146:3 aspects 145:8 assembly 21:5 assembly's 149:13 assigned 69:10, 69:14 assist 106:17 associated 56:15, 67:7, 67:9, 67:18 assume 8:2, 17:3, 29:12, 71:19, 74:5, 144:4 assumed 67:10 attached 80:5 attention 118:8 audible 8:5, 8:7 august 50:6, 50:13, 50:14, 52:22, 53:2, 62:15, 63:15 authentication 137:5, 162:17 automated 29:20 available 157:17	avenue 5:4 aware 60:12, 92:15, 93:4, 109:20, 110:2, 114:8, 117:3, 117:21, 120:7, 128:13 awareness 93:9 away 72:7, 86:6, 124:13, 158:6 axial 85:8 axle 52:17, 53:8, 53:20, 96:20, 96:21, 97:4, 97:6, 107:8, 107:9, 107:13, 107:20, 109:8 axles 97:8, 108:2, 108:3, 141:6 B bachelor's 14:4, 22:14 back 54:12, 75:13, 76:15, 76:16, 89:12, 107:18, 111:5, 111:21, 115:8, 133:8, 149:16, 158:1, 163:13, 163:14 background 13:15, 45:11 backgrounds 22:13 backing 156:8 backstop 76:13 backwards 75:12 baker 2:8, 6:11	barring 162:5 base 31:18, 59:8, 59:10, 59:14, 96:11, 96:15, 150:19, 151:3 based 46:12, 46:14, 87:14, 129:5, 129:7, 131:10, 131:14 basic 92:11, 124:10, 139:17 basically 30:10, 31:11, 31:17, 32:2, 33:12, 50:8, 86:1, 161:15, 161:17 batch 161:8, 161:9, 161:10, 161:19, 161:21 beach 36:13 beam 107:15, 107:21, 108:2 bears 159:14 became 16:17, 90:14, 128:13, 132:22 because 9:3, 11:5, 67:11, 67:22, 73:4, 76:3, 87:22, 89:12, 96:9, 102:4, 109:3, 117:5, 122:12, 124:4, 128:8, 151:18, 159:14, 161:13, 162:18, 162:19 bed 100:20, 152:8,
---	---	--	--

152:13, 152:14, 152:16, 153:6 beds 154:1 been 7:10, 9:22, 12:13, 16:3, 19:7, 20:10, 33:13, 49:8, 54:2, 79:22, 82:4, 91:8, 91:19, 96:4, 103:17, 113:10, 117:17, 118:21, 120:4, 128:5, 134:9, 136:19, 141:20, 143:9, 144:11, 156:5, 162:22 before 1:2, 7:10, 7:19, 10:6, 29:22, 32:13, 48:9, 61:4, 61:21, 62:5, 68:21, 69:2, 70:4, 73:15, 85:14, 93:16, 103:5, 103:9, 103:17, 104:18, 109:5, 109:6, 109:12, 110:8, 114:19, 118:10, 119:20, 123:5, 130:4, 132:6, 135:7, 136:19, 137:1, 138:3, 151:20, 160:1, 164:2 begin 7:1 behalf 2:3, 2:14, 3:3, 6:4, 6:11, 6:14 behind 76:11, 132:15 being 5:10, 9:16,	16:14, 17:3, 35:2, 47:4, 55:16, 57:15, 68:16, 77:19, 87:20, 97:5, 121:22, 122:1, 123:16, 125:13, 126:4, 137:14, 138:15, 140:13, 142:15, 163:20, 166:6 believe 20:19, 29:14, 35:9, 41:19, 47:19, 48:7, 64:15, 64:19, 70:14, 73:16, 74:6, 106:6, 106:8, 128:5, 134:1, 136:3, 142:11, 142:17, 143:5, 143:22, 151:17, 156:7, 157:19, 160:5, 163:6, 163:14, 163:17 below 62:16, 71:7, 95:6, 96:12, 108:13, 123:20, 124:8 belting 61:3, 63:21 belts 153:14, 155:11, 156:6, 157:15, 157:17, 157:18 beltwall 64:19, 64:21, 76:22 bends 77:21 besides 60:11 best 50:19, 75:6, 86:9, 90:20, 119:19, 166:10	better 14:10, 55:21, 106:14, 154:15 between 11:6, 11:22, 12:22, 13:2, 13:4, 13:11, 13:13, 13:14, 35:22, 52:14, 58:20, 58:21, 59:4, 75:22, 99:19, 105:7, 105:11, 105:12, 105:19, 106:1, 107:9, 111:10, 120:12, 147:13, 152:2, 155:10, 158:22 beyond 125:16 bidding 138:9, 149:1 big 20:21, 68:13, 106:6, 124:5, 146:17, 158:11, 158:13 biggest 68:16 bill 17:19, 147:22 billed 148:15 bit 41:3, 57:21, 57:22, 106:8, 106:12, 108:8, 112:20, 153:5, 157:5, 159:20 bits 138:21 blow 124:13 blowing 158:6 board 1:2 boards 17:16	bom 17:19 borchardt 63:13 both 18:17, 19:9, 19:12, 19:13, 22:2, 33:10, 33:11, 33:12, 34:12, 34:15, 39:13, 67:15, 73:1, 77:17, 115:21, 120:12, 128:6, 128:15, 153:3, 155:2, 155:3, 159:2 bottom 56:2, 56:6, 57:22, 58:14, 58:15, 58:17, 59:13, 75:16, 106:10, 141:5, 149:18, 157:1, 157:20, 158:3 botts 2:8, 6:11 box 75:21, 76:14 break 34:15, 54:7, 110:21, 117:13, 118:10 brenden 21:19, 22:8, 22:17, 23:2, 39:8, 39:16, 40:17, 62:22, 69:16, 70:2, 93:5 brenden's 23:10 brian 2:7, 3:3, 6:11, 164:4 bridges 95:7 brief 126:4
---	---	--	--

briefly 125:5 bring 70:18 brinkman 1:20, 4:12, 5:3, 6:6, 6:16, 6:17, 7:5, 7:7, 54:15, 79:21, 111:20, 121:2, 136:16, 144:17, 162:6, 163:3 brochure 112:3, 115:2, 115:6, 116:5, 123:11, 149:16 brought 17:1, 52:9, 70:13, 70:16 bucket 26:8, 27:1, 30:7, 46:17, 46:20, 47:1, 47:5, 57:20, 58:1, 58:2, 58:3, 58:6, 58:18, 58:20, 59:1, 59:15, 60:12, 61:6, 61:15, 74:16, 78:17, 78:18, 90:7, 90:10, 92:14, 96:15, 103:16, 151:12, 151:14 buckets 58:4, 58:8 build 18:15, 20:4, 33:2, 42:10, 82:7, 82:11, 125:18, 126:12, 132:20, 133:2, 137:20, 161:15 building 12:20, 18:2, 25:21, 95:12, 109:13, 129:8	builds 45:9 built 9:16, 13:8, 13:13, 24:20, 24:21, 25:5, 27:17, 33:3, 49:8, 49:12, 61:20, 68:8, 83:17, 84:19, 85:2, 105:15, 110:16, 129:21, 130:1 bunch 163:11 bushing 107:14 bushings 107:21 business 14:10, 18:14, 19:17, 82:2, 82:15, 83:6, 83:7, 126:4 buy 83:20, 133:15, 133:16 buying 81:22 C calc 14:20 calculation 68:3, 68:7 call 27:15, 27:17, 27:19, 28:10, 28:17, 48:8, 75:21, 77:5, 116:9, 119:13, 119:17, 120:14, 124:5, 130:21, 150:8 called 27:18, 64:19, 66:13, 121:3, 150:13	calling 58:11, 122:4, 160:21 calls 24:12, 74:10 came 64:15, 65:22, 71:2, 71:3, 74:5, 83:19, 98:19, 115:6, 115:10, 135:13, 135:15, 139:21, 142:20, 143:5, 151:21 camera 106:13, 106:22, 121:22, 122:3, 122:7, 122:17 cameras 106:17, 107:3 can't 8:11, 47:19, 60:8, 77:12, 159:19 cannot 151:13 capabilities 89:21 capable 86:22, 87:12, 87:15 capacity 54:19, 55:11, 55:12, 55:14, 56:12, 57:19, 85:20, 127:17, 127:20 car 154:4 carda 16:2, 16:3, 21:12 care 108:9 carries 7:13, 141:1 case 1:3, 10:13,	11:2, 11:4, 11:18, 11:20, 95:6, 118:5, 124:1, 140:19, 142:13 casing 25:12 cavity 75:18 cement 159:21, 160:3, 160:15, 161:3, 161:5, 161:11, 161:17 center 72:9, 104:10, 125:14 centered 72:9, 157:4 certain 56:19, 95:6, 136:4, 137:21, 138:12 certainly 53:17 certificate 166:1 certify 166:3, 166:11 chad 2:15, 6:13, 79:3, 164:11 change 26:11 changed 66:21, 106:7, 106:13 changes 14:9, 87:17, 105:1, 105:7, 105:11, 105:13, 105:19, 106:1, 106:5, 107:9, 107:13, 108:6, 109:14, 109:16, 109:18 characterize 14:6, 14:8,
---	--	--	---

18:13, 23:9, 42:5 charge 18:1, 149:6 charging 147:22 choice 25:16, 27:2 choices 24:4, 98:21 chosen 64:14 chute 58:17, 71:6, 71:8, 71:10, 88:16, 88:17, 88:18, 88:19, 88:22, 89:4, 90:8, 90:22, 91:17, 106:14, 115:18, 116:2, 116:7, 116:14, 119:10, 119:15, 119:18, 119:20, 120:4, 121:3, 121:9, 121:19, 122:1, 123:22, 124:7 chutes 90:17 circle 42:22, 43:2, 43:8, 43:14, 65:10, 116:7, 118:7 circled 121:2, 121:13, 141:3 circuits 15:6 circumstances 110:1, 110:4 city 2:19 civil 5:7 claim 131:20	claims 129:11, 131:15, 132:1 clarification 119:3 clarify 8:1 clarifying 120:21 clarity 111:11, 116:8, 119:5, 121:12 class 15:9, 82:22 classes 14:16, 14:17, 14:20, 15:4, 15:11 clean 111:9 clear 52:2, 81:13, 105:2, 113:20, 116:1, 118:10, 120:22, 121:6, 121:8, 127:8, 129:19, 131:1, 131:8, 133:1 clearly 108:11 cleat 75:13, 75:19, 75:20, 76:15, 158:3 cleated 157:20, 157:22 cleats 75:22, 76:9, 76:11, 76:13, 158:2, 158:8, 158:11, 158:13 close 58:18, 123:19 closed 56:9, 66:4 closer 46:5 closest 41:21	cnn 75:4 cnydegger@wnlaw 2:21 coat 34:21 collapse 71:13 collapsed 53:13 colorado 14:1 com 2:12, 2:21 combined 115:21 come 145:2 comes 33:2, 34:20, 58:9, 58:18, 59:13 coming 57:9, 86:3, 95:15, 129:12, 144:20 commerce 54:2 commercial 53:14, 53:19, 53:22, 54:1 commission 166:21 common 18:20, 27:11, 27:16, 28:20, 103:21 communicated 55:8, 59:20, 59:21, 73:19, 74:3, 80:8, 142:19, 142:21 communication 9:15 companies 19:2, 19:5, 133:11 company 16:4, 20:4,	21:7, 29:10, 29:15, 29:19, 29:21, 64:17, 64:20, 99:22, 149:4 company's 114:19 comparable 129:16 compare 129:11, 129:14, 131:21 comparison 128:22, 129:5, 129:7, 131:10 competitors 18:21 complete 116:21, 118:16, 125:17, 127:1 completed 5:13, 105:9, 105:11 completely 64:9, 64:11, 76:5, 84:3 completeness 111:7 component 11:21, 27:7, 30:3, 43:8, 47:6, 90:15, 115:14, 119:14, 123:10, 124:14, 125:19, 126:7, 127:6, 141:18, 142:1, 143:13, 145:19, 146:3, 147:9, 159:13 components 24:11, 28:18, 28:22, 29:6, 30:10, 31:12, 99:6, 100:10, 121:9, 127:8, 131:17, 131:18, 138:15, 138:17, 141:6, 142:15,
---	--	--	--

145:14, 145:21, 146:8, 150:22, 151:2, 160:2 compound 23:19, 44:1, 149:8 con 67:13, 68:16, 96:4 concept 62:15, 63:15, 63:20, 86:13, 146:7 concern 77:16 concerning 125:10, 129:3 concluded 165:3 conclusion 65:22, 77:2 concrete 33:5, 33:8, 33:9, 159:20, 160:10, 160:12, 160:13, 161:10 conduct 76:17 conducted 49:12, 49:14, 110:9 configuration 73:9, 95:22 confine 156:17 conformance 81:15 confused 117:7 confusion 120:11, 160:3 connected 16:17, 140:10 connection 8:18, 10:6, 14:12, 14:15, 16:6, 16:18, 23:11, 24:4,	29:16, 31:11, 42:6, 45:3, 46:6, 53:15, 64:18, 93:10, 93:11, 95:11, 103:5, 112:9, 112:14, 114:12, 127:9, 127:22, 129:2, 129:12, 132:1, 135:1, 145:18, 148:6 cons 67:3, 67:5, 67:7, 67:9, 67:18, 67:19, 68:15, 72:6, 96:2, 96:3 consider 56:6, 57:7, 59:8, 81:22, 114:14, 126:1, 159:21, 160:16, 160:20 consideration 56:10, 56:21, 127:16 considerations 78:1, 78:2 considered 34:12, 34:16, 56:14, 71:14, 126:3 considering 112:10, 113:1, 126:6, 126:8, 127:10, 127:13, 127:14, 127:15 constitutes 166:9 constraint 35:15, 46:12, 59:20, 77:4, 86:17, 88:20, 95:5, 96:18, 151:18 constraints 55:3, 56:13, 57:8, 72:2,	78:7, 78:9, 78:11, 85:12, 86:6, 95:11, 95:14, 95:18, 95:19, 96:16, 99:1, 99:3, 99:9, 99:12, 99:14, 138:9, 138:11, 151:21 construction 148:6 contact 112:17 contained 160:17 containers 40:2, 40:3 contemplated 35:7 context 9:11, 33:6, 40:6, 40:8, 141:1, 143:13 continue 119:4, 144:20 continued 71:2 continuous 58:19 contribute 146:11 contributed 146:5 contributions 144:17, 145:18 control 24:14, 24:15, 24:16, 29:2, 29:4, 29:13, 29:17, 30:18, 30:20, 31:5 controlled 30:17, 30:20 convector 92:16 conventional 104:11, 152:19 conversation 9:21, 10:3	conversations 10:15, 10:22, 11:12, 74:5 convey 37:14, 41:2, 97:13, 97:15, 99:13, 115:9 conveyed 163:4 conveying 39:21, 141:2, 161:5, 161:8 conveyor's 151:4 conveyors 28:12, 30:8, 36:22, 37:18, 38:15, 39:9, 39:19, 40:5, 40:11, 40:17, 40:19, 41:1, 41:2, 42:11, 42:16, 46:2, 46:3, 57:7, 58:4, 60:11, 60:15, 61:3, 62:6, 62:8, 66:1, 68:17, 69:1, 84:8, 84:11, 92:6, 92:7, 93:7, 94:5, 100:21, 104:11, 104:17, 123:19, 126:5, 150:4, 150:7, 152:1, 152:5, 152:6, 152:9, 152:10, 152:12, 152:13, 152:16, 152:19, 152:20, 153:3, 153:9, 153:17, 153:18, 154:2, 154:7, 154:18, 155:2, 155:4, 155:13, 156:1, 156:10, 157:12, 157:14, 161:22
---	--	---	---

conveys 64:1 copies 78:21, 128:13 copy 80:4, 101:21, 102:3, 102:4, 112:2, 116:22, 118:16, 128:14, 129:4 copying 80:2, 129:13, 131:10 correct 10:20, 13:7, 16:15, 19:7, 19:9, 24:22, 26:1, 28:15, 31:22, 32:11, 36:17, 43:16, 44:5, 46:18, 48:18, 49:10, 49:12, 50:2, 50:3, 50:16, 52:5, 53:6, 57:5, 58:5, 58:14, 59:22, 60:7, 61:16, 66:12, 66:20, 71:17, 71:18, 73:7, 74:14, 74:16, 77:18, 81:16, 82:20, 83:3, 85:1, 86:3, 87:1, 87:3, 87:4, 87:13, 87:18, 88:7, 88:17, 88:21, 90:6, 91:6, 91:14, 92:11, 92:20, 94:3, 95:9, 95:17, 96:7, 96:12, 96:14, 99:3, 99:6, 103:2, 103:13, 103:17, 103:20, 105:17, 112:11,	118:13, 118:14, 118:18, 118:19, 119:1, 121:19, 121:20, 122:5, 122:16, 122:19, 128:4, 129:21, 130:9, 130:13, 130:20, 131:3, 131:7, 131:12, 131:16, 140:3, 140:7, 141:6, 141:16, 142:22, 143:16, 147:18, 148:7, 149:20, 151:19, 153:16, 155:4, 160:11 correctly 74:14 corrugated 160:11 cost 137:19 could 7:5, 11:2, 11:3, 32:19, 33:17, 33:18, 36:5, 37:19, 43:2, 54:15, 72:10, 74:21, 83:22, 84:6, 84:18, 86:11, 87:21, 89:2, 120:11, 120:15, 126:5, 133:14, 140:20, 144:11, 144:13, 146:8, 147:19, 151:15, 155:14, 155:15 could've 48:8 couldn't 61:12 counsel 6:9, 6:22, 8:14, 120:20, 162:5, 166:12 couple 7:17, 9:13,	9:22, 52:12, 75:20, 109:18, 132:3, 145:4, 149:22, 150:18, 162:11 course 15:11 court 5:11, 6:4, 7:14, 79:8, 79:21, 111:16, 166:20 created 86:16, 89:10 creating 108:20 criteria 60:2, 60:5, 68:5, 74:15, 80:6, 81:15, 97:10, 98:20, 99:17, 130:2, 130:8, 130:15 cross-examination 4:5, 162:9 crossed 163:12 crush 33:4, 33:17 crushed 33:6, 33:8, 33:9, 33:13, 160:14, 160:16 crushers 37:1, 37:2, 37:19 ct 165:3 current 15:14, 15:16, 17:9, 22:22 currently 17:11 custom 84:3, 125:17, 126:12, 126:16, 142:3 custom-built 126:14	customer 20:2, 37:19, 83:3, 99:14, 135:2, 135:16 customers 32:13, 70:7, 82:9, 82:12, 82:17, 82:20, 83:1, 83:3, 83:8, 93:1, 93:12, 119:21, 133:15, 133:20, 134:11, 149:6 customization 127:1 customize 126:11 customized 25:6, 125:20, 140:15 cylinders 29:2, 30:2, 30:14, 150:19 cylindrical 153:11 D daily 24:11 dakota 5:12, 7:9, 14:2, 49:15, 89:22, 105:17, 166:2 damage 100:9, 101:10 dan 1:20, 4:12, 5:3, 6:6, 7:7, 20:14, 20:19, 113:10, 116:21, 144:17, 162:11 dan's 20:17 date 1:5, 1:21, 80:3, 81:2, 138:1, 166:4
--	--	---	--

dated 80:20 dates 50:13 dave 15:22, 16:1, 16:2, 23:3 day 5:6, 138:4, 164:8 deal 95:11 dealings 93:15 decal 135:21 decided 69:7, 128:7, 147:9 decision 26:11, 26:14, 26:22, 46:6, 46:10, 132:9, 146:14 decisions 24:11, 146:20, 147:14 declaration 4:12, 10:6, 10:13, 10:16, 42:20, 42:21, 44:15, 44:18, 44:20, 44:22, 45:3, 45:5, 45:6, 45:15, 50:1, 50:2, 50:10, 51:6, 52:2, 52:3, 53:10, 53:15, 54:5, 54:16, 88:15, 90:4, 100:4, 102:14, 106:3, 115:3, 118:11, 118:17, 121:4, 128:11, 132:2, 139:7, 142:7, 142:10, 144:15, 149:17,	152:8 decrease 26:19, 74:1, 77:13 defendant 2:14 define 24:16, 32:18, 34:3, 38:12, 40:1, 82:17, 138:11, 150:3, 150:6, 156:14 defining 32:17 definitely 28:5, 67:5, 67:14, 146:18 definition 32:21 degree 13:16, 13:19, 15:4, 27:1, 46:7, 60:13, 64:13, 75:2, 77:3, 88:20, 89:13 degrees 22:14, 44:8, 46:3, 46:4, 46:5, 61:21, 62:7, 62:8, 62:12, 64:13, 71:4, 72:11, 73:6, 73:20, 74:13, 77:10, 77:11, 77:12, 77:15, 86:19, 87:8, 87:21, 89:1, 97:16, 151:5, 151:16 deliver 35:12, 40:12, 41:5, 41:16, 42:12, 42:13, 60:12, 68:1, 72:2 delivered 28:14, 35:19,	55:20, 57:16, 59:14, 77:15, 105:8, 106:3, 107:11, 109:8, 109:17, 110:17, 119:8, 119:9, 121:22, 123:17, 128:18, 143:9, 143:15 delivering 98:13, 162:1 delivers 28:7, 58:12, 116:14 delivery 43:18, 44:5, 44:12, 45:22, 47:6, 68:5, 105:12, 105:20, 115:15, 123:1, 127:4, 127:17, 143:14, 161:5 demanding 69:8 department 16:20, 17:1, 17:22, 18:1, 21:2 departments 21:3 depending 56:9, 70:6 depends 36:4, 84:2, 97:8 deploying 100:21 deponent 1:20 depos 6:5 deposed 7:10 deposit 143:15 deposition 5:3, 5:7, 6:6, 7:17, 8:13,	44:15, 118:13, 165:3 describe 19:22, 24:8, 36:20, 105:22 described 159:3 description 119:19 designed 12:21, 19:6, 19:7, 24:20, 27:17, 29:8, 31:20, 32:13, 35:3, 35:12, 37:2, 37:21, 38:6, 38:16, 39:3, 39:5, 39:9, 39:16, 40:11, 40:18, 41:5, 41:15, 41:22, 43:17, 43:22, 44:4, 44:11, 45:20, 53:21, 62:5, 62:12, 81:19, 81:20, 83:16, 89:20, 91:20, 92:5, 107:2, 107:6, 119:13, 119:20, 119:22, 122:22, 154:18, 154:21, 157:16, 158:8, 161:6, 161:22 designing 36:19, 41:14, 45:1, 81:8, 126:5, 126:13, 129:17 designs 20:10, 39:14, 46:20, 61:6, 63:17, 73:15, 78:3, 82:20, 91:17, 93:1, 93:12, 104:14, 127:15, 134:10,
--	---	---	--

135:2 desired 54:19 detailed 50:1 details 39:18 determine 24:10, 25:14, 68:12 determined 132:12 determining 90:19 develop 108:21 development 49:6 device 13:1, 121:2 devices 37:14 devoted 148:20 dewitt 21:22, 22:11, 22:19, 39:12, 62:22, 69:17, 70:10, 70:16, 90:5, 93:5 diagram 42:17, 71:7 diameter 34:9, 35:22, 89:3, 89:7 dictate 78:9 dictated 98:21, 99:2 difference 158:21 differences 34:11 different 15:11, 25:18, 30:10, 31:12, 34:3, 35:21, 38:10, 70:11,	72:12, 76:7, 77:7, 84:4, 84:9, 89:10, 101:14, 114:13, 117:4, 117:18, 140:16, 145:1, 145:2, 146:9, 147:4, 150:4, 150:7, 155:7, 155:19, 159:4, 159:6, 163:7 digitally 166:8 dillan 63:9 dillon 63:10, 63:13 dimensional 85:11, 99:1 dimensionally 106:8 dimensions 85:4, 99:5, 125:11 direct 4:4, 7:3, 17:11, 17:12, 17:16, 21:10, 124:14, 155:15 directed 101:9, 106:11, 138:16 direction 26:13, 55:5, 144:19, 166:9 directly 58:22, 74:9, 76:22, 82:12, 83:8, 83:14, 83:22, 84:12, 124:15, 134:20, 166:13 director 15:15, 15:16, 15:19, 17:10, 23:5, 23:6 discharge 85:17	disciplines 22:16 discovered 162:15 discrepancies 111:10 discuss 100:4, 124:22 discussed 96:1, 125:2 discussion 122:2, 127:11 discussions 9:7, 9:17, 10:12, 11:8, 74:8, 74:10, 112:14, 126:21, 126:22, 127:4, 130:20, 132:14, 135:5 disposed 122:1 dispute 13:6 distance 40:13, 52:13, 124:12 distinction 9:3 distinguish 121:8 distributor 85:17 divided 98:18 document 81:6, 86:15, 112:6, 117:4, 118:2, 137:3, 137:8, 137:10, 138:1, 138:12, 162:21 documentation 20:3 doghouse 124:5, 124:7, 124:8 doing 7:16, 42:6,	53:16, 86:22, 87:12, 94:11, 94:15, 94:17, 94:21, 104:6, 114:12, 123:2, 129:3, 132:17, 148:1 done 23:10, 36:18, 39:13, 45:4, 52:22, 62:20, 62:21, 63:1, 63:4, 68:3, 68:6, 68:8, 90:4, 130:8, 131:22, 134:11, 135:2, 135:7, 135:10, 157:6 door 56:2, 56:9, 56:14 dot 97:3 double 87:5, 99:21 down 33:4, 34:16, 34:21, 50:20, 67:10, 76:16, 95:1, 100:13, 104:1, 104:10, 123:19, 123:20, 124:8, 143:6, 161:14 drawing 62:16, 62:19, 62:20, 63:1, 63:4, 63:15, 66:4, 90:19, 94:14, 115:8, 118:8, 139:6, 139:7, 139:8, 139:11, 141:4, 141:14, 141:19, 151:21, 151:22, 156:6 drawings 86:16, 87:14,
---	--	--	---

87:19, 129:15 drew 63:5, 118:7 drive 29:20, 143:14, 153:11, 153:13, 154:5, 154:6 driven 26:15, 51:11, 153:15, 153:19, 154:19, 154:22, 155:4, 155:6, 155:9, 155:14, 155:15, 155:18 driveway 33:3 driving 155:11 drop 75:18 dry 34:12, 34:16, 34:21, 35:3, 35:5, 35:8, 35:19, 159:21 due 110:20 duly 166:6 dump 55:21, 56:2, 56:6, 58:9, 58:11, 58:14, 58:15, 58:17, 59:14, 106:10 dumped 106:10 dumping 161:10 during 22:5, 23:4, 47:11, 50:18, 53:20, 74:11, 93:14, 95:8, 112:15, 117:13, 130:20, 134:13 dust 67:10	dynamics 14:20 dynatek 92:15, 92:18, 93:10, 93:13, 93:16, 93:19, 112:3, 112:14, 113:7, 114:6, 115:10, 115:21, 116:5, 121:13, 123:11, 124:17, 125:1, 126:15, 127:12, 127:15, 147:18, 147:19, 149:16, 149:19, 152:20, 153:19, 154:14, 154:17, 155:2 E e-mail 2:12, 2:21, 79:11, 80:1, 80:5, 80:20 e-mails 26:12 each 58:18, 67:3, 75:10, 86:18, 96:2, 131:20 earlier 65:15, 80:5, 88:9, 96:1, 117:6, 117:8, 121:10, 121:21, 124:16, 131:3, 141:3, 159:19, 162:18 early 50:6, 50:14, 70:15 earth 36:4 easier 113:22 easiest 164:5 east 2:17	econoloader 92:15, 92:18, 93:10, 93:19, 125:7, 125:10, 127:9, 152:20 ee 15:12 effectively 98:13, 123:15, 124:2 effort 99:19, 132:19, 146:18 either 28:3, 36:16, 60:13, 62:21, 63:1, 72:18, 81:19, 81:20, 127:9, 127:22, 166:12 electrical 15:3, 15:9, 15:10, 24:17, 24:19, 99:9, 99:12, 107:2 electrician 99:20, 99:22 electronic 164:9 electronics 29:5 elevator 26:7, 26:8, 27:1, 27:2, 27:7, 27:13, 30:7, 46:17, 46:20, 58:6, 61:15, 74:16, 78:14, 78:17, 78:18, 85:20, 90:8, 90:10, 96:15, 98:8, 101:16, 101:18, 103:16, 141:16, 151:12, 151:14 elevators 47:1, 47:6, 59:15, 60:12,	61:6, 92:14 eleven 52:10 else 12:14, 15:18, 20:15, 42:13, 47:16, 47:18, 47:20, 51:5, 62:3, 132:17, 133:21, 133:22 email 4:10 employ 24:15 employed 11:9, 22:2, 22:5, 24:22, 91:17, 97:11 employee 166:12 employees 17:8, 21:6 employing 94:12 enclosed 64:9, 64:11, 66:3, 67:10, 75:12, 75:13 end 64:1, 64:2, 83:3, 84:16, 100:14, 115:18, 116:12, 119:10, 121:13, 123:9, 139:8, 153:19, 153:21, 154:8, 154:9, 154:12, 154:15 ended 9:6, 9:10, 9:12, 66:18 ending 104:5 ends 154:10 energy 132:19 engaged 81:14, 138:2
--	---	---	---

engineer 15:10, 18:9, 22:18, 22:20, 23:12, 23:15, 73:12, 76:22 engineering 13:16, 13:17, 14:4, 14:7, 14:8, 14:16, 14:17, 15:4, 15:9, 15:15, 15:17, 15:19, 16:11, 16:21, 17:3, 17:5, 17:7, 17:10, 18:7, 19:3, 21:2, 21:12, 23:6, 78:1, 82:3, 99:20, 134:14, 146:20, 149:2, 149:12 engineers 17:17, 21:8, 21:16, 21:18, 24:3, 24:15, 24:17, 24:19, 26:12, 69:9, 69:13, 70:6, 70:18, 71:2, 78:2, 92:14, 93:3 enough 68:16, 77:15, 86:10, 113:12 ensuing 128:18 ensure 158:14 entire 30:4, 42:18, 46:15, 50:21, 58:2, 60:19, 87:16, 98:10, 98:12, 113:11, 149:11, 151:3, 156:22 entitled 53:13	equipment 18:16, 18:18, 36:19, 36:20, 36:21, 37:5, 37:8, 37:10, 82:8, 82:11, 83:1, 83:2, 83:17, 83:20, 83:21, 84:12, 84:13, 84:14, 84:21, 93:22, 106:19, 107:6, 132:18, 141:2, 141:20 es 99:21 esquire 2:6, 2:15 even 109:6, 109:12, 144:13 eventually 65:22, 76:15 ever 7:10, 13:8, 61:20, 80:8, 112:13, 114:5, 123:5, 131:22, 134:5 every 42:10, 53:18, 75:10, 75:14, 83:18 everyone 6:7, 130:21 everything 35:5, 44:16, 62:2, 72:1, 104:2, 149:14 everywhere 36:12 evidence 53:15 evolution 45:6, 45:8 exact 39:2, 77:6, 81:2, 138:4,	143:21, 144:10, 159:19 exactly 60:9, 109:19, 142:18 examination 4:4, 7:3, 44:17 example 31:10, 83:14, 83:19, 148:5, 148:19, 158:10 excuse 92:16 exhibit 4:8, 52:3, 79:6, 79:11, 79:13, 79:14, 80:4, 80:8, 97:20, 111:8, 111:9, 111:13, 111:20, 112:2, 112:22, 117:4, 117:17, 118:2, 118:5, 118:12, 125:12, 125:21, 130:3, 131:2, 136:17, 136:18, 137:2, 139:12, 163:9 exhibits 4:7, 79:4, 79:16, 79:22, 111:11, 162:13, 162:14, 162:16 existed 92:10 existing 83:1 expand 25:11 expedited 69:8, 164:6 experience 42:5, 44:22, 45:1, 45:10, 92:6 expires 166:21	explain 8:1, 75:6 explore 73:19 exploring 74:20 extended 90:17, 91:16, 95:15, 124:8 extending 71:6, 71:8, 88:16, 88:18 extends 116:16 eyes 122:8, 122:17 F fab 17:22, 18:1, 21:5 fabric 156:8, 157:20 facilities 51:5, 51:12, 52:5, 52:11, 52:14 facility 135:13 fact 11:21, 26:22, 76:18 factors 46:14 failed 52:17, 53:8, 53:22, 109:8 failure 53:20 fair 8:3, 13:17, 14:11, 18:18, 19:3, 23:17, 25:22, 26:8, 33:14, 33:15, 35:4, 40:14, 41:13, 74:13, 78:10, 84:9,
---	--	---	---

91:3, 95:12, 96:6, 98:21, 103:8, 104:15, 104:18, 113:12, 114:15, 115:16, 115:17, 124:13, 127:17, 128:1, 128:9, 134:18, 134:22, 135:3, 139:21, 142:19, 144:5, 146:3, 148:20, 155:20, 157:3, 161:2 fall 18:4, 18:5, 21:11, 64:5, 64:7, 64:8, 124:12 falling 156:18, 158:6 falls 5:5 familiar 11:5, 21:20, 75:3, 161:20, 161:21 far 7:16, 13:5, 86:10, 148:8, 151:9 fashion 115:9 fast 76:2 features 102:19 fed 56:1, 71:6, 71:7, 71:20, 73:8, 73:14 feed 57:21, 71:21, 77:6, 77:7 feeds 63:16, 64:22 feel 100:15 feet 41:6, 41:11,	41:17, 57:6, 60:10, 75:10, 75:14, 75:20, 123:20, 124:12, 125:14, 144:22 felt 87:14 few 51:7, 74:19, 92:5, 106:4, 109:4, 120:21, 136:16, 145:21 fields 36:10 fifth 17:21 figure 50:19, 51:22, 65:15, 105:7, 144:15, 144:16 file 132:9, 132:12, 132:13, 164:13 filed 9:18, 9:21, 11:13, 109:15, 109:21, 110:7, 116:22, 117:14, 132:7, 135:1, 135:6, 136:2 filing 108:16, 132:15, 134:9 fill 58:2, 75:18, 75:21, 76:3, 76:4, 89:2, 89:13, 124:4, 124:9, 144:21 filled 76:14, 98:16 filling 122:15 filter 37:3 final 28:11, 66:18, 89:11, 89:17,	91:1, 104:20, 105:8, 105:11, 105:20, 107:10, 109:16, 119:7, 119:8, 130:6, 146:15, 146:22, 152:7, 155:3, 156:12 finally 8:10, 106:3 financially 166:13 find 11:1, 20:4, 93:18 fine 110:22, 113:16, 113:20, 119:2, 162:4 finer 34:7 finish 7:18 finishing 12:16 firm 6:10 first 9:20, 41:15, 42:18, 48:6, 48:7, 48:12, 48:16, 50:21, 50:22, 51:6, 88:6, 88:10, 88:12, 90:12, 93:9, 101:8, 105:9, 105:10, 108:11, 109:1, 116:5, 119:8, 123:8, 128:14, 128:16, 128:17, 129:19, 131:11, 136:22, 137:22, 139:6, 143:19, 163:9, 163:10, 166:6 five 17:11, 17:12,	17:15, 21:10, 91:9, 98:17, 98:18 fix 120:13 flat 36:10, 75:9, 157:2 floor 135:20 flow 34:6, 54:20, 55:15, 56:6, 56:8, 56:11, 56:15, 56:20, 57:1, 57:9, 57:15, 58:19, 76:16, 76:19, 86:2, 125:5 flowing 158:7 flows 46:3, 56:3 fluids 14:20 focus 37:13 focused 14:12 focusing 115:14 fold 72:2, 77:19 folds 96:10 folks 21:12 follow-up 162:5, 162:12 following 101:22, 161:17 foot 63:16, 65:1, 97:16 foot-pounds 97:22 footprint 26:16, 26:20,
--	--	--	---

46:13, 54:21, 59:19, 60:7, 74:1, 74:13 footwork 93:6 force 158:9 foregoing 166:3 form 18:22, 23:19, 26:18, 27:9, 35:10, 72:22, 78:4, 94:20, 126:18, 137:9, 159:12, 159:22, 166:9 formed 73:16, 160:22 forth 81:16 forward 69:7, 75:20, 144:20, 158:7, 158:10 found 36:12, 80:7, 112:6, 114:11, 115:2, 130:2, 147:17 foundation 19:14, 25:7, 36:2, 38:3, 38:7, 38:19, 40:7, 40:22, 41:7, 41:18, 42:2, 44:13, 46:22, 61:17, 61:22, 62:10, 69:3, 80:10, 80:18, 81:1, 81:9, 82:16, 110:3, 110:11, 113:8, 113:10, 137:5, 137:16, 138:20, 144:6, 148:11, 149:9, 160:6	four 15:11, 91:2, 91:4 frac 28:7, 28:14, 32:16, 32:21, 33:21, 34:3, 34:6, 34:16, 34:20, 35:12, 35:18, 35:22, 36:3, 36:8, 37:22, 38:6, 38:16, 39:9, 39:15, 39:21, 40:12, 40:18, 41:16, 43:18, 44:5, 44:12, 45:21, 46:3, 46:4, 47:7, 55:16, 55:20, 56:3, 57:15, 58:9, 58:13, 60:13, 75:18, 98:13, 98:17, 143:15, 156:18, 158:17 frack 133:12 frame 96:11, 151:14 free 100:16 front 111:15, 149:18, 149:19, 154:6, 158:1 full 7:5, 16:1, 76:4, 76:5, 85:20, 86:13 fuller 5:4 function 123:18 funnel 123:15 G gap 123:19, 124:4	gas 83:14, 83:17, 83:21, 84:12, 161:13, 161:16 gather 126:20 gave 55:6, 69:8, 118:10, 144:9 gearbox 155:9, 155:10, 155:11 general 40:21, 93:20, 120:2, 125:11 generally 27:19, 28:8, 28:15, 31:7, 34:16, 36:7, 36:20, 81:15, 105:22, 160:4 generate 120:11 generated 62:15, 62:19 generating 81:7 generic 119:19 getting 77:14, 82:19, 125:2 give 6:19, 8:5, 8:11, 43:1, 77:7, 111:17, 122:8, 136:18, 153:2 given 57:8, 128:14, 130:2, 130:9, 140:2 gives 122:17, 153:5 giving 80:6, 108:20 go 20:9, 26:13,	27:1, 35:17, 44:18, 45:14, 58:4, 58:22, 60:9, 60:20, 62:14, 70:22, 74:12, 74:21, 79:8, 88:11, 89:6, 98:12, 107:21, 115:8, 119:4, 120:15, 124:8, 131:20, 133:14, 136:20, 146:14, 147:14, 149:19, 151:13, 158:20, 164:2 goal 26:15, 98:16 goes 12:22, 13:2, 13:4, 13:13, 34:20, 59:3, 60:18 going 9:14, 27:8, 45:11, 47:5, 53:7, 68:12, 75:2, 75:12, 76:8, 77:3, 78:21, 100:16, 102:18, 106:18, 121:6, 121:15, 121:16, 125:18, 133:1, 133:15, 133:16, 137:4, 138:18, 143:6, 145:22, 149:16, 151:10, 154:9, 162:16 good 54:6, 84:7, 92:8, 111:1, 111:2, 136:6, 136:9, 164:10 grab 58:2 granite 33:4 gravel 33:5, 51:8,
---	--	--	--

52:8, 52:14, 53:4 gravity 55:22, 56:3, 68:1, 71:6, 71:7, 71:20, 73:8, 73:14 gravity-fed 88:16, 90:21 great 68:13, 111:16, 114:1, 147:14, 164:21 greater 71:21 ground 7:17, 34:21, 40:13, 60:9, 100:22, 101:15, 102:20, 104:1 grounds 162:17 group 146:18 guess 32:4, 79:8, 82:19, 100:5, 111:20, 132:5, 133:13, 144:14, 149:17, 150:13, 164:6 guide 101:18, 103:9, 103:10, 104:4, 104:16, 104:20, 157:7 guideline 81:11, 130:5, 130:10, 130:14 guidelines 85:14 guy 112:18, 124:21, 125:1, 126:21, 127:5 guys 23:18, 127:11, 127:12, 128:8,	149:5, 161:12 H half 16:5, 76:4, 129:17, 158:13 halfway 100:13 hand 6:18, 78:21, 79:16, 79:19, 145:7, 145:10 handed 79:21 handle 57:10, 85:19, 86:7, 126:5 handling 37:22 happen 76:18 happened 12:1 happens 103:22, 115:12 hard 39:13, 163:11 hatches 72:12 hausman 2:7, 3:3, 6:11, 164:5 head 8:6, 39:18, 74:4, 104:9, 106:4, 153:18, 153:19, 153:21, 154:9, 154:15, 154:22, 155:8, 155:12, 157:6, 157:7 heard 114:18 heavy 18:15, 70:20 height 41:16, 67:20, 67:22, 76:12,	85:8, 95:1, 95:4, 95:7, 95:21, 96:5, 96:9, 97:3, 152:19, 153:2 heights 40:14 held 48:3 help 11:17, 11:20, 20:4, 24:10, 24:11, 24:12, 25:14, 26:12, 42:15, 44:19, 70:21, 94:1, 104:11, 108:20 helped 26:19, 78:9, 146:11 helps 104:6, 158:19 here 6:6, 7:12, 44:15, 59:18, 89:22, 105:14, 105:15, 132:2, 137:14, 150:14, 161:13, 166:5 here's 26:13 hereby 166:3 hesitated 12:12 hey 81:21, 136:2 high 41:6, 41:8, 41:11, 54:18, 54:20, 55:11, 55:12, 56:12, 59:19, 60:6 higher 55:14, 71:21 hire 82:20 hired 9:3	hold 75:11, 76:9, 77:11, 77:12, 153:2 holding 76:8 holds 15:18 honestly 160:21 hopper 28:17, 57:22, 62:3, 106:7, 106:12 horizontal 28:8, 60:18, 75:16, 75:17, 75:20, 76:6, 88:2, 90:12, 90:15, 95:15, 112:10, 115:15, 115:17, 115:19, 119:11, 121:10, 121:17, 123:9, 123:10, 125:19, 126:8, 147:8 horsepowers 25:18 hour 77:8, 77:13, 77:19 hourly 147:22, 148:10, 148:16, 149:2, 149:6 hours 148:19 house 33:3 houses 29:6 houston 2:10, 161:14 human 31:7 hundreds 17:4, 39:13 hybrid 156:8
---	--	--	---

hydraulic 29:1, 30:9, 30:19, 31:4, 101:17, 150:18, 150:19 hydraulically 103:15 hydraulics 31:12 I i-version 104:11 ice 160:22, 161:1 idea 89:10, 147:2 ideas 145:3 identical 128:17 identification 79:13, 79:14, 111:13, 137:2 identified 67:3, 93:13, 147:19 identify 93:21 identifying 146:8, 146:10, 163:12 idler 152:17 idlers 77:21, 153:8 impact 57:14, 57:17, 57:20 import 113:21 important 7:18 impose 46:7 imposed 85:12, 96:16 improvements 14:9	in-house 89:18, 89:20 in-person 49:1 inboard 150:4 inc 1:13, 2:14 inch 158:12, 158:13 inches 75:11 incline 27:14, 27:15, 27:21, 28:3, 30:14, 41:3, 43:21, 45:21, 46:8, 54:20, 57:16, 57:18, 59:19, 60:6, 60:10, 61:20, 62:1, 62:2, 63:18, 64:13, 71:3, 78:15, 78:19, 140:21, 145:6, 147:3, 147:4, 150:17, 150:18, 151:6 inclined 43:14, 43:17, 44:4, 44:7, 44:11, 45:21, 46:17, 62:6, 62:8, 73:20 included 32:21 includes 118:17 including 99:5, 149:5 incorporate 109:15 incorporated 152:7 incorporating 114:14 increase 70:5	increased 70:4, 107:14, 107:20 increases 76:12, 77:10 increasing 73:19 independent 31:1, 31:4 index 4:1 indirectly 166:13 individual 63:5, 132:15 individuals 20:11, 69:19, 146:22 industrial 13:16, 13:17, 14:4, 14:6, 14:8, 14:15, 33:14 industries 32:15, 82:8, 84:9, 84:15, 84:18, 134:20 industry 11:5, 34:4, 36:19, 83:14, 83:18, 84:13, 84:21, 133:12, 161:13, 161:16 information 20:9, 108:20, 125:13, 137:7, 137:12 initial 62:15, 63:18, 63:20, 64:16, 66:16, 81:7, 86:16, 140:1, 140:5, 141:13, 141:19, 146:7 inlet 72:12 inner 94:15, 150:5,	150:8, 150:10, 150:12, 150:19, 151:4, 152:2, 152:9, 153:8, 153:17, 158:22, 159:4, 159:7, 159:14 input 130:13, 130:19, 130:21 inside 33:9, 89:2, 94:8, 94:10, 94:13, 94:16 inspection 129:4 instance 32:10 instead 78:14, 78:19 instructing 54:3 integrated 140:10, 142:14 intended 32:2, 35:11, 35:19, 41:16 intent 35:17, 132:22, 133:11, 133:13, 133:14 intention 101:18 interest 37:11, 127:20 interested 128:3, 166:13 interface 16:13, 16:14 interim 88:1, 88:2 internet 93:21, 112:7, 114:12 interrupt 116:18 invent 91:11
--	---	--	--

inventors 149:5 invoices 148:5, 148:8, 148:9 involved 17:2, 20:12, 63:15, 70:4, 70:12, 134:9, 146:14, 147:17 involvement 12:2, 20:6, 23:22, 24:2, 24:6, 24:8, 25:20, 26:6, 26:10, 108:15, 108:18, 137:13, 138:17 involving 40:18 ipr 1:3, 52:3, 79:5 iron 159:9 issue 1:5, 77:14, 77:18, 77:19, 77:20, 103:20 issues 100:20, 101:14, 120:21 item 85:4, 85:16 items 145:2 iterate 92:1 iteration 71:3, 88:5, 88:6, 88:12, 88:14, 90:7, 90:11, 91:8, 96:2, 120:5, 121:8, 121:17, 121:19, 146:19 iterations 65:21, 67:3, 74:17, 90:15,	90:16, 91:2, 91:4, 91:9, 145:5 itself 32:9, 37:6, 96:10, 106:22, 129:5, 133:3, 155:19, 157:9 J january 71:1 jason 21:19, 23:1, 70:2, 70:3, 73:13, 73:14, 74:19, 93:8, 147:13 jeremy 4:10, 47:15, 74:5 jesus 120:1 jobs 149:1 jordan 1:22, 5:10, 6:4, 166:19 july 49:17, 50:5, 50:11, 50:13, 52:22, 138:5 jumped 101:7 june 1:21, 5:6, 6:5, 49:17, 50:11 K keep 24:13, 67:10, 104:3, 104:5, 104:7, 113:15, 157:4, 158:5, 158:7 key 11:1, 11:4, 11:6, 11:21,	24:10 kind 36:10, 73:17, 106:11, 136:17, 152:11, 156:8, 156:9 knew 11:22, 56:18, 78:8, 135:6, 135:9, 135:21 know 10:5, 11:17, 13:5, 13:8, 19:16, 19:19, 20:17, 31:10, 33:20, 35:6, 36:10, 39:2, 39:8, 39:15, 48:11, 49:21, 55:15, 60:16, 63:5, 64:13, 69:13, 74:2, 75:4, 76:5, 79:7, 84:15, 93:7, 109:14, 110:7, 114:21, 116:3, 120:9, 127:16, 127:19, 134:5, 134:8, 142:21, 143:3, 143:18, 144:8, 144:10, 147:2, 148:8, 151:9, 160:9, 160:22, 161:18, 163:3, 163:7 knowledge 92:7, 113:14, 113:20, 138:10 known 103:12, 103:14, 103:19 L lab 15:12, 68:10 lack 55:21, 137:5,	154:15 lake 2:19 lambert 47:17, 49:21, 80:2 land 51:3 large 32:19, 97:5 largest 44:10 last 10:2, 10:18, 50:22, 63:10, 69:21, 116:12, 124:14, 129:16, 139:9, 139:12, 139:20, 141:21, 142:8, 144:16 later 33:13, 70:13 lattice 159:9, 159:11 law 6:10 lawsuit 9:18, 9:21, 11:12 lawyers 108:19 lead 16:7, 17:2, 17:22, 18:1 leadership 21:15, 21:18 leading 144:22 leads 18:7 least 23:16, 50:8, 151:16, 163:15 leave 47:4 led 74:16, 86:6, 95:20, 144:19
--	---	---	--

left 109:12, 109:13, 129:20, 149:18 legal 85:8 legs 101:17, 103:15 length 85:7, 124:4 less 9:13, 11:16, 46:4, 50:20, 70:21, 71:9, 71:13, 94:18, 96:9, 96:13, 96:14, 97:6, 143:22, 158:2 let's 22:16, 27:11, 67:5, 75:9, 75:18, 75:21, 77:10, 110:6, 120:13, 132:2, 136:20, 158:2 level 40:13, 100:21, 101:15, 102:19, 102:21, 104:2 levers 31:9, 31:12 licensed 18:8 life 60:17 lift 29:2, 30:2, 30:10, 31:11, 75:2 lifting 70:20 lifts 30:4, 30:7, 30:8 lighter 67:11, 152:18 lightweight 72:3 lime 160:4	limestone 160:4 limit 113:13 limited 44:17 line 24:12, 84:6, 125:14, 125:15 linear 15:6 lines 163:11 list 99:8, 108:9 lists 138:15 little 41:2, 41:3, 45:14, 57:21, 57:22, 106:8, 106:12, 108:8, 112:20, 153:5, 157:5, 159:20 llc 1:7, 1:8, 2:4, 2:5 load 159:15 loader 27:20, 27:21, 28:14, 28:15, 28:19, 31:20, 35:2, 35:8, 41:14, 41:15, 47:12, 51:15, 51:20, 51:22, 52:4, 52:18, 53:7, 56:4, 81:8, 81:21, 82:4, 84:22, 87:12, 87:16, 87:19, 95:6, 106:7, 112:11, 115:16, 121:11, 121:18, 123:11, 126:12, 126:17, 137:20	loading 112:3, 112:21, 116:9 location 51:12, 53:4 locations 72:12 locking 108:1 lodge 137:4 long 16:3, 33:4, 68:16 longer 45:14 look 42:17, 51:6, 52:8, 84:4, 106:5, 125:3, 129:15, 131:17, 131:20, 132:4, 136:2, 143:1, 144:14, 145:2, 148:2, 154:7, 159:7, 163:11 looked 74:18, 132:1, 132:3, 156:5 looking 20:3, 37:19, 74:19, 93:7, 102:11, 102:15, 105:14, 111:8, 115:5, 115:7, 115:9, 116:1, 144:13 looks 144:11, 163:9 loose 81:11 loss 77:16 lot 11:22, 20:8, 24:2, 67:12, 74:17, 82:8, 82:9, 103:10,	104:16, 104:17, 125:12, 128:6, 131:17, 132:19, 146:20, 159:12, 161:13 louisiana 2:9 lower 96:11, 152:18 lubricity 153:6 lunch 136:7 lye 160:4 M machine 135:14 madam 111:16 made 12:21, 24:5, 27:1, 77:2, 87:17, 89:17, 102:12, 105:19, 106:1, 106:12, 107:13, 109:14, 109:16, 109:19, 110:2, 117:16, 128:8, 128:13, 137:10, 138:10, 142:16, 144:18, 156:4, 160:3, 163:11 main 125:13, 154:2 mainly 126:17 major 28:18, 28:22, 30:2, 91:4, 91:8, 91:9 majority 23:12, 23:16, 147:14, 161:7 make 14:9, 14:10,
--	--	--	--

24:11, 26:11, 28:19, 54:16, 58:10, 68:13, 71:12, 78:12, 93:8, 109:1, 111:8, 117:21, 120:7, 121:6, 121:7, 125:5, 128:12, 128:21, 129:18, 131:8, 158:17, 159:12, 162:18 making 9:2, 25:20, 99:17, 101:15, 152:18 manager 16:11, 17:3, 17:5, 17:7, 132:11, 134:14 manually 31:6 manufacture 18:17, 32:19, 82:3, 83:2, 83:15, 92:5, 115:11, 115:12, 128:9 manufactured 89:18, 89:20 manufacturer 18:15, 86:11, 91:15, 93:13, 107:4, 134:13, 161:2 manufacturers 61:2, 93:22, 114:16, 146:9 manufacturing 14:12, 15:15, 15:16, 17:10, 17:17, 19:6, 21:1, 23:5, 42:7, 83:6, 105:12 many 17:6, 17:12, 18:11, 21:6,	21:7, 38:10, 38:22, 39:3, 39:5, 47:10, 48:11, 69:13, 74:17, 75:10, 77:8, 84:18, 87:5, 96:1, 103:14, 148:19, 163:7 mark 79:9, 79:16, 111:7, 111:15, 136:20, 136:21 marked 79:3, 79:10, 79:13, 79:14, 79:22, 108:11, 109:2, 111:13, 117:2, 117:6, 117:18, 118:2, 118:11, 137:2, 144:8, 144:12 market 84:9, 84:12, 113:3 marketplace 92:10 marking 117:16 markup 144:4 masaba's 18:13, 25:5, 45:1, 51:5, 52:11, 52:14, 53:4, 82:14, 128:15 master 99:20, 99:22 match 130:5 material 17:19, 34:9, 34:16, 35:18, 35:22, 37:3, 37:11, 37:14, 41:2, 42:12, 50:21, 51:1,	54:20, 57:5, 64:1, 64:5, 72:2, 72:19, 74:21, 76:8, 76:9, 76:11, 76:13, 76:14, 76:19, 77:11, 77:12, 77:16, 84:16, 100:12, 106:9, 106:10, 115:9, 123:16, 124:11, 125:2, 125:4, 125:5, 127:3, 147:20, 154:8, 156:3, 157:4, 158:5, 158:7, 158:14, 158:19, 161:8 materials 14:21, 34:13, 138:13, 145:2, 161:9 matter 8:18, 10:10, 10:16, 140:20, 166:8 maximum 85:7, 85:8, 96:20, 96:21, 97:4 maybe 9:9, 39:13, 40:20, 42:22, 54:6, 102:4, 105:2 mean 8:21, 11:14, 44:21, 55:10, 55:17, 57:2, 57:4, 58:16, 78:7, 94:17, 97:1, 100:15, 113:6, 145:10, 159:8, 160:10 meaning 87:3, 138:6 mechanical 14:17, 22:18,	22:20 mechanism 115:15, 156:21 mechanisms 103:13, 103:19, 123:1 meet 56:12, 68:4, 140:15 meeting 48:4, 48:6, 48:7, 48:12, 48:16, 48:18, 48:20, 49:5, 99:11 meetings 20:9, 20:13, 20:16, 47:10, 48:3, 48:10, 48:11, 48:21, 48:22, 49:1, 130:16 member 121:17 mentioned 21:1, 21:2, 21:10, 51:18, 67:2, 124:17, 151:20 met 47:14, 47:15, 88:20, 99:17 metal 159:12 metrics 137:21 mid-january 70:14, 70:15 middle 100:10, 100:15, 101:7, 106:12 might 11:19, 92:8, 114:13, 133:2, 158:12 mike 8:17, 8:19, 9:9, 16:16,
---	---	--	--

20:14, 80:12 miles 52:15 mind 33:2, 33:7, 146:4 mine 37:10 mined 33:13, 37:14 mines 13:22 mini 67:2 minimal 57:20 minimize 54:21, 59:19, 60:7, 74:13 minimum 97:13, 97:15, 98:7 mining 32:16, 34:20, 36:19, 37:5, 37:8 minute 57:6, 97:15, 98:8, 131:1 minutes 98:17 mirrored 72:13 misread 97:20 misspoke 78:20 misstates 43:5 mistake 102:12 mister 21:12, 96:17, 135:5 mistrack 104:14 mistracking 100:4, 100:17,	103:20, 103:22, 104:4, 104:7 mistracks 100:8, 101:3, 101:10 mixed 160:1, 160:11, 160:14, 160:19, 160:22 mixing 161:9, 161:17 model 156:6 modified 72:16 modify 72:19 moment 116:19 month 109:5, 138:4 months 109:4 more 9:13, 11:16, 38:15, 38:18, 38:20, 40:20, 48:4, 48:17, 50:20, 52:1, 67:5, 67:22, 70:20, 71:9, 77:11, 84:19, 87:21, 94:22, 95:1, 96:3, 96:4, 105:2, 128:8, 129:8, 130:5, 133:1, 136:17, 143:7, 158:2, 159:15, 163:18, 163:20 morico@bakerbotts 2:12 morning 117:10 most 42:5, 46:2, 48:22, 74:4, 93:20, 118:22,	134:18, 153:18, 156:6, 157:6, 160:13 mostly 14:11 motion 73:6, 151:8, 151:10, 151:15 motor 25:6, 25:12, 25:21, 26:2, 42:18, 153:20, 154:12, 155:9, 155:10, 155:11, 155:15, 155:16 motorized 153:18, 153:21 motors 24:18, 24:22, 25:2, 25:3, 25:16, 25:17, 29:7, 42:8, 67:11, 77:20, 153:10, 153:13, 153:15 mount 155:15 mounted 64:12, 150:20, 151:4, 153:5 mounting 150:13 move 45:15, 53:16, 69:7, 72:7, 72:19, 76:2, 77:8, 77:20, 147:20, 153:6, 158:19 moved 67:4, 70:6 movement 89:13 moves 154:8 moving 24:13, 67:12, 84:16, 87:1,	87:12, 87:16, 154:1, 158:15 much 37:17, 42:9, 42:17, 75:4, 75:8, 76:3, 77:12, 106:10, 125:4, 125:7, 152:18 multiple 163:3 must 12:13 N name 6:3, 7:6, 16:1, 29:19, 47:19, 60:16, 60:21, 63:10, 69:21, 112:18, 114:19, 124:21 narrow 47:5 nature 10:21, 11:1, 73:5 near 49:15, 50:12, 122:1, 122:3 nearby 51:8 necessarily 56:18, 64:7, 68:6 necessary 75:17, 75:21 need 8:5, 8:7, 67:22, 89:5 needed 56:18, 68:4, 89:12, 97:6, 108:21 needs 84:2, 158:19, 159:15 negatives 87:5
---	---	--	--

never 25:5, 60:16, 86:10, 86:12, 160:21 new 84:3, 103:1, 118:16, 136:18, 144:21 next 51:7, 86:14, 101:2, 101:13, 102:8, 151:11 niya 1:22, 5:10, 6:4, 166:19 nodding 8:6 nomenclature 27:16, 28:20 none 39:7 notary 3:4, 5:11, 166:20 nothing 6:20, 49:8, 72:13, 103:1, 107:5, 166:7 november 81:4 number 39:2, 97:8, 98:18, 99:2, 117:5, 143:21, 144:11 numbers 79:6	26:18, 27:3, 27:9, 36:2, 37:7, 38:3, 38:7, 38:11, 38:19, 39:1, 40:7, 40:22, 41:7, 41:18, 42:1, 43:5, 44:1, 44:13, 46:9, 46:22, 48:13, 51:13, 56:22, 61:17, 61:22, 62:10, 69:3, 72:22, 78:4, 80:10, 80:18, 81:1, 81:9, 82:6, 82:16, 83:9, 94:20, 97:18, 103:3, 110:3, 110:11, 113:8, 126:18, 133:9, 137:4, 137:15, 138:20, 141:11, 143:20, 144:6, 145:9, 145:15, 145:20, 146:6, 146:16, 147:11, 148:11, 149:8, 155:5, 155:21, 156:13, 157:11, 162:18, 162:20 obtain 54:19 obvious 127:14 obviously 161:20 occupied 96:4 occupies 96:9, 96:14 occupy 96:13 occur 52:21 occurred 48:21	october 1:5, 80:3, 80:20, 81:3 offered 128:16 office 1:1, 10:7 often 42:9 oh 14:3, 52:10, 60:4, 61:12, 65:19, 66:8, 67:14, 67:16, 69:19, 79:1, 87:22, 90:11, 97:21, 98:2, 98:4, 102:1, 111:21, 112:17, 113:12, 120:1, 121:6, 158:5 oil 83:14, 83:17, 83:20, 84:12, 161:13, 161:16 oilfield 1:7, 1:8, 2:3, 2:4, 31:10 older 101:21, 102:3, 102:13 once 9:9, 9:14, 163:10 one 13:13, 14:22, 17:21, 30:14, 35:2, 36:10, 38:15, 38:18, 38:20, 48:4, 48:18, 60:4, 60:17, 63:17, 64:1, 66:8, 70:1, 73:2, 73:4, 74:6, 84:16, 84:20, 85:2, 86:5, 94:6, 94:7,	95:10, 95:14, 95:18, 95:19, 96:4, 96:16, 101:9, 102:13, 102:20, 103:12, 104:1, 106:7, 115:10, 117:5, 120:3, 121:9, 123:11, 132:17, 134:17, 134:21, 135:3, 143:2, 143:6, 144:14, 151:11, 155:3 one-off 127:2, 128:4 ones 14:19 online 48:22 only 25:16, 27:2, 60:2, 76:2, 125:14, 126:17, 137:22, 138:14, 153:10 onsite 48:8, 48:16 open 44:16, 47:4, 56:3, 56:9, 58:17 opening 122:14, 124:2 operated 30:17, 31:6 operating 1:7, 2:4, 30:11 operator 83:21, 106:18, 122:8 opinion 129:12, 131:9 opposed 149:2 opposite 154:7 option 90:20, 92:8
O			
oath 7:13 object 160:6, 162:17 objecting 113:9, 113:15 objection 18:22, 19:14, 23:19, 25:7,			

options 27:6, 74:20, 112:10 order 54:19, 54:20, 56:12, 59:19, 60:7, 60:9, 68:4, 69:7, 89:13, 133:1 ordered 110:13 original 86:7, 115:8, 140:10 originally 54:18 other 8:14, 17:18, 21:3, 25:15, 25:17, 27:6, 28:18, 28:22, 34:11, 34:17, 38:5, 46:14, 48:20, 49:1, 52:12, 60:11, 64:2, 69:10, 69:19, 70:1, 70:7, 70:18, 72:18, 73:2, 73:4, 73:15, 74:20, 83:17, 84:11, 84:16, 93:1, 93:7, 93:12, 94:6, 94:8, 103:11, 104:3, 104:14, 108:6, 114:5, 115:12, 119:21, 120:3, 123:12, 133:11, 133:15, 133:20, 134:10, 134:13, 135:3, 135:16, 151:13, 160:1, 162:6 others 19:12, 35:6, 48:1, 123:13, 130:12, 134:1,	149:4, 163:22 otherwise 8:2 out 10:9, 15:10, 16:19, 31:10, 33:19, 34:21, 36:4, 37:3, 50:19, 56:3, 56:6, 57:9, 57:11, 76:20, 83:18, 91:12, 91:17, 92:4, 93:7, 93:18, 93:22, 106:9, 106:10, 112:13, 114:11, 114:16, 117:13, 118:12, 123:16, 133:11, 134:12, 138:12, 146:4, 146:9, 148:3, 156:4, 166:5 outboard 150:5 outer 94:15, 94:16, 150:6, 150:9, 150:10, 152:3, 152:9, 153:8, 153:17, 158:22, 159:4, 159:10 output 25:15 outriggers 29:1, 31:17, 101:16, 102:20, 102:21, 103:5, 103:11 outside 29:10, 29:15, 76:16, 109:6 over 33:5, 39:3, 64:6, 64:7, 77:16, 94:6, 122:14, 123:16, 124:7, 124:13,	130:16, 132:13, 143:14, 156:18 own 91:19 owned 51:4 owner 1:14, 6:14 P pad 150:19 page 4:2, 4:8, 42:21, 52:1, 52:4, 52:8, 52:11, 52:12, 65:11, 105:2, 111:16, 116:5, 128:16, 139:9, 139:12, 139:20, 141:21, 142:9, 144:16, 149:19, 152:15, 159:7, 166:5 pages 50:8, 50:9, 52:12, 128:19 paint 21:5 paint's 149:12 paired 140:18, 140:20 pan 152:17, 152:21, 152:22, 153:3, 156:22, 157:4 panel 29:6, 29:9, 99:15 paragraph 43:15, 45:2, 50:4, 50:5, 51:7, 54:16, 54:17, 62:14, 63:14, 65:16, 65:17, 69:6,	70:14, 70:22, 73:18, 78:13, 88:15, 90:4, 90:19, 90:20, 92:13, 100:3, 100:6, 100:11, 100:13, 100:14, 100:15, 101:1, 101:3, 101:4, 101:8, 102:1, 102:7, 102:11, 102:15, 105:3, 106:2, 107:10, 108:10, 108:22, 128:11, 129:20, 131:6, 131:9, 131:12, 142:6, 142:10, 144:15, 152:8 part 11:6, 15:4, 26:14, 30:3, 42:22, 43:2, 55:19, 56:5, 78:11, 80:9, 83:7, 90:12, 103:22, 107:3, 107:6, 126:5, 127:15, 130:15, 132:21, 135:12, 141:5, 141:9, 146:15, 148:2, 149:11, 149:12, 149:13, 154:2, 157:16, 162:19 partially 56:8, 115:17 particles 33:18 particular 40:17, 158:9 parts 67:3, 67:12, 70:21, 120:12 party 89:19 past 46:21, 61:15,
---	---	--	---

134:11 patent 1:1, 1:2, 1:4, 1:14, 6:14, 10:7, 108:11, 108:16, 108:19, 108:21, 109:2, 109:4, 109:15, 109:18, 109:21, 110:8, 129:11, 129:15, 131:15, 131:21, 132:1, 132:6, 132:9, 132:12, 132:16, 134:10, 135:7, 135:9, 135:14, 135:21, 136:2 patents 134:13, 135:1, 149:5 paul 2:6, 2:12, 6:10, 44:14, 53:9, 110:20, 113:8, 116:18, 120:3, 164:3 pebbles 160:11 pedestal 150:14 pen 43:1 pending 108:12, 109:2, 135:14, 135:21 people 17:6, 18:11 percent 19:18, 36:9, 101:22, 134:3, 157:19 percentage 82:14 perhaps 12:13 person 18:6, 122:18 personal 44:15	personally 39:5, 39:7 personnel 1:8, 2:5, 105:17 petition 10:6, 10:10 petitioner 6:12 petitioners 1:9 phase 112:15 phenomenon 100:5, 100:17 phillips 5:4 phone 48:8 photo 51:22, 52:1, 52:4, 106:2 photograph 105:8 photographs 50:2, 50:7, 50:9, 50:10, 106:2 photos 105:3, 105:15, 107:10, 108:12 picture 72:8, 90:9, 105:10, 116:3, 129:8, 142:8, 142:9, 149:18 pictures 51:7, 51:8, 75:15 piece 66:8, 84:21, 95:15, 107:6, 116:15, 119:14, 125:13, 132:18, 141:19 pieces 58:21, 66:9, 66:10, 70:21,	84:13, 138:21, 153:4 pile 35:6 pipe 71:9, 71:11 pipeline 70:8 pit 51:8, 52:9, 52:14, 53:4 pivot 66:11, 149:22, 150:21, 151:2, 151:5 pivots 150:12, 150:16, 152:2 place 166:5 places 108:12 plaintiff 2:3 plaintiff's 6:8 planet 6:4 plant 90:1, 161:10, 161:19 plants 37:1, 37:18, 161:8, 161:9, 161:21 plastic 153:4, 156:9 plastic-coated 152:17, 152:21, 152:22 plate 73:16 play 103:22 plc 29:14 please 6:7, 6:17,	38:12, 48:14, 133:6 plumb 101:16 point 26:7, 35:3, 49:6, 49:11, 51:2, 52:16, 70:9, 70:10, 70:19, 74:11, 77:2, 78:13, 108:7, 109:1, 128:12, 135:19, 142:12 pointed 136:1 pointing 42:19 points 66:11 port 124:9 portable 36:21, 85:7, 138:13, 138:14, 140:6, 140:13 portfolio 84:5 portholes 89:2 portion 42:18, 65:8, 91:5, 141:4, 153:1, 160:15 portions 106:6, 156:11, 156:15 ports 106:15 position 15:14, 16:9, 20:17, 30:11, 86:19, 87:8, 94:19, 95:17 positioned 122:3 positioning 106:19
--	---	--	--

positions 17:15, 23:7 possible 74:1 potential 133:14, 146:10 potentially 124:12, 147:20 pound 97:16 pounds 56:19, 96:19, 96:22, 97:15, 98:8, 98:16 powder 160:2, 160:15 power 30:19 practice 148:22 preceded 109:7 precise 52:1 predated 109:7, 109:12 preliminary 49:7 preparation 8:13 prepare 139:11 prepared 139:16 preparing 132:2, 132:4, 132:5, 141:22 present 3:3, 49:18, 50:15, 105:17 presented 54:18, 55:2, 59:17, 137:9 preserve 162:20 president 20:19, 20:20 presumably 84:8	presume 122:7 pretty 7:16, 33:15, 37:17, 42:9, 42:17, 75:8 prevent 76:19 prevents 123:15 previous 61:18, 93:12, 123:6 previously 41:22, 43:3, 43:18, 43:22, 44:4, 44:11, 79:22, 113:6, 113:7, 114:6, 122:22, 123:12, 154:18, 162:2, 162:13, 162:16 pricing 134:6, 138:19, 143:18 primary 82:2, 83:6 printed 102:12, 117:13, 118:12 prior 12:3, 12:6, 32:12, 37:22, 38:16, 39:5, 39:9, 39:16, 40:16, 40:18, 42:5, 43:18, 44:12, 44:19, 44:22, 45:1, 45:3, 45:7, 45:9, 45:11, 45:21, 45:22, 47:7, 61:6, 72:4, 91:20, 92:22, 93:15, 123:1 priority 69:9	pro 67:15, 71:20 probably 9:22, 17:14, 33:1, 46:4, 70:20, 75:6, 126:3, 128:8, 161:12, 164:6 problem 104:14 procedure 5:8 proceedings 4:3, 6:1 process 14:9, 25:19, 34:20, 109:4, 130:11, 132:13, 163:5 processes 14:12 producer 83:21, 84:1 product 20:5, 25:6, 41:21, 42:10, 53:12, 53:19, 54:2, 77:15, 83:7, 84:6, 125:6, 125:15, 125:17, 126:7, 129:5, 134:17, 144:21, 146:22 production 14:13 products 14:13, 19:6, 83:13, 84:8, 114:5, 134:16, 134:19 professional 18:8 profile 152:19 programming 29:16 progress 144:20	project 8:20, 8:21, 8:22, 9:1, 9:6, 9:10, 9:12, 9:14, 11:6, 12:3, 12:6, 12:10, 12:15, 12:16, 12:17, 13:12, 16:6, 16:7, 16:18, 16:22, 17:2, 19:20, 22:6, 23:5, 23:11, 23:13, 23:16, 24:1, 24:13, 26:3, 32:12, 34:17, 38:1, 38:17, 39:6, 39:10, 39:17, 40:19, 43:19, 44:12, 45:6, 45:9, 45:11, 46:1, 46:7, 46:17, 54:17, 61:7, 69:9, 69:10, 69:14, 70:10, 70:11, 71:2, 91:20, 91:22, 92:2, 92:8, 93:14, 119:21, 121:11, 142:4, 147:21, 148:1, 148:2, 148:10, 148:20, 149:1, 149:11, 149:12, 149:13, 157:16, 157:18 project-based 149:14 projects 12:6, 12:11, 17:4, 44:19, 45:7, 45:9, 61:18, 70:6, 70:7 proposal 4:9, 137:10, 137:19, 139:9,
--	--	---	---

140:2 proposals 134:5 proposed 73:8, 151:19 proppant 28:14 pros 67:3, 67:15, 72:1, 96:1, 96:3 protect 124:3, 132:20 protected 123:22 prototypes 18:2 provide 123:15, 138:8 provided 55:4, 130:12, 130:19, 130:21, 163:8 provides 115:21 public 3:4, 5:11 pull 36:4, 148:19 pulled 69:9 pulley 155:9, 155:12, 157:6, 157:7 pulleys 77:21, 104:9, 153:18, 153:21, 155:8 purchased 107:4, 113:7, 114:5, 114:7 purpose 103:9, 123:14, 124:10, 156:21 purposes 141:21 pursuant 5:7 pursuing 92:14	pushing 153:22 put 26:12, 33:4, 33:5, 104:4, 108:22, 134:12, 138:22, 141:20, 146:21 putting 138:17 Q quarries 32:18, 32:19 quarter 76:5, 158:12 query 114:22, 115:1 question 7:19, 7:22, 8:2, 40:19, 40:21, 45:18, 45:19, 61:10, 61:11, 61:14, 78:5, 80:6, 87:11, 133:8, 133:13, 137:13, 137:17, 137:22, 138:1, 138:16, 145:17, 148:13 questions 83:11, 100:17, 113:14, 130:17, 130:18, 136:17, 148:13, 159:20, 162:5, 162:6, 162:12 quickly 55:13, 55:14 quite 42:9, 74:18, 74:19, 92:5, 109:4, 145:21, 147:5 quote 17:19, 17:20, 138:22, 139:1, 139:18, 141:22,	144:1, 144:3, 144:8, 149:10 quoted 137:14, 138:15, 148:4 R rachel 3:3, 5:10, 6:16, 166:19 raise 6:17 ramps 29:3, 31:14, 106:5, 106:6, 143:14 range 46:2, 151:8, 151:9, 151:10, 151:15 rate 56:6, 56:8, 56:11, 56:21, 57:1, 57:9, 57:15, 71:21, 85:20, 86:3, 97:13, 97:15, 98:7, 98:9, 98:10, 98:14, 147:22, 148:1, 148:10, 148:16, 149:2, 149:6 rates 54:20, 55:15, 56:15, 86:7, 127:4 reach 10:9, 58:1, 68:17, 72:11, 86:18, 87:8, 87:21, 89:1, 89:14, 112:13, 125:14 reached 16:19 reaching 87:15 read 10:9, 96:19,	96:20, 100:16, 102:6, 102:10, 107:18, 133:8, 152:15, 164:18 reading 5:12 real 27:2, 60:17 really 7:18, 125:7, 128:3, 138:16, 152:22 rear 154:5, 154:19 reason 8:10, 71:14, 79:2, 79:6, 113:9, 132:15, 140:9, 140:13 reasoning 132:17 reasons 8:12 recall 11:11, 47:9, 47:14, 47:18, 48:20, 49:16, 62:11, 80:21, 81:2, 115:1, 115:4, 125:9, 142:14, 143:21, 145:22, 161:7, 163:18 received 54:2, 80:21 recent 118:22 recess 54:11, 111:4, 120:18, 136:13 recollection 142:17, 163:15 recommendation 64:16 record 6:3, 7:6, 52:2, 54:10, 54:12, 111:3, 111:5,
--	---	--	--

111:12, 111:21, 113:19, 117:19, 118:10, 120:15, 120:17, 120:19, 120:22, 121:7, 122:2, 136:12, 136:14, 162:13, 162:14, 162:16, 162:19, 164:3, 165:2, 166:10 record's 81:13, 131:1 recorded 166:8 records 148:18 red 43:1, 116:7, 163:11 reduce 153:2 reduced 95:21, 166:8 refer 54:15, 121:15, 121:16 reference 85:3, 127:5, 128:12, 128:21, 129:18 referred 131:3 referring 43:1, 50:4, 116:3, 117:11, 118:20, 118:21, 120:4, 162:22 reflected 148:9 related 38:6, 44:14, 44:20 relative 52:21, 122:10, 150:13, 150:17, 166:12 relevant 42:5, 53:10,	53:11, 53:19 remember 15:7, 15:8, 39:13, 47:19, 47:20, 47:21, 48:2, 60:8, 60:21, 61:13, 69:4, 74:14, 108:8, 109:19, 112:18, 124:21, 126:3, 138:4, 157:19, 159:19, 163:20 removed 106:6 repeat 45:19, 48:14, 78:5, 87:6, 107:16, 133:4, 133:5, 153:12 rephrase 44:2 replace 65:20 replaced 71:5, 71:17 report 17:6, 17:12, 21:12, 22:9, 22:21, 23:2 reporter 1:22, 5:11, 6:3, 6:4, 6:15, 6:17, 6:22, 7:18, 54:9, 54:12, 79:8, 79:10, 79:21, 107:19, 111:3, 111:5, 111:16, 111:18, 120:17, 120:19, 133:7, 136:12, 136:14, 164:2, 164:8, 164:11, 164:14, 164:17, 164:20, 165:1, 166:1, 166:20 reports 17:11, 17:13,	21:11 reposing 125:3 represent 79:4 represented 162:14, 162:19 reproduced 62:16 request 143:5 requested 107:18, 133:8, 143:1, 143:4 required 59:18, 125:4 requirements 99:14, 140:16 requiring 54:18 reread 107:17, 133:5 reserve 164:13 reside 7:8 respect 24:5, 24:9, 33:21, 102:16 responses 8:6, 8:7 responsible 99:11, 99:16 rest 21:11, 119:4, 141:1, 142:14 restate 10:11 result 100:9, 101:10 retaining 158:16 retractable 116:9 retracted 124:6 retracts 116:16	review 109:18, 130:15, 132:6 reviewing 108:20 revised 80:2 revision 102:8, 102:9 revisions 102:13 right 6:18, 6:22, 7:21, 8:5, 9:4, 10:19, 13:16, 22:6, 26:22, 27:22, 28:7, 28:8, 28:16, 29:13, 30:18, 31:18, 32:10, 36:16, 40:12, 43:15, 52:17, 54:9, 55:8, 58:10, 59:5, 59:15, 62:7, 65:5, 66:9, 66:11, 66:19, 71:22, 72:20, 73:6, 74:6, 77:3, 84:13, 85:13, 90:5, 90:8, 90:9, 91:12, 95:8, 96:18, 96:19, 96:20, 100:1, 103:9, 105:20, 109:9, 111:22, 118:9, 119:2, 120:20, 122:7, 122:10, 122:17, 124:18, 133:12, 135:8, 139:18, 141:4, 147:7, 150:14, 152:3, 154:11, 158:1, 160:4, 161:1, 162:4, 164:11, 164:15, 165:1
---	---	---	---

road 95:2, 143:6 roads 161:15 robust 159:16 rock 32:18, 32:19, 32:20, 33:12, 37:11 role 15:16, 17:4, 17:9, 19:19, 20:1, 20:2, 22:22, 23:10, 23:14 rollers 104:4, 104:16, 104:20, 152:18, 153:7 rotate 72:10, 89:1, 89:3, 150:21 rotates 151:3 roughly 21:10, 50:11, 82:14 rubber 156:6, 156:9 rules 5:7, 7:17 run 29:5, 50:18, 50:21 running 9:14, 29:7, 100:11 runs 29:12, 77:5, 77:6 rush 164:8 S said 5:6, 10:19, 36:18, 48:17,	60:1, 60:9, 74:7, 74:12, 81:20, 83:20, 85:14, 98:3, 100:19, 119:22, 127:4, 130:4, 130:22, 135:5, 136:1, 153:3, 166:7 sales 16:20, 17:1, 21:5, 62:20, 63:4, 86:16, 99:19, 112:18, 124:21, 124:22, 126:21, 127:5, 134:1, 139:6, 149:10, 151:21, 151:22 salt 2:19 same 7:13, 22:11, 36:5, 38:11, 39:1, 58:16, 59:12, 65:11, 73:17, 142:9, 144:14, 155:19, 155:22, 159:2, 159:5, 164:8 sample 125:2 sand 28:7, 32:20, 33:18, 33:21, 34:3, 34:6, 34:16, 34:20, 36:1, 36:3, 36:8, 36:11, 36:13, 44:12, 45:22, 46:3, 46:4, 47:7, 55:16, 55:20, 56:3, 58:9, 58:13, 60:13, 75:18, 97:16, 97:22, 98:13, 98:17, 143:15,	156:18, 158:10, 158:17 sands 28:14, 35:12, 35:18, 37:22, 38:16, 39:22, 40:12, 40:18, 41:16, 43:18, 44:5 satisfy 56:13 saw 123:8, 129:8, 135:15, 135:21 say 8:21, 14:11, 21:17, 23:17, 26:13, 40:8, 41:13, 41:16, 47:1, 50:20, 55:11, 55:17, 57:1, 61:5, 61:8, 62:1, 67:6, 75:9, 75:19, 77:10, 86:10, 93:3, 105:3, 109:1, 110:4, 113:19, 132:2, 133:10, 134:18, 135:1, 142:19, 144:17, 158:2, 158:3 saying 86:1, 162:2 says 54:17, 59:18, 62:14, 63:14, 64:12, 69:6, 73:18, 78:13, 78:22, 80:2, 86:18, 87:7, 97:13, 97:14, 98:3, 100:8, 108:10, 128:12 scenarios 77:7 school 13:22	scott 47:17 screen 37:1, 37:18, 106:21 screens 37:1, 37:3, 107:3 sd 5:5 se 18:6, 113:21 search 114:12, 114:21, 115:1, 115:11 searches 93:21 searching 147:17 second 12:12, 12:15, 12:17, 12:19, 12:21, 13:12, 86:17, 88:5, 88:14, 110:13, 116:13, 120:5, 120:16, 121:8, 121:17, 121:19, 126:4 section 27:13, 27:14, 27:15, 27:22, 28:6, 28:8, 28:10, 28:13, 30:14, 31:15, 43:14, 44:11, 45:21, 46:8, 46:17, 57:16, 57:18, 60:6, 60:18, 63:19, 75:16, 75:17, 75:20, 76:6, 96:11, 96:12, 98:9, 112:10, 115:17, 115:19, 116:2, 116:13, 119:11, 119:14, 121:11, 121:12,
---	--	--	--

121:18, 122:3, 123:9, 126:9, 145:6, 147:3, 147:4, 147:5, 150:17, 150:18, 151:6, 154:22 sections 43:17, 43:22, 44:5, 44:7, 61:21, 62:1, 75:10, 76:7, 157:22 seeing 9:13 seen 59:7, 60:16, 63:14, 71:6, 123:11, 123:12, 123:13, 136:22, 137:3, 137:8, 161:18 segment 150:5 select 57:14 selection 26:3, 145:13 selections 25:20 sell 82:12, 83:2, 83:22, 84:20, 133:2, 134:6, 134:19 selling 126:17 semi 32:8, 58:22 semi-trailer 57:11, 58:16, 58:20 send 164:20 sense 20:21, 83:5, 95:20, 128:8 sent 80:11, 80:14,	80:15, 148:5, 151:21, 163:13, 163:14 sentence 101:2, 101:8, 101:11, 101:13 separate 23:7, 36:5, 83:10, 111:9, 143:8, 143:10 separates 76:7, 157:22 september 138:1, 138:3 series 58:4, 58:8 service 1:7, 2:4 services 1:8, 2:5 servicing 64:20 session 118:16, 118:22 set 30:7, 30:14, 55:6, 81:15, 166:5 sets 138:12 setting 122:13 settle 76:15, 147:9 settled 74:22, 89:16 several 17:4, 42:8, 46:14, 58:21, 61:2, 66:10, 84:14, 99:13, 108:12, 114:16, 115:12, 129:8, 146:21, 153:4 shaft 25:14, 25:15, 107:14, 107:20 shafts 25:18	shake 50:20 shaking 8:6 shall 85:19, 86:18, 87:7 shaped 159:10 she'll 79:16, 79:19 sheet 4:11, 60:8, 79:12, 80:7, 80:8, 80:11, 80:22, 81:10, 85:15, 85:17, 97:14, 128:15, 129:14, 129:15, 130:4, 130:5, 130:8, 130:14, 131:1, 131:4, 131:5, 131:11, 131:16, 159:12, 163:1, 163:4 sheets 128:22, 129:6, 129:7 shelf 25:3 shoes 156:7, 158:3 shoots 73:15 shop 29:9, 99:15, 135:20 short 162:11 should 25:15, 26:13, 105:2, 132:12, 147:9 show 145:1, 148:19 showed 51:22, 93:8, 135:20	shown 50:8, 51:12, 62:16, 62:19, 65:15, 65:16, 90:3, 105:2, 105:6, 105:7, 106:1, 107:9, 108:12, 112:22, 114:22, 116:4, 125:21, 128:15, 129:19, 131:5, 131:11, 141:16, 141:18, 141:21, 142:6, 142:9, 144:15 shows 90:9, 128:15, 141:14 shultz 5:4 side 16:7, 20:8, 64:3, 64:10, 75:10, 96:10, 141:4, 145:5, 151:11, 151:13, 156:11, 156:14 sides 75:13, 128:6, 156:19, 157:1, 159:9 sidewall 141:17, 142:3, 143:9 sign 164:13 signature-plkals- signature-mig2k 166:18 signing 5:13 silo 27:20, 27:21, 28:13, 28:15, 28:19, 31:20, 35:2, 35:8, 41:13, 41:15, 47:12, 51:14,
---	---	---	---

51:15, 51:20, 51:21, 52:4, 52:16, 52:18, 53:7, 56:4, 72:9, 72:19, 81:7, 81:21, 82:4, 84:22, 87:12, 87:16, 87:19, 95:6, 112:10, 115:15, 116:14, 121:11, 121:18, 122:10, 122:15, 123:10, 123:16, 123:21, 124:2, 124:9, 124:12, 124:15, 125:19, 126:12, 126:17, 137:20, 138:13, 140:6, 150:16 silos 12:22, 13:3, 13:4, 13:11, 13:14, 28:7, 35:13, 35:18, 39:22, 40:1, 40:12, 41:6, 51:1, 51:9, 68:19, 72:11, 72:12, 72:14, 72:16, 72:20, 86:18, 87:8, 87:15, 87:18, 89:13, 89:15, 98:14, 106:15, 106:16, 124:5, 143:15, 144:21, 161:14, 161:16, 162:1 similar 114:17, 158:4 simple 11:15 simpler 115:9, 145:17 simplified 89:14 simplify 143:5	simulation 68:9 simulations 77:1 since 9:6, 9:9, 9:18, 11:12, 12:8, 12:9, 111:9, 118:15, 118:21, 156:5 single 142:16 sioux 5:5 sir 7:8 sit 96:10, 108:4 site 1:7, 1:8, 2:3, 2:4, 58:13 sits 96:12 sitting 52:11 six 13:4, 13:14, 72:11, 72:14, 72:20, 86:18, 87:8, 87:15, 89:1, 89:14 six-pack 86:20, 87:9 size 35:22, 36:5 sizes 25:18, 99:5 sketch 90:3 skill 166:11 slide 65:1, 65:4, 65:8, 65:20, 65:22, 66:2, 66:4, 66:17, 66:22, 67:6, 67:8, 67:9,	68:20, 71:5, 85:16, 85:19, 86:2, 86:6, 86:11, 86:15, 86:22, 87:11, 87:15, 87:22, 88:1, 88:6, 88:13, 90:12, 90:17, 90:21, 91:10, 112:19, 115:10, 125:6, 126:6, 126:7, 127:10, 127:22, 146:10, 147:19 slider 100:20, 152:8, 152:11, 152:13, 152:14, 152:16, 153:6, 154:1 slides 87:20, 94:6, 94:8, 94:13, 113:4, 113:7, 114:5, 115:11 sliding 152:16, 153:14 slowly 76:12 small 26:16, 32:19, 33:18, 46:13, 103:22 smaller 34:9, 106:9, 106:13 smith 3:4, 5:4, 5:10, 166:19 software 29:12 soil 36:16 solaris's 26:15, 55:4 sold 133:20, 133:22 solemnly 6:18	solve 104:14 solving 103:20 some 9:15, 19:2, 19:5, 21:15, 26:7, 27:11, 33:4, 33:17, 33:18, 36:18, 37:2, 40:13, 43:3, 49:11, 50:2, 50:7, 51:2, 52:16, 60:10, 67:7, 71:2, 74:11, 77:2, 79:2, 79:6, 80:6, 83:20, 84:8, 85:4, 85:11, 85:14, 93:6, 98:21, 99:2, 99:5, 100:17, 104:18, 105:3, 105:19, 109:15, 111:10, 120:11, 120:21, 127:1, 128:12, 129:18, 130:12, 130:19, 134:16, 134:17, 137:11, 141:20, 142:12, 144:4, 157:2, 160:10, 160:13 somebody 124:17 someone 15:18, 31:10, 142:17 someplace 42:13, 51:5 something 12:14, 13:2, 25:21, 41:8, 62:3, 84:3, 84:5, 89:17, 91:11, 103:16, 109:3, 125:16,
---	--	--	---

126:15, 146:10 sometimes 87:4, 116:3, 119:19 somewhat 57:20, 140:14, 140:15, 157:5 somewhere 59:8, 66:16, 81:3, 106:22 sorry 12:9, 16:1, 21:17, 22:3, 37:16, 38:14, 51:21, 58:7, 67:14, 78:18, 78:20, 87:4, 88:11, 97:14, 97:21, 98:4, 100:5, 101:7, 107:16, 107:19, 120:1, 124:16, 136:21, 139:14, 147:7, 152:11, 154:17 sort 18:2, 23:18, 24:18, 25:19, 27:18, 28:18, 28:22, 33:2, 37:13, 40:13, 47:6, 59:18, 60:10, 71:19, 76:19, 83:22, 88:5, 95:7, 98:20, 101:9, 103:19, 105:9, 118:12, 128:21, 134:6, 138:8, 138:15, 139:16, 140:1, 144:4, 146:4, 147:22, 149:1, 150:4, 157:2, 158:5, 158:16 source 36:7 south 2:17, 5:4,	5:11, 7:9, 14:2, 49:15, 89:22, 105:17, 166:2 space 46:13, 67:20, 71:13, 94:18, 94:22, 95:1, 95:16, 96:13, 96:14 speak 8:14, 8:17 spec 60:8, 80:3, 80:4, 80:7, 80:8, 80:11, 80:22, 81:10, 85:15, 97:14, 128:14, 128:22, 129:6, 129:7, 129:14, 129:15, 130:4, 130:5, 130:8, 130:14, 130:22, 131:4, 131:5, 131:11, 131:16 specially 107:5, 157:16 specific 73:12, 91:21, 145:19 specifically 92:2 specification 4:11, 163:1, 163:4 specifications 55:7 speed 56:20, 77:7, 77:8 spells 148:3 spent 129:16, 132:19 spill 124:13 spillage 100:12	spilling 123:16 splay 106:9 spoke 8:19, 9:12, 10:18 spokesman 11:4 spokesmen 11:2 spots 150:1 spout 29:2, 116:9, 120:14, 121:5, 121:12, 121:16, 122:4, 122:9, 122:14, 122:21, 123:9, 123:12, 123:15, 123:18, 124:1, 124:6, 124:11, 145:7 spouts 122:22, 123:4 squeezes 60:20 stabilize 31:18, 103:6, 103:17 stabilizing 103:13, 103:14, 103:20 stage 49:5, 49:7, 49:9 stand 50:22 standalone 140:14 standard 84:5, 84:6, 84:8, 84:13, 84:21, 125:15, 126:17, 134:19, 140:14, 140:15, 141:8, 141:14, 141:19, 148:22	standpoint 109:9, 110:7 stands 146:4 stanton 8:17, 8:19, 9:8, 9:12, 10:10, 10:13, 10:16, 10:22, 11:3, 11:9, 12:3, 16:13, 16:16, 16:18, 20:14, 78:15, 80:2, 80:12, 80:14, 80:15, 109:20, 110:7, 135:6, 135:18, 137:11, 137:20 start 22:16, 118:15, 118:21 started 15:10, 65:21, 109:4, 138:5 starting 6:8, 104:5 starts 101:9, 154:9 state 5:11, 6:7, 7:5, 18:9, 166:2 stated 147:12 statement 87:6 statement's 87:3, 87:4 states 1:1 stationary 36:22 stats 14:20 stays 158:17 steel 152:17, 152:21, 152:22, 153:3
---	--	--	---

step 75:11 sticker 136:1 stickers 135:14, 135:21 still 11:9, 22:2, 22:21, 90:19, 101:4 stipulation 5:1, 113:17 stone 32:20, 33:6, 33:8, 33:9, 160:14, 160:16 storage 40:2 straight 60:20, 104:2, 104:5, 104:6 street 2:9 strength 14:21, 153:2 strike 75:1, 96:17, 115:1 structural 153:1, 153:4, 159:12 structurally 159:16 structure 154:2, 159:9, 159:11 stuff 35:6, 114:17, 149:10 subcontractor 125:20, 127:21 subject 13:6, 105:16 submitted 10:5, 60:1, 60:3, 60:5, 134:6, 139:4, 166:22	submitting 10:10 subsequent 48:10, 48:11 substance 11:11, 11:14 substantial 100:21, 101:15, 102:19 substantially 128:17 success 53:15, 53:19, 53:22, 54:1 successful 53:12 sudbeck 69:22 suggested 78:14, 78:17, 147:10 suite 2:18 supplied 51:9 supplier 25:14, 64:16, 127:21 supply 83:7, 83:13 supposed 35:8, 35:19, 44:17, 57:10 sure 10:1, 19:2, 24:17, 28:19, 41:8, 44:21, 45:8, 45:20, 58:10, 87:7, 99:16, 99:17, 110:6, 114:2, 116:20, 131:8, 142:18, 147:5, 148:15, 158:17 surface 75:9 swear 5:12, 6:16,	6:18 sworn 166:6 symmetrical 72:14 system 27:17, 27:18, 29:5, 35:11, 49:6, 49:12, 50:11, 53:21, 54:21, 55:22, 58:19, 60:7, 65:1, 65:4, 65:8, 66:3, 66:5, 66:17, 68:13, 74:2, 74:18, 76:20, 78:12, 81:15, 81:19, 92:19, 92:22, 93:19, 95:12, 95:16, 98:11, 98:12, 100:21, 105:8, 105:15, 106:1, 106:3, 106:13, 107:3, 109:16, 110:8, 112:22, 114:22, 115:7, 119:7, 119:8, 121:10, 121:22, 125:21, 128:16, 129:3, 129:20, 137:14, 138:18, 139:17, 142:14, 143:19, 145:3, 145:22, 146:4, 146:17, 147:18, 149:20, 152:2, 153:7, 153:19, 154:12, 154:14 systems 24:15, 24:16, 29:20, 37:16, 37:22, 38:5, 38:6, 45:2, 45:22, 62:5, 68:20, 82:4, 84:20, 103:6,	112:3, 114:13, 126:16, 126:17, 133:2, 133:20, 143:8, 161:3, 161:6 T tail 104:9, 153:21, 154:8, 154:12, 155:8, 157:6 take 14:16, 15:3, 15:7, 15:12, 54:7, 67:20, 71:13, 78:3, 78:8, 94:22 taken 5:3, 5:7, 54:11, 111:4, 120:18, 136:13, 166:4, 166:10 talk 11:15, 45:7, 65:17, 92:13, 101:15, 130:17 talked 9:9, 13:12, 16:14, 35:9, 40:16, 53:11, 63:18, 65:14, 80:5, 112:19, 121:7, 124:17, 125:5, 125:7, 125:9, 145:4, 145:6, 159:18, 159:20 talking 12:19, 25:11, 27:12, 36:14, 42:16, 45:2, 73:11, 82:4, 84:22, 86:11, 88:4, 93:4, 116:8, 119:15, 120:1, 120:9, 127:3, 127:6, 127:8, 131:2,
--	--	--	--

143:13, 146:9, 161:18, 161:19 talks 44:22, 45:5, 64:22, 85:16, 85:19, 101:13, 138:13 tall 158:12, 158:13 team 62:20, 63:4, 70:4, 70:5, 78:14, 99:11, 99:16, 99:19, 134:1, 135:12, 144:19, 144:22, 146:18, 147:12, 163:10 team's 46:10 teams 20:9, 74:10, 130:16 techniques 104:13 telephone 2:11, 2:20 telescope 94:3, 116:16 telescoping 29:2, 66:6, 71:10, 72:9, 88:17, 88:19, 88:22, 90:8, 90:10, 90:13, 90:17, 90:18, 90:21, 91:16, 92:3, 92:6, 92:7, 94:5, 94:7, 96:2, 106:14, 115:18, 116:2, 116:7, 119:9, 119:10, 119:15, 119:18, 119:20, 120:4, 121:3, 121:5, 121:9, 121:12, 121:16, 121:19,	122:1, 122:4, 122:9, 122:14, 122:21, 122:22, 123:4, 123:9, 123:12, 123:14, 123:18, 124:11, 145:7 tell 44:14, 77:6, 135:10, 135:18 temple 2:17 ten-feet 41:8 tens 41:6 tension 103:8, 103:10 tenure 134:22 term 58:12, 59:7, 84:7, 120:12, 153:12 terminology 27:11, 58:11 terms 11:15, 56:11, 138:18, 147:8 test 49:11, 49:14, 49:19, 50:22, 68:6, 68:8, 68:10 tested 49:9, 50:5, 50:11 testified 43:9, 121:21 testify 166:6 testifying 7:14 testimony 6:19, 7:12, 8:11, 9:7, 43:6, 44:17, 118:11 testing 18:2, 50:14,	68:11, 105:12, 108:11, 109:5, 109:6, 135:7 tests 50:18, 52:22, 53:4, 76:17, 76:21, 105:16, 110:8 texas 2:10, 48:8, 48:17, 49:5 th 5:5 thank 6:15, 7:2, 119:3, 120:20, 136:16, 164:22 that'd 111:16, 164:10 thereby 96:12 therefore 71:13, 71:21, 77:12, 131:20, 155:11, 159:15 thermodynamics 15:1 thing 24:18, 25:19, 58:16, 73:17, 95:7, 95:12, 100:16, 104:1, 104:3, 122:13, 134:6 things 93:20, 101:14, 103:11, 103:14, 104:6, 115:12, 121:7, 163:12 think 11:3, 11:19, 15:12, 20:15, 26:13, 53:13, 59:7, 60:22, 61:2, 64:20, 67:15, 86:9, 102:3, 110:20, 110:22, 116:2,	118:1, 125:6, 126:22, 136:6, 149:17, 154:4, 160:2 thinking 12:13, 71:5 third 89:18 thirty 21:9 thought 61:12, 72:10, 92:7, 160:21 thousand 116:4 three 15:11, 17:17, 47:21, 48:1, 134:12, 134:21 three-eighths 158:12 three-fourths 23:16 through 11:18, 16:19, 16:20, 16:21, 16:22, 18:6, 20:9, 20:10, 25:19, 34:20, 35:2, 46:15, 50:8, 50:9, 50:13, 50:21, 52:10, 55:4, 60:5, 65:21, 67:2, 67:4, 68:11, 74:17, 75:1, 77:5, 92:1, 107:14, 107:21, 108:9, 130:17, 133:17, 135:15, 151:13 throughout 12:1, 17:4, 83:16, 130:11, 163:5 tie 45:14, 54:5 time 6:16, 9:20,
--	---	--	--

10:2, 10:18, 10:22, 11:8, 16:9, 22:6, 22:8, 23:4, 23:7, 35:1, 47:4, 50:18, 50:22, 54:7, 56:19, 68:4, 69:14, 70:13, 80:21, 81:3, 108:7, 109:8, 109:9, 111:1, 111:2, 113:14, 115:5, 123:3, 123:8, 132:11, 132:19, 133:13, 134:13, 135:19, 136:6, 146:21, 166:4 timeframe 53:1, 53:2, 71:1, 81:4, 88:4, 113:11 times 9:13, 38:12, 57:4 timetable 69:8 timing 110:6 tipping 156:18 title 14:14, 15:19, 16:10, 166:5 today 6:5, 7:13, 7:17, 8:11, 8:14, 22:22, 23:2, 27:16, 28:20, 82:5, 83:19, 132:5 together 26:12, 99:13, 138:17, 147:13, 160:19 told 79:4, 86:12,	132:12, 135:12, 135:18 ton 55:13, 146:21 tons 77:8, 77:13, 77:18 took 15:9, 15:11, 86:10, 86:12, 94:18, 95:16, 108:9, 132:13, 163:11 top 39:18, 65:8, 69:9, 74:4, 91:5, 94:9, 94:10, 106:4, 106:16, 123:21, 124:1, 124:4, 124:6, 124:8, 153:5, 156:9, 158:4 tops 106:15 total 85:8, 96:22, 143:22 tough 146:1 towards 106:11, 154:2 track 104:10, 104:12, 157:5 tracking 100:20, 157:6 tractor 32:3, 32:4, 32:5 trademark 1:1, 10:7 trailer 32:4, 32:10, 51:2, 56:2, 58:14, 94:18, 94:22, 95:5, 97:5, 103:13,	106:11, 106:22, 108:4, 109:8, 141:1, 143:10 trailers 103:17 transcript 5:13, 164:3, 164:15, 164:18, 166:4, 166:10 transport 30:11, 35:6, 53:3, 53:20, 85:4, 94:19, 95:8, 95:17, 95:21 transportable 13:2, 26:15, 31:21, 32:13, 39:19, 95:12, 103:6 transportation 68:14 transported 32:3, 35:1 trantham 20:14 travel 67:21, 72:2 tread 75:11, 158:3, 158:4 trial 1:2 trials 74:18 trough 157:3 troughed 157:4 truck 28:15, 28:17, 31:15, 32:5, 35:12, 35:17, 42:8, 42:12, 42:15, 42:18, 43:2, 51:11, 51:18, 55:12, 55:13, 55:21,	56:7, 56:17, 56:19, 57:9, 57:15, 57:17, 58:10, 58:11, 58:12, 59:10, 63:15, 72:19, 87:1, 98:13, 98:16, 106:7, 138:14, 140:6, 140:13, 140:18, 140:19, 140:22, 141:3, 141:8, 142:13, 143:6, 143:10, 143:12, 143:14, 161:11 true 166:10 truss 159:8, 159:10 truth 6:20, 166:6, 166:7 truthful 8:11 try 120:21, 121:7 trying 35:9, 40:9, 45:9, 50:19, 75:5, 78:11, 81:11, 83:5, 86:9, 113:21, 154:4 tube 71:6, 71:7, 71:20, 72:9, 72:10, 73:8, 73:9, 73:15, 73:17, 88:16 turn 24:21, 30:20, 55:7, 64:22, 69:6, 80:15, 100:6, 139:17, 162:21 turns 155:12 twice 9:9
--	---	---	---

two 13:2, 13:11, 16:5, 17:18, 20:16, 23:7, 23:17, 23:18, 30:13, 51:7, 59:5, 66:9, 66:11, 69:15, 75:22, 78:21, 78:22, 79:7, 104:6, 115:21, 135:1, 140:9, 142:15, 143:6, 143:8, 148:13, 150:6, 150:7, 163:16, 163:18, 163:20 tyler 21:22, 23:1, 74:20, 74:22, 93:8, 147:13 tyler's 23:14 type 13:9, 13:10, 26:7, 36:11, 36:13, 36:20, 37:8, 37:16, 58:19, 60:15, 61:2, 63:21, 78:2, 83:18, 93:22, 129:10, 149:1, 152:5, 166:9 types 38:5, 38:10, 38:14, 40:19 typically 31:4, 34:3, 78:3, 140:18 U uh-huh 51:17, 105:5 uhmw 153:4 ultimate 78:10	ultimately 71:16, 74:15, 119:7, 138:9, 140:2 under 7:13, 18:4, 18:5, 21:11, 33:8, 55:2, 95:7, 99:8, 110:1, 166:9 undercarriage 29:3 underneath 97:9 understand 7:12, 7:22, 8:1, 8:8, 27:12, 42:15, 44:19, 52:16, 55:10, 122:2, 128:4, 136:19, 137:8, 160:3 understanding 36:8, 45:10, 55:3, 97:2, 98:15, 126:16 understood 8:2, 19:22 unfortunately 72:11, 96:2 unique 26:4, 132:18, 157:9, 157:18 unit 5:5, 12:19, 12:21, 13:2, 13:8, 13:13, 29:1, 29:2, 29:4, 29:13, 30:4, 30:18, 30:19, 30:21, 31:4, 31:5, 31:18, 31:21, 32:9, 42:18, 50:21, 68:8, 85:15, 97:9, 105:1, 105:6, 105:7, 105:9,	105:11, 107:10, 108:1, 108:11, 109:1, 110:13, 119:8, 127:2, 128:14, 128:16, 128:18, 129:16, 129:19, 130:6, 131:11, 131:17, 131:18, 140:15, 141:14, 142:16, 143:2, 150:8, 151:4, 154:3 united 1:1 units 9:15, 29:17, 32:13, 39:3, 129:9, 133:1, 134:7, 153:20, 161:8 unless 53:14 unload 42:15, 51:1, 55:12, 56:18 unloaded 55:16, 55:17, 55:18, 55:22, 98:17 unloader 28:17, 31:15, 43:2, 51:14, 52:17, 56:17, 58:1, 59:10, 63:16, 125:19, 138:14, 140:7, 140:13, 140:18, 140:19, 140:22, 141:3, 141:9, 142:13, 143:12 unloaders 57:21 unloading 57:18 upper 96:12 urge 158:8	use 11:2, 33:14, 35:7, 35:10, 39:21, 61:15, 63:20, 74:16, 84:7, 84:18, 102:21, 103:10, 103:11, 104:16, 104:17, 114:13, 147:2, 147:7, 150:6, 152:9, 152:16, 159:2, 159:11 uses 149:20, 159:11 using 31:12, 58:10, 77:15, 78:14, 78:17, 116:21, 117:5, 120:12, 130:1, 130:8 utah 2:19 V v 159:9 vague 27:3, 37:7, 42:1, 44:1, 46:9, 48:13, 51:13, 56:22, 82:6, 83:9, 94:20, 103:3, 133:9, 137:15, 143:20, 145:9, 145:15, 145:20, 146:6, 146:16, 147:11, 155:5, 155:21, 156:13, 157:11 valuable 67:20 variable 56:8 various 65:21, 99:6 vehicles 97:5
---	---	--	--

velocity 57:4 vermillion 49:15, 50:12, 51:4, 90:2 version 102:9, 102:10, 102:13, 107:9, 111:7, 118:12, 118:17, 119:5, 163:10, 163:14 versions 79:7, 163:4, 163:7, 163:16, 163:19 versus 67:6, 73:17, 143:6, 154:5 vertical 27:8, 28:3, 28:5, 40:2, 40:13, 40:14, 60:19, 62:3, 74:21, 76:12, 95:1, 95:4, 95:16, 95:21, 96:5, 96:9, 96:13, 97:3, 104:3, 116:13, 151:11, 151:12 vertically 76:8, 101:16 via 56:3 view 129:3 visit 135:13 visualize 75:5, 106:15 volume 57:4, 77:11	walking 107:15, 107:21, 108:2 wall 60:20, 61:1, 61:2, 62:3, 63:21, 64:16, 64:18, 74:18, 74:20, 75:2, 75:3, 75:8, 75:15, 75:17, 75:19, 76:2, 80:3, 91:7, 127:11, 127:14 walled 63:16, 63:17, 63:22, 75:10 walls 64:3, 64:9, 75:22 want 6:16, 28:19, 53:14, 55:13, 58:10, 76:3, 76:4, 81:21, 83:20, 113:9, 113:13, 117:3, 117:21, 120:7, 122:12, 122:13, 131:8, 133:2, 136:18, 162:20, 164:9, 164:13, 164:14 wanted 73:19, 84:3, 84:4, 127:16, 127:19, 132:20 wash 33:18, 37:18 water 46:3, 160:22, 161:1, 161:10 way 14:9, 50:19, 75:6, 86:9, 146:19, 147:20, 151:12, 153:22, 154:8, 158:14,	161:4, 166:13 ways 102:20, 103:21, 115:9, 115:10, 145:1, 159:6 we'll 45:13, 45:15, 119:4, 164:12 we're 36:13, 45:2, 53:17, 54:12, 65:11, 105:14, 110:20, 111:21, 116:1, 121:15, 121:16, 122:4, 126:4, 143:12, 154:1 we've 39:2, 120:3, 145:6, 162:15, 162:21 wednesday 5:5 weeds 23:18 weeks 74:19 weigh 57:16 weight 7:14, 67:11, 77:22, 85:9, 96:17, 96:18, 96:21, 96:22, 97:4, 97:6, 153:2, 154:1 weinstein 4:10, 47:15, 49:18, 50:15, 74:3, 74:9, 74:12, 80:1, 130:12, 130:19, 135:19, 137:11, 137:21, 142:15, 151:19 weld 21:5 went 26:7, 67:4,	81:19, 81:20, 88:2, 89:11, 109:6, 138:22, 148:8 weren't 77:14, 89:5, 89:7, 128:3 wet 34:21, 35:6, 35:10, 35:12, 160:20, 161:3, 161:5, 161:10 what'd 11:15 whatever 37:19, 75:14, 122:14, 164:5 wheel 154:5, 154:6 wheels 108:3, 141:6 whenever 113:19 whereas 162:15 whereby 95:5 whether 33:22, 62:2, 76:18, 76:19, 127:20, 135:15, 142:20, 163:3 whole 6:20, 44:22, 99:8, 100:16, 166:6 width 85:8 willing 11:16 windings 25:12 wires 101:18, 103:9, 103:10 withdraw 53:14 withdrawing 53:18
W			
wait 164:12 waived 5:14			

within 21:3, 71:11, 72:1, 160:17 without 87:1, 87:12, 87:15 witness 5:12, 5:13, 6:7, 6:21, 23:20, 25:8, 26:19, 27:4, 36:3, 37:8, 38:8, 38:12, 38:20, 39:2, 40:8, 41:1, 41:8, 41:19, 44:2, 46:10, 47:1, 48:14, 51:14, 57:1, 61:18, 62:1, 62:11, 69:4, 73:1, 78:5, 80:11, 81:2, 81:10, 82:7, 82:17, 83:10, 94:21, 97:19, 97:22, 107:20, 110:4, 133:10, 137:17, 138:21, 143:21, 145:10, 145:21, 146:7, 146:17, 147:12, 148:12, 149:10, 155:6, 155:22, 156:14, 157:12, 166:3 woods 5:3 word 55:21, 154:15 words 25:17, 72:18, 116:4, 160:1 work 11:16, 12:2, 18:11, 19:3, 23:10, 24:10, 29:9, 29:16,	36:18, 42:7, 43:3, 45:3, 71:1, 77:3, 82:3, 89:8, 92:2, 93:8, 99:13, 114:4, 123:6, 128:6, 141:20, 146:21, 148:1, 148:7, 148:16, 149:7 worked 12:5, 12:8, 12:9, 12:13, 16:20, 16:22, 20:12, 23:12, 23:15, 29:21, 45:22, 46:15, 64:17, 64:21, 108:9, 147:12 working 8:19, 16:21, 18:6, 20:2, 20:10, 24:2, 64:15, 70:10, 70:11, 76:21, 91:14, 91:21, 99:21, 108:19 workman 2:16, 6:13 world 18:16 worth 116:4 would've 87:17, 88:22, 91:8, 91:19, 96:4, 128:5 wouldn't 73:1, 89:8, 127:1, 148:18 wraps 60:19 written 166:9 wrong 102:4 Y yankton 7:9	yard 109:6, 109:13 yeah 9:2, 37:17, 40:11, 44:4, 48:16, 51:14, 51:19, 51:21, 60:22, 61:9, 67:17, 71:11, 72:5, 78:7, 78:20, 79:2, 79:18, 87:6, 91:4, 91:7, 101:5, 110:22, 111:2, 111:17, 112:2, 116:11, 119:16, 120:6, 120:10, 120:13, 136:10, 137:19, 141:5, 153:13, 155:6, 157:14, 164:7, 164:10 year 9:22, 10:4, 10:19, 12:1, 129:16 years 9:22, 12:1, 16:5, 17:5, 39:3, 83:16, 132:4 yep 70:17, 88:8, 101:12, 139:10 you-all 12:20, 89:11 yourself 62:21, 128:9 0 01179 1:3 02 166:22 04 166:21 07 166:22	1 1 165:3 10 1:5, 46:5, 50:8, 50:9, 52:11, 52:12, 105:2 10,000 97:15, 98:7, 98:18 100 19:18, 36:9, 97:22, 98:3, 101:22, 134:3, 157:19 1000 2:18 101 15:12 1040 130:3 1043 4:9, 136:21, 137:2, 139:14, 139:21, 141:21, 142:9, 144:16, 148:3 1045 4:10, 79:5, 79:11, 79:13, 79:22, 80:1, 162:13 1046 4:11, 79:5, 79:12, 79:14, 80:1, 80:4, 80:7, 80:8, 81:6, 81:16, 85:3, 86:16, 97:14, 130:3, 131:2, 131:4, 139:12, 162:13, 162:22, 163:9 1060 4:12, 111:8, 111:13, 118:12
--	---	---	--

11 52:8 11,780,689 1:4 110 97:16, 98:3 111 4:12 12 46:5, 51:22, 52:1, 52:4, 92:13, 152:8 13 17:7 137 4:9 14 100:6, 100:13, 100:14, 100:15, 101:4, 102:1, 102:7, 102:11, 102:17, 102:18 15 100:3 16 50:5 162 4:5 17 105:3, 106:2, 107:10 1732 2:11 18 1:21, 5:5, 6:5, 17:8, 46:2, 46:4, 50:9, 51:7, 51:12, 52:8, 52:10 1st 138:3 2 20 17:14, 21:11, 108:10, 108:22 200 18:12, 21:6	2001 52:22 2003 13:20 2005 117:17 201 15:12 2020 62:15, 63:15, 80:4, 80:20, 138:1, 138:3, 138:5 2021 50:11, 52:22, 71:1 2023 1:5 2024 1:3 2025 1:21, 5:6, 6:5, 166:22 203 166:21 205 52:3, 149:18 21 46:2, 49:17 222 15:12 229 2:11 24 128:11, 129:20, 131:6, 131:10, 131:12, 165:3 25 166:22 27 65:1, 125:14 270 86:19, 87:8, 87:21, 88:20, 151:16 28 80:3, 80:20 3 3.1 97:13	30 5:6, 6:5, 21:9 300 5:4, 5:5 35 21:9 360 72:10, 89:1, 151:5 4 43:15 41 54:13 5 50 41:16, 55:13, 144:22 50,000 56:19, 98:16, 98:17 533 2:20 55 71:4 57104 5:5 6 6.1 86:1 6.2 86:17 60 2:17, 60:9, 64:12, 64:13, 77:10, 77:11, 97:16, 144:22 7 70 41:11, 41:17 713 2:11 76 63:16	77002 2:10 79 4:10, 4:11 8 8 5:6, 6:5 80,000 96:18, 96:22, 97:6 801 2:20 9 9 54:13 90 27:1, 44:8, 46:7, 60:13, 61:21, 62:6, 62:8, 62:12, 73:20, 74:12, 75:2, 77:3, 77:12, 77:15 910 2:9 9800 2:20
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Chad E. Nydegger, Esquire
Workman Nydegger
60 East South Temple Suite 1000
Salt Lake City, UT 84111

Re: Deposition of **Dan Brinkman**

Date: 6/18/2025

Case: Solaris Oilfield Site Services Operating, LLC, et al. -v- Masaba, Inc. (PTAB)

Dear Sir/Madam,

A copy of the deposition transcript in the above-referenced matter is now available in our office for review. Please contact our office at (888) 433-3767 to arrange for an appointment weekdays from 9:00 a.m. to 5:00 p.m. Alternatively, should you wish to read the transcript electronically, please provide us with your email address.

If applicable, signature is required within 30 days from the date of receipt of this letter.

In accordance with the disposition of signature at the deposition or the pertinent jurisdictional rules, the deponent should follow these instructions to complete the Errata Sheet:

- (1) Read the transcript and indicate any corrections or changes in ink on the enclosed Errata Sheet. Please include page and line numbers. If no corrections or changes are necessary, please indicate "no corrections" or "no changes" on the Errata Sheet.
- (2) Sign and date the Errata Sheet and Acknowledgement of Deponent/Affiant pages.
- (3) Please return the executed Errata Sheet and Acknowledgement pages to the address indicated below, submit via fax (888-503-3767) or email (transcripts@planetdepos.com).

A copy of this letter and the returned signature pages, if any, will be distributed to counsel.

Sincerely,

Production Department
Planet Depos, LLC
451 Hungerford Drive
Suite 400
Rockville, Maryland 20850

No. 587540

Re: Deposition of **Dan Brinkman**

Date: 6/18/2025

Case: Solaris Oilfield Site Services Operating, LLC, et al. -v- Masaba, Inc. (PTAB)

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Page	Line	Correction/Change and Reason
17	16	change "boards" to "reports", transcription error
52	3	change "205" to "2005", transcription error
67	2	change "mini" to "many", transcription error
73	15	change "shoots" to "chutes," spelling error
85	8	change "legal" to "length," transcription error
101	18	change "intention" to "tensioned," transcription error
104	11	change "I-version" to "inverted idlers", transcription error
115	11	change "manufacture" to "manufacturer," transcription error
125	3	change "or reposing" to "of repose," transcription error

7-21-25

(Date)

Dan Brinkman

(Signature)

Re: Deposition of **Dan Brinkman**

Date: 6/18/2025

Case: Solaris Oilfield Site Services Operating, LLC, et al. -v- Masaba, Inc. (PTAB)

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ACKNOWLEDGMENT OF DEPONENT

I, Dan Brinkman, do hereby acknowledge that
I have read and examined the foregoing testimony, and
the same is a true, correct and complete
transcription of the testimony given by me and any
corrections appear on the attached Errata sheet
signed by me.

7-21-25

(Date)

Dan Brinkman

(Signature)