

SUPREME COURT OF THE UNITED STATES

IN THE SUPREME COURT OF THE UNITED STATES

UNITED STATES FOREST SERVICE,)
ET AL.,)
 Petitioners,)
 v.) No. 18-1584
COWPASTURE RIVER PRESERVATION)
ASSOCIATION, ET AL.,)
 Respondents.)

ATLANTIC COAST PIPELINE, LLC,)
 Petitioner,)
 v.) No. 18-1587
COWPASTURE RIVER PRESERVATION)
ASSOCIATION, ET AL.,)
 Respondents.)

Pages: 1 through 67

Place: Washington, D.C.

Date: February 24, 2020

HERITAGE REPORTING CORPORATION

Official Reporters

1220 L Street, N.W., Suite 206

Washington, D.C. 20005

(202) 628-4888

www.hrccourtreporters.com

1 IN THE SUPREME COURT OF THE UNITED STATES
2 - - - - -
3 UNITED STATES FOREST SERVICE,)
4 ET AL.,)
5 Petitioners,)
6 v.) No. 18-1584
7 COWPASTURE RIVER PRESERVATION)
8 ASSOCIATION, ET AL.,)
9 Respondents.)
10 - - - - -
11 ATLANTIC COAST PIPELINE, LLC,)
12 Petitioner,)
13 v.) No. 18-1587
14 COWPASTURE RIVER PRESERVATION)
15 ASSOCIATION, ET AL.,)
16 Respondents.)
17 - - - - -
18
19 Washington, D.C.
20 Monday, February 24, 2020
21
22 The above-entitled matter came on for
23 oral argument before the Supreme Court of the
24 United States at 10:07 a.m.
25

1 APPEARANCES:
2 ANTHONY A. YANG, Assistant to the Solicitor General,
3 Department of Justice, Washington, D.C.;
4 on behalf of the Petitioners in 18-1584.
5 PAUL D. CLEMENT, Washington, D.C.;
6 on behalf of the Petitioner in 18-1587.
7 MICHAEL K. KELLOGG, Washington, D.C.;
8 on behalf of the Respondents.

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

	C O N T E N T S	
1		
2	ORAL ARGUMENT OF:	PAGE:
3	ANTHONY A. YANG, ESQ.	
4	On behalf of the Petitioners	
5	in 18-1584	4
6	ORAL ARGUMENT OF:	
7	PAUL D. CLEMENT, ESQ.	
8	On behalf of the Petitioner	
9	in 18-1587	17
10	ORAL ARGUMENT OF:	
11	MICHAEL K. KELLOGG, ESQ.	
12	On behalf of the Respondents	34
13	REBUTTAL ARGUMENT OF:	
14	ANTHONY A. YANG, ESQ.	
15	On behalf of the Petitioners	
16	in 18-1584	63
17		
18		
19		
20		
21		
22		
23		
24		
25		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

(10:07 a.m.)

CHIEF JUSTICE ROBERTS: We'll hear argument first this morning in Case 18-1584, the United States Forest Service versus Cowpasture River Preservation Association, and the consolidated case.

Mr. Yang.

ORAL ARGUMENT OF ANTHONY A. YANG

ON BEHALF OF THE PETITIONERS IN 18-1584

MR. YANG: Mr. Chief Justice, and may it please the Court:

The issue in this case is whether the Trails Act converts all federal, state, and private lands traversed by the Appalachian Trail into lands administered by the Park Service. It does not.

The Act simply charges the Secretary of the Interior with overall administration of a trail. It repeatedly distinguishes between the agency administering the trail and the land managing agencies administering the land. The Park Service thus coordinates -- or -- agencies and organizations responsible for their own segments of the trail, and informs certain

1 trail-wide responsibilities, but the land
2 managing agencies ultimately -- ultimately take
3 care of the trail on their lands.

4 If a tree falls on forest lands over
5 the trail, it's the Forest Service that's
6 responsible for it. You don't call the nine
7 Park Service employees at Harpers Ferry and ask
8 them to come out and fix the tree.

9 Respondents' theory is inconsistent
10 with the Act and would dramatically change the
11 national trail system. Respondents, for
12 instance, argue that the trail is land and it's
13 administered by the Park Service. So their
14 position is that the entire trail is federally
15 administered -- a federally administered area of
16 land.

17 But if you look at page 14a, this is
18 Section 1246(h)(1), it requires that the
19 secretary shall encourage states to operate,
20 develop, and maintain portions of such trails --
21 and this is scenic trails -- located outside the
22 boundaries of federally administrated areas.

23 If they're right, there is no thing,
24 nothing, outside the -- the trail outside the
25 federal administrated areas because the trail is

1 a federally administered area. Their reading
2 cannot be right.

3 Second -- it would also dramatically
4 increase -- dramatically change the trail system
5 by transferring vast amounts of land into the
6 National Park Service, which the Park -- the
7 park system, which the Park Service administers
8 and regulates to conserve the natural
9 environment. Not only would TVA's two
10 hydroelectric dams be put in the system; nearly
11 a thousand miles of the Forest Service lands,
12 more than a dozen towns, including Hanover, New
13 Hampshire and Dartmouth College, which crosses
14 straight through, numerous bridges over rivers,
15 including the bridge over the Hudson near West
16 Point, over 600 roads, a hundred interstates and
17 other highways. And until this case, no one has
18 ever thought that such all lands and waters
19 under the trails were --

20 JUSTICE GINSBURG: Mr. Yang, may I ask
21 you a preliminary --

22 MR. YANG: Sure.

23 JUSTICE GINSBURG: -- preliminary
24 question? This issue of the Mineral Leasing Act
25 is the third of the issues that the Fourth

1 Circuit dealt with, and it was the one to which
2 they devoted the least number of pages.

3 This case, in any event, am I right,
4 is going back for reconsideration of the
5 environmental consequences, going back under the
6 Forest Management Act and the National -- NEPA?

7 MR. YANG: Correct.

8 JUSTICE GINSBURG: So, since those
9 reviews will be going on, is there the potential
10 that the Mineral Leasing Act question will be
11 moot because the decision might be that under
12 that legislation, the environmental legislation,
13 this crossing over of the -- the trail is
14 impermissible?

15 MR. YANG: Yeah, it -- the case --
16 that issue is not moot now. It could
17 potentially be moot, but that is true about
18 inter- -- any interlocutory case that this --
19 the Court takes up. Things can change that --
20 that make the issue before the Court no longer
21 necessary at the end of the day.

22 But the Court already considered that
23 at the cert stage. The reason that this is an
24 important issue is because if the trail cannot
25 be -- the right-of-way cannot cross 600 feet

1 under the trail and come in and out not on Park
2 Service or Forest Service property but on
3 private land, then the whole enterprise is done.
4 We're done. They have to start over.

5 So that is an important and nationally
6 significant issue that the Court granted cert
7 on. So that's why we're here.

8 JUSTICE GINSBURG: But then what do we
9 make of the line in the reply brief that says no
10 one doubts that the trail is in the National
11 Park System?

12 MR. YANG: I think what we're saying
13 is that the trail is administered by the Park
14 Service. It's not lands in the National Park
15 System.

16 One of the main issues in this case is
17 whether -- in stating that the Secretary of the
18 Interior shall primarily administer the trail as
19 a foot -- the Appalachian Trail as a footpath,
20 whether that delegation, which Congress then
21 said concerns the overall administration of the
22 trail, whether that confers authority to
23 administer the lands over which the trail
24 passes.

25 And our answer is that is not the

1 case, and it's inconsistent, not only with the
2 text of the statute, but the way that the
3 statute has been implemented, as well as the way
4 that the Appalachian Trail has existed even
5 before the statute.

6 JUSTICE GINSBURG: Well --

7 JUSTICE SOTOMAYOR: Mr. Yang, you --

8 JUSTICE GINSBURG: -- is it
9 inconsistent with the statutory provision that
10 says the National Park System, first we're told,
11 yes, this trail is in the National Park System,
12 and then the statutory definition of the
13 National Park System says it consists of certain
14 areas of land and water. So how is the trail
15 not land if it's in the National Park System?

16 MR. YANG: What -- what part of the
17 reply? I'm trying to -- I don't remember --

18 JUSTICE GINSBURG: The --

19 MR. YANG: -- it saying that.

20 JUSTICE GINSBURG: -- reply brief, 17,
21 says no one doubts that the trail -- I think
22 it's toward the end of the page -- no one doubts
23 that the trail is in the National Park System.

24 MR. YANG: I'm not seeing -- is this
25 our reply brief?

1 JUSTICE GINSBURG: No, it's the other
2 reply brief.

3 MR. YANG: Oh. I think, Mr.
4 Clement -- I don't have that in front of me
5 right now. I think Mr. --

6 JUSTICE GINSBURG: Then maybe we'll
7 ask Mr. Clement.

8 MR. YANG: Mr. Clement may be able to
9 address that. But I think our -- our view, and
10 I think it's shared by Mr. Clement, that the --
11 the trail is not land and certainly not land
12 that's administered within the meaning of the
13 Mineral --

14 JUSTICE KAGAN: It's a --

15 MR. YANG: -- Leasing Act.

16 JUSTICE KAGAN: -- difficult
17 distinction to wrap one's head around, Mr. Yang.
18 You know, I -- I would understand -- if you said
19 to me the trail traverses the forest, everybody
20 would understand what that meant. There's some
21 broader forest and the trail cuts a path through
22 it.

23 But you're saying that the trail is
24 distinct from the trail. I mean, from the --
25 from the land that is the trail. I don't know

1 really quite how to say it except that nobody
2 makes this distinction in real life.

3 MR. YANG: I -- I don't know if
4 that's --

5 JUSTICE KAGAN: When you walk on the
6 trail, when you bike on the trail, when you
7 backpack on the trail, you're backpacking and
8 biking and walking on land, aren't you?

9 MR. YANG: You're certainly sometimes
10 walking on land. You're also walking on things
11 like bridges. You're also walking on -- for
12 instance, trails include waterways.

13 So Congress recently enacted, expanded
14 the Lewis and Clark Trail to include the Ohio
15 River. All of the Ohio River from Pittsburgh to
16 the Mississippi, then the Missouri up to
17 St. Louis, and all the way to the -- to the West
18 Coast from there. No one thinks that those
19 waters are all in the National Park Service.
20 And that's because the trail traverses the lands
21 and waters, and when you move a trail -- these
22 trails get relocated for all kinds of reasons
23 small or -- or large.

24 JUSTICE KAGAN: They may get
25 relocated, but that just means that the -- now

1 there's different land. And it just --

2 MR. YANG: But that means that the
3 trail isn't --

4 JUSTICE KAGAN: As a matter of plain
5 English -- I mean, both of your briefs -- and
6 you're great brief writers and you're great
7 writers, and -- and the briefs are -- are
8 strange to read because you can't ever just say
9 what you mean, which is that the trail is a
10 piece of land, so you find yourself wrapped up
11 in these strange locutions about the trail
12 traversing land.

13 It's like you're imagining some thing
14 that goes on top of it somehow.

15 MR. YANG: I don't believe so. This
16 -- the Trails Act needs to be read in the
17 context of all the statutes that deal with land
18 administration. This is a large area of the
19 law.

20 Those trails -- those -- those
21 statutes make very clear when Congress wants to
22 shift administrative responsibility over land.
23 So, for instance, the Rivers Act enacted the
24 very same day.

25 JUSTICE KAGAN: Let me ask you a

1 question, Mr. Yang, because you said, and this
2 would be very meaningful to me, you said you
3 would call the Forest Service if there -- if a
4 -- if a tree fell over the path.

5 MR. YANG: Yep.

6 JUSTICE KAGAN: I guess I -- when I
7 looked at these regulations, what strikes me
8 about them is that on the Appalachian Trail, it
9 seems to me that the National Park Service -- it
10 would be different on the Pacific Trail, which
11 is a weirdness of its own, but -- but on -- in
12 the -- on the Appalachian Trail, it's the
13 National Park Service that regulates uses along
14 the trail, vehicles on the trail, development
15 and maintenance of the trail.

16 In other words, it's the National Park
17 Service that basically does land use regulation
18 and the land is the trail.

19 MR. YANG: The regulation I believe
20 you are talking about is in I, this -- the
21 authority you're talking about?

22 JUSTICE KAGAN: This is -- this is
23 1246, it's the statute, 1246(c).

24 MR. YANG: Right.

25 JUSTICE KAGAN: 1246(f), 1246(h)(1),

1 1246(I) --

2 MR. YANG: I requires that the --

3 JUSTICE KAGAN: Excuse me. It
4 basically puts the director of the Park Service
5 in charge of regulating land use on the trail,
6 on the land.

7 MR. YANG: I don't think that's
8 correct. It does provide for certain things.
9 Trail markers, if you're looking at (c), it --
10 Congress forbids cars on trails.

11 When you are looking at regulatory
12 authority, that's under (i), there it requires
13 the concurrence of the heads of any other
14 federal agencies administering the lands. And,
15 in fact, the way this has been implemented is
16 the -- the Park Service has enacted a regulation
17 at 36 CFR 7.100, that applies only on Park
18 Service-administered land.

19 JUSTICE KAGAN: I will just give you
20 an example and you can tell me what you make of
21 it because it would seem to me to cover the case
22 where the tree falls on the trail.

23 It says, this is 1246(h)(1): The
24 Secretary charged with the administration --
25 which here is the Secretary of Interior -- shall

1 provide for the development and maintenance of
2 these trails.

3 MR. YANG: Yes. And it says "shall
4 provide for," not do it. The way that is
5 provided for is the way it's always been
6 provided for, which is through a Memorandum of
7 Agreement with the land managing agencies. So
8 the Forest Service has a Memorandum of Agreement
9 that dates back to 1970 and it requires the
10 Forest Service --

11 JUSTICE SOTOMAYOR: Mr. Yang, before
12 your time goes on, because it is inherent in how
13 you are answering Justice Kagan, why is it that
14 two agencies can't have simultaneous
15 administration, and even possibly management
16 responsibilities?

17 I -- I was taken with the NRDC's
18 amicus brief, and the Mineral Leasing Act has an
19 entire provision devoted to when are two
20 agencies responsible to administer a piece of
21 land.

22 MR. YANG: That --

23 JUSTICE SOTOMAYOR: Let me finish my
24 question. And assuming that I accept that two
25 agencies can both administer, wouldn't the Trail

1 Act supersede the mineral -- the Forest
2 Department's permission to grant a right-of-way
3 for pipes, because doesn't the Trail Act
4 supersede any other permission?

5 MR. YANG: The answer is no, there
6 needs to be more clarity. Congress acts clearly
7 when it does that, but let me address --

8 JUSTICE SOTOMAYOR: Well, it has, it
9 has, but why can't two agencies have
10 simultaneous or coexistent responsibilities?

11 CHIEF JUSTICE ROBERTS: Your -- your
12 time has expired but I will allow you to very
13 briefly respond.

14 MR. YANG: There is three types of
15 instances where that happens. Two separate
16 trails, parcels administered separately. A
17 right-of-way goes through it. That's one.

18 There's another instance where land's
19 withdrawn from the public lands and provided for
20 a military use. That is in some ways dual, but
21 it's not in the relevant sense because it is
22 temporarily separated.

23 And then, third, sometimes you take
24 mineral rights and leave it with the underlying
25 agency, but nothing like this with

1 contemporaneous and coterminous administration
2 of the land.

3 You're requiring two agency heads with
4 different agency management --

5 CHIEF JUSTICE ROBERTS: Thank you.

6 MR. YANG: -- and different systems to
7 -- to regulate the same thing.

8 CHIEF JUSTICE ROBERTS: Thank you, Mr.
9 -- Mr. Yang.

10 Mr. Clement.

11 ORAL ARGUMENT OF PAUL D. CLEMENT ON
12 BEHALF OF THE PETITIONER IN 18-1587

13 MR. CLEMENT: Mr. Chief Justice and
14 may it please the Court:

15 Respondents' effort to convert all of
16 the land traversed by a Park
17 Service-administered trail into lands in the
18 National Park Service fails for reasons of text,
19 context, and consequences.

20 First, as a matter of text, multiple
21 provisions of the Trails Act draw a distinction
22 between the trail and the land it traverses and
23 makes clear that administrative authority is
24 granted only over the former and leaves the
25 latter jurisdiction over the lands themselves

1 undisturbed.

2 Moreover, the Trails Act itself makes
3 clear that the trail can be moved. It makes
4 sense for a trail or a trail route to move every
5 time a tree falls. It doesn't make sense for
6 the status of lands to change every time the
7 route moves.

8 The context powerfully reinforces this
9 key distinction. If you want to see a model of
10 a statute that transfers land between federal
11 agencies and makes the land subject to the
12 Organic Act, you need look no further than the
13 Rivers Act passed the same day by the same
14 Congress.

15 The reason, though, when it did that
16 in the Rivers Act it did exactly what you'd
17 expect it to do when it transfers land, it
18 talked about the width of the land transferred,
19 the acreage involved and then left no doubt that
20 if the land was transferred to the Park Service,
21 it became subject to the Organic Act.

22 And then, of course, there are the
23 untenable consequences of Respondents' tradition
24 -- position. Thousands and thousands of acres
25 of park land gets transferred to the Forest

1 Service and these thousand mile trails get
2 converted into barriers to pipeline development.

3 JUSTICE BREYER: Where is the
4 pipeline? I'm -- I'm trying to -- not in two
5 dimensions, but in three. I mean, think of a
6 trail -- what I couldn't get out of the briefs,
7 I mean, there's a trail --

8 MR. CLEMENT: Yeah.

9 JUSTICE BREYER: -- and say it's going
10 across a ridge. It's going along a ridge.

11 Now, they don't want to put the
12 pipeline on the trail. They want to put it
13 somewhere underground. Well, how far from where
14 the trail is up here, how far below is the
15 pipeline supposed to go?

16 MR. CLEMENT: Six hundred feet.

17 JUSTICE BREYER: Six hundred feet
18 below. And where does it enter? Does it enter
19 on -- on, you know, there is an easement or
20 something for views and so forth?

21 MR. CLEMENT: Right, right.

22 JUSTICE BREYER: Does it enter the
23 ground within the area that is within that
24 easement or before and it comes out after?

25 MR. CLEMENT: It enters and exits on

1 private land, not on Forest Service land.

2 JUSTICE BREYER: I see. Okay.

3 MR. CLEMENT: The problem with briefs
4 is they're two-dimensional.

5 JUSTICE BREYER: Got it. Got it.

6 MR. CLEMENT: But, I mean, the way to
7 understand this, there is a ridge line. Up here
8 on the type of the ridge is the Appalachian
9 Trail and the Blue Ridge Parkway. And then the
10 pipeline route goes under both, 600 feet below
11 the trail and probably 800 feet below the
12 parkway, because the parkway's a little bit
13 higher on that --

14 JUSTICE BREYER: It enters before you
15 get to the area --

16 MR. CLEMENT: Exactly.

17 JUSTICE BREYER: -- and leaves after
18 the area? Which is reserved to the trail or the
19 views.

20 MR. CLEMENT: Exactly. Which is why
21 both the Park Service and the Forest Service who
22 care very much about the experience on both the
23 trail and the Parkway could conclude that this
24 particular pipeline, given how far below all of
25 the action it was crossing, did not disturb the

1 experience --

2 JUSTICE ALITO: Well --

3 MR. CLEMENT: -- of the trail or the
4 pipeline.

5 JUSTICE ALITO: Now I had the same
6 thought as Justice Breyer, but maybe there's
7 something wrong with this simple way of looking
8 at the case. When I think of a trail, I think
9 of something that is on top of the earth.

10 And when I think of a pipeline that is
11 600 feet below the surface, that doesn't seem
12 like a trail. So instead of having to draw this
13 distinction between the trail and the land, why
14 can't we just say that the trail is on the
15 surface and something that happens 600 feet
16 below the surface is not the trail?

17 MR. CLEMENT: You could do that,
18 Justice Alito, and I suppose my clients would be
19 perfectly happy to win this case on that ground.
20 I do think, though, that there is a critical
21 difference between administrative authority over
22 that trail up there and administrative authority
23 over the lands.

24 And it may be a little bit hard to
25 square with your first reading of 1246(h)(1),

1 but it is the case that when a tree falls in the
2 national forest in Georgia or in New Hampshire,
3 the nine or ten federal employees who are the
4 entire total of the park unit in -- that
5 administers the trail from Harpers Ferry, West
6 Virginia do not get on a plane and fly up to New
7 Hampshire and Georgia and deal with it.

8 JUSTICE ALITO: So --

9 MR. CLEMENT: It's the Forest Service.

10 JUSTICE ALITO: So what is the
11 practical difference between viewing the case in
12 those two ways, surface, 600 feet below, trail,
13 land. What is the difference between those?

14 MR. CLEMENT: So for pipelines, I
15 suppose, because most of them are going to go
16 pretty far under, I -- I think you could draw
17 that distinction. I think, though, as a
18 practical matter, you would still have
19 differences.

20 I mean, I'll give you just one very
21 practical example. In the national forest up in
22 New Hampshire, one of -- because national
23 forests are for multi-uses, unlike the Park
24 Service's, which are supposed to be conserved
25 and unimpaired, so park -- forest land can be

1 used for multiple purposes.

2 One of the purposes that is allowed in
3 New Hampshire is to tap the maple trees to get
4 sap out of the trees. The sap lines run across
5 the surface of the trail.

6 And they do that with the permission
7 of the Forest Service. So that is something
8 that, you know, I think if you were to construe
9 all of a sudden that the surface is in -- is
10 lands in the National Park Service, that would
11 all of a sudden --

12 JUSTICE BREYER: No, but that --

13 MR. CLEMENT: -- be under the Park
14 Service jurisdiction.

15 JUSTICE BREYER: I think that isn't
16 quite the question. I mean, we don't have to
17 decide every issue, you know, in the Park
18 Service. And if the people who make the sap
19 want to challenge it or somebody, fine. The
20 question was what harm would we do if we just
21 restrict this to the question that answers it,
22 that -- in your view? You'd win, you'd said,
23 but it would have to do with pipelines, and it
24 would have to do with things you cannot see from
25 the trail, and it would have to do with things

1 that are well below the ground.

2 And on those, which is before -- you
3 see, that's, I think, the point. And we don't
4 -- why decide cases in this Court that have all
5 kinds of implications which we can't quite see,
6 like that one? If somebody wants to challenge
7 the Park Service coming and removing a tree, let
8 them.

9 MR. CLEMENT: So, Justice Breyer, I
10 represent the Atlantic Coast Pipeline. It's not
11 my job to resist winning this case on a narrow
12 ground.

13 (Laughter.)

14 MR. CLEMENT: So I am not going to do
15 that.

16 JUSTICE SOTOMAYOR: Mr. Clement --

17 JUSTICE BREYER: Yeah.

18 JUSTICE SOTOMAYOR: Mr. Clement, I'm
19 very grateful you said that. I think that there
20 are, aren't there, some problems with that view
21 inherent in the language of the Act and in
22 definitions?

23 Doesn't the Act give the Park Service
24 the right for easements below or on top of the
25 trail?

1 MR. CLEMENT: That's not how we read
2 that provision, Justice Sotomayor. I mean, we
3 agree with the government in its reply brief
4 that the right way to read 1248(a) is that if
5 it's on Forest Service land, it's the Forest
6 Service that could grant an easement --

7 JUSTICE SOTOMAYOR: Then let me take a
8 different --

9 MR. CLEMENT: -- and if it's on Park
10 Service land --

11 JUSTICE SOTOMAYOR: -- tact.
12 Generally, when you speak of land, surface land,
13 you're talking about the land underneath it?
14 That's what the cases mostly say, almost always,
15 unless you separate out the two?

16 MR. CLEMENT: Well, Justice Sotomayor,
17 I'm not going to spend too much time disagreeing
18 with you because there is a reason we briefed
19 the case the way we briefed it.

20 JUSTICE SOTOMAYOR: So why don't you
21 explain that reason? Why -- there is a
22 superficial appeal -- I, after reading --

23 MR. CLEMENT: Sure.

24 JUSTICE SOTOMAYOR: -- the briefs and
25 looking at the statute, didn't think it was

1 viable. You didn't either, or you would have
2 briefed it this way.

3 MR. CLEMENT: Well, I -- I think it's
4 viable. And I would say one --

5 JUSTICE SOTOMAYOR: It's just --

6 MR. CLEMENT: If I could say one thing
7 in limited defense of it, which is to say when
8 you have -- and we have a case that we cite to
9 this effect, and it's a case of this Court in
10 our reply brief, that generally speaking if you
11 grant a right-of-way, which is one way of
12 thinking about the trail, it doesn't affect
13 subsurface rights. So that actually does
14 support this way of thinking about it.

15 But here's why we briefed it in the
16 more straightforward way that you do have to
17 maintain the difference between the trail and
18 the lands. And that is because the argument on
19 the other side is not limited to the Appalachian
20 Trail. It's not even limited to federal lands.
21 It says that all of the lands -- because the
22 Park Service administers the whole trail. And
23 it's not just the Appalachian Trail. There's
24 about two dozen trails that the Park Service
25 administers.

1 And they not only go over bridges and
2 roads; some of them are downtown. I mean, the
3 Park Service administers the Selma to Montgomery
4 National Historical Trail. Now, if that trail
5 is lands in the Park Service because we just
6 can't get our head around the idea that trails
7 are different from land, then parts of downtown
8 Selma, downtown Montgomery are lands of the
9 National Park Service.

10 The Oregon National Historical Trail,
11 also administered by the Park Service, starts in
12 downtown Kansas City, ends up in downtown
13 Portland, Oregon. I don't think downtown Kansas
14 City or Portland, Oregon are lands in the
15 National Park Service.

16 JUSTICE KAGAN: Mr. Clement, could --
17 if -- if we go back to Justice Alito's idea,
18 which was also the way I thought about it, that
19 that was the way to cut this -- but then I
20 started looking around and the -- the mineral --
21 I wondered whether you can win under that
22 approach.

23 So here's is the argument that you
24 can't win under the surface/subsurface approach,
25 is that -- is that the Mineral Leasing Act gives

1 the authority to do rights-of-way, including
2 pipelines, to the -- to the -- to the secretary
3 that has -- it talks about the surface. It says
4 where the surface of all the federal lands
5 involved in a proposed right-of-way is under the
6 jurisdiction of one federal agency, the agency
7 head is authorized to grant the right-of-way.

8 So that suggests under the MLA, that
9 the right-of-way, the substratum, is given to
10 the person with control over the surface. Is
11 that not true?

12 MR. CLEMENT: So if I were going to
13 warm to the topic of trying to win this case on
14 the alternative ground, what I would tell you
15 about that is I would say that's not how I
16 actually read the provisions together. That's
17 -- that's sort of a subsidiary provision that
18 says how you deal with pipeline rights-of-way
19 when you have two agencies with jurisdiction
20 over the surface. And it uses that formulation,
21 but when it's really trying to figure out what's
22 the right agency head, it asks which agency head
23 has jurisdiction over the lands. And I think
24 that that -- it doesn't say surface in that
25 provision. And I think that's the critical

1 provision.

2 But with one more word about sort of
3 the theory we've actually articulated, I do
4 think if you look at all of these trails, you'll
5 see why Congress picked a different term. And I
6 think it's important to know, it's not like we
7 don't have a term in the statute for the trails.
8 They are components in the national trail
9 system. And that's what Congress called them
10 that.

11 And they called them that on the same
12 day they passed the Rivers Act, where they
13 actually talked about transferring jurisdiction,
14 they talked about acreage. There's a separate
15 section of the Rivers Act, section 1280, that
16 talks about the interaction of the Rivers Act
17 and the Mineral Leasing Act. All of that was
18 necessary because Congress knew what it was
19 doing and it was transferring land and making
20 new lands in the National Park System subject to
21 the Organic Act. It said it in haec verba.

22 It was doing no such thing in the
23 Trails Act. Congress isn't crazy. They were
24 creating tens of thousands of miles of trails,
25 most of which would be administered by the Park

1 Service. They were under no delusion that they
2 were, like, quadrupling -- I don't know,
3 probably 40 times increasing the size of the
4 lands in the National Park System.

5 If you look at those two maps at the
6 back of our reply brief, you can see the
7 difference in the implications of the theories.
8 It's very modest to look at the second map,
9 which shows you sort of what I would have called
10 before I got involved in this case the true
11 National Park System. Easy enough to steer a
12 pipeline around that.

13 If you look at the national trails
14 system, it would be a huge barrier to pipeline
15 development. And if you're ever going to apply
16 the elephants-in-the-mouse-hole-type approach to
17 a statute, this is one where it really calls
18 out -- especially if you think about the Trails
19 Act, it's got those wonderful quaint provisions
20 that are getting into the details of whether the
21 Park Service or the Forest Service or the
22 private landowners are the ones that should
23 blaze the trail.

24 A statute that addresses those kind of
25 details in that kind of granular specificity

1 should not be interpreted to have these
2 transformative effects sub silentio. And don't
3 forget -- I mean, I know you said it's -- well,
4 there is that Pacific Crest Trail, there's also
5 the Continental Divide Trail, there's also the
6 Pacific Northwest Trail, who are all
7 administered by the Forest Service.

8 JUSTICE GINSBURG: What do you do with
9 your line that I asked Mr. Yang about?

10 MR. CLEMENT: So --

11 JUSTICE GINSBURG: You have said that
12 the trail is in the National Park System.

13 MR. CLEMENT: So, Justice Ginsburg,
14 with all respect, what I do with that line is I
15 keep reading, because it says no one doubts that
16 the trail is in the park system to the extent
17 that the park system administers the trail.

18 And to that extent, it is in the
19 National Park System. There are nine or ten
20 rangers sitting in Harpers Ferry, West Virginia,
21 and they have Park Service uniforms. So it --
22 and there probably are statements, offhanded
23 statements, in documents by the Park Service
24 that says, yeah, the trail -- the entire trail
25 is in the Park Service. But that doesn't make

1 all of the lands traversed by the trail lands in
2 the National Park Service pursuant to the
3 Organic Act.

4 That view of the statute creates all
5 sorts of anomalies. All of the other lands of
6 the National Park Service are subject to
7 regulation by the Secretary of Interior the way
8 you would expect it to, without having to get
9 any assent from another agency.

10 JUSTICE ALITO: When the statute says
11 that the park system consists of lands
12 administered by the Park Service, does it mean
13 administered in full, administered exclusively
14 by the Park Service, or administered in any
15 sense by the Park Service?

16 MR. CLEMENT: I think if it has to
17 mean one of those things, it probably means
18 administered in full. But what I think it
19 really, really means is lands.

20 And I think that -- I mean, although
21 it -- you know, I don't really think it's as
22 metaphysical as you think. I mean, the -- the
23 philosophers at the Park Service and the Forest
24 Service haven't had any problem with this for 50
25 years. They have dealt with the reality that

1 the trail is, in an administrative sense, under
2 the Park Service, but on a day-to-day basis, the
3 lands stay where they are. The Park Service --

4 JUSTICE ALITO: Let me -- let me ask
5 you this --

6 MR. CLEMENT: Sure.

7 JUSTICE ALITO: -- before your time
8 runs out. Is the office of the Park Service --
9 I assume the Park Service has an office here in
10 Washington.

11 MR. CLEMENT: Yes.

12 JUSTICE ALITO: Is that part of the --
13 is that part of the park system?

14 MR. CLEMENT: I don't think it's an
15 area of land administered by the Park Service.

16 JUSTICE ALITO: But the -- but it's
17 administered by the Park Service, isn't it?

18 MR. CLEMENT: No, you're right. And
19 it's in the National Park system in some sense.

20 JUSTICE ALITO: It is?

21 MR. CLEMENT: Yeah, but I don't think
22 they have to maintain that building in its
23 unimpaired national state -- natural state,
24 which just goes to show not everything that's in
25 the park system in some loose sense is subject

1 to the restrictions of the Organic Act, which
2 required the system -- the Service to keep them
3 in an unimpaired state. Many thanks.

4 CHIEF JUSTICE ROBERTS: Thank you,
5 Mr. Clement.

6 Mr. Kellogg.

7 ORAL ARGUMENT OF MICHAEL K. KELLOGG

8 ON BEHALF OF THE RESPONDENTS

9 MR. KELLOGG: Mr. Chief Justice, and
10 may it please the Court:

11 I want to go directly to the question
12 of whether there's an easy out in this case by
13 saying it's 600 feet under the ground, so it
14 doesn't count. I'll call the Court's attention
15 to 1248(a), which specifically says that rights
16 of ways are to be granted by the Secretary of
17 the Interior in this case for anything,
18 "rights-of-ways upon, over, under, across, or
19 along any components of the Appalachian Trail."

20 So "under" counts, as Justice Kagan
21 pointed out, the Mineral Leasing Act itself
22 talks about who has jurisdiction over the
23 surface lands. Obviously the pipeline is going
24 to go under those lands, but it's the one who
25 administers the surface of the lands.

1 And we know that the Park Service
2 administer these lands because Congress made
3 that very clear in the three interlocking
4 statutes at issue here.

5 The Trails Act in 1968 says, without
6 any equivocation, the Appalachian Trail shall be
7 administered by the Secretary of the Interior
8 who has delegated that to the Park Service. The
9 General Authorities Act two years later said all
10 areas administered by the Park Service, without
11 limitation, are part of one National Park
12 system.

13 If it's administered by the Park
14 Service, it is an area of land or water.
15 Whether it's a historic building, whether it's a
16 monument, whether it's a parkway, or whether
17 it's a trail, it is -- if it's administered, it
18 counts as an area of land, which the Court in
19 the Sturgeon case pointed out it's up to
20 Congress to decide how broadly to use the term
21 "land" in a statute.

22 And, finally, the Mineral Leasing Act
23 makes it absolutely clear that it extends the
24 rights for -- to all federal lands, except lands
25 in the National Park system.

1 CHIEF JUSTICE ROBERTS: Mr. Kellogg,
2 if you have an easement over land, is there
3 anything unusual about that that someone, a
4 separation, in other words, before traversing
5 over the land and recognition that the land
6 itself belongs to somebody else?

7 MR. KELLOGG: Well, we're not saying
8 if there's -- let's say we have an easement for
9 the trail over private land or state land. The
10 Mineral Leasing Act doesn't cover those.

11 CHIEF JUSTICE ROBERTS: No, no, I
12 know, I'm not talking -- I'm speaking --

13 MR. KELLOGG: They can build a
14 pipeline under private lands or under state
15 lands and, in fact, they have done two of that
16 under the Appalachian Trail in just the past
17 five years.

18 CHIEF JUSTICE ROBERTS: I'm thinking
19 more, there seems to be a debate on some
20 metaphysical level about whether you can have a
21 trail, whether you can have land under it, or
22 interests in land that are different. I just --
23 it doesn't strike me as that unusual a concept
24 that there are property rights that are distinct
25 from rights in the land.

1 But that still -- I mean, if I give
2 somebody an easement to walk across my backyard
3 to get somewhere, I -- I don't think that I'm
4 giving up the land. It's still my land.

5 MR. KELLOGG: Well, as we point out in
6 the brief, there are two definitions of
7 right-of-way. One is an abstract right of
8 passage over somebody else's land. And the
9 other refers to the strip of land itself over
10 which passage is maintained.

11 The Trails Act repeatedly uses the
12 second definition, when it says you are going to
13 require rights of ways for the trail. You can
14 use condemnation proceedings to acquire land for
15 the trail.

16 And most importantly of all, when it
17 says you can grant, the Secretary -- the Park
18 Service grant a right-of-way over the trail. So
19 even using the first definition as a right of
20 passage over land, it's indicating that the
21 trail itself is land.

22 JUSTICE ALITO: When the -- when the
23 trail crosses private land, what property rights
24 do you think the Park Service has with respect
25 to those private lands?

1 MR. KELLOGG: I wouldn't say that they
2 have property rights, but as with any in-holding
3 of the National Park system or the Forest
4 Service, which has lots of in-holdings of
5 private land, there is still certain regulations
6 that can be established for those lands.

7 JUSTICE ALITO: Well, I don't think
8 that answers my question. Do they have any
9 property rights over the private land?

10 MR. KELLOGG: They have --

11 JUSTICE ALITO: Can the Trail Act take
12 any property rights away from private
13 landowners, other than the -- essentially an
14 easement?

15 MR. KELLOGG: Essentially what they
16 have is an easement. But this Court has made
17 clear -- first of all, I should point out that
18 the Forest Service regulations specifically
19 exclude private and state lands from the
20 applicability of their regulations, with a few
21 exceptions.

22 Like in 36 CFR 6.2 it says you can't
23 put solid waste in these private lands.

24 JUSTICE ALITO: Well, if you have only
25 --

1 MR. KELLOGG: So there is some
2 restriction.

3 JUSTICE ALITO: If you have only an
4 easement over private land, do you have anything
5 more over land that is administered by the
6 Forest Service?

7 MR. KELLOGG: The land is administered
8 by the Park Service. And that's absolutely
9 clear in the Trails Act when it says such things
10 as the Park Service gets to select and choose
11 the route, they decide the width of the trail,
12 they establish the acreage for the trail, which
13 they've done here, which is 250,000 acres along
14 the entire length of the trail. All of which
15 they say is a unit of the park system.

16 JUSTICE ALITO: Your --

17 JUSTICE KAGAN: Once the trail is the
18 trail, who regulates its use and who takes care
19 of it?

20 MR. KELLOGG: Well, authority can be
21 divided. Overall administration authority is by
22 the Park Service, but specific management
23 responsibility can be delegated to particular
24 other federal agencies or even to volunteer
25 groups or state groups.

1 JUSTICE KAGAN: And -- and -- and what
2 -- what actually is the case here? Suppose
3 there were a regulation that said there shall be
4 no snowmobiling on the trail. Where would that
5 regulation come from?

6 MR. KELLOGG: It would be in 36 CFR,
7 which is the Park Service regulations. 1246(i)
8 specifically says it's up to the Park Service to
9 establish regulations governing units of --
10 governing the trail.

11 Just as the Park System Organic Act
12 says it's up to the Park Service to decide what
13 regulations --

14 JUSTICE SOTOMAYOR: Mr. Kellogg --

15 MR. KELLOGG: -- govern the park
16 system.

17 JUSTICE SOTOMAYOR: -- let's go back
18 to -- let's go back to what the other side
19 argued was the nightmare of this case. I'm not
20 sure you have quite answered Justice Alito and
21 getting to what you're asking -- answering to
22 Justice Kagan.

23 It runs through cities, the trail. It
24 runs through downtown Selma. I think we were
25 told in downtown somewhere else. Can the --

1 does the Park Service, can it regulate the use
2 of that area? Can it put, at -- at a halt,
3 everything that happens in downtown Selma?

4 MR. KELLOGG: Certainly not.

5 JUSTICE SOTOMAYOR: So --

6 MR. KELLOGG: But to the extent to
7 which you can regulate, that's a question the
8 Court left open in the Sturgeon case for
9 in-holdings, how much -- if it's part of the
10 Park Service, part of the Forest Service, how
11 much can you regulate private in-holdings?

12 And I think there's severe limitations
13 on that, which is why the Park Service has said
14 we're not regulating that.

15 JUSTICE GORSUCH: So is downtown Selma
16 an in-holding in the Park Service?

17 MR. KELLOGG: I'm sorry?

18 JUSTICE GORSUCH: Is downtown Selma an
19 in-holding on the Park Service in your theory of
20 the case?

21 MR. KELLOGG: If there's a -- for
22 example, if there is a national historic trail
23 through that area --

24 JUSTICE GORSUCH: There is. We know
25 that to be true.

1 MR. KELLOGG: Yes, there is. Congress
2 in the National Historic Trails Act specifically
3 said that there is no regulatory power on -- on
4 national historic trails for private, state, and
5 local lands.

6 They said exactly the opposite in the
7 Trails Act when they said -- -

8 JUSTICE GORSUCH: Wouldn't -- go
9 ahead, please.

10 JUSTICE KAVANAUGH: Keep going, sorry.

11 MR. KELLOGG: I was going to say they
12 said exactly the opposite in the Trails Act
13 where they said that the Secretary administers
14 the entire trail.

15 JUSTICE BREYER: What about the --
16 what about that?

17 JUSTICE GORSUCH: Please.

18 JUSTICE BREYER: Just take the same
19 question and apply it to one of these kinds of
20 trails.

21 JUSTICE GORSUCH: Yeah.

22 JUSTICE BREYER: I mean, maybe it's
23 not Selma. Maybe it's Hanover, New Hampshire,
24 exactly the same question.

25 JUSTICE GORSUCH: Or Kansas City. You

1 choose.

2 JUSTICE BREYER: Kansas City. Is
3 there like a barrier across -- I mean, that's
4 what's a little bit tough on your side. The
5 statutes, you know, it's like ping pong, you
6 know, they have this, you have that.

7 But the thing that I -- is worrying me
8 the most is just what was asked. So all you
9 have to do is take the same question, okay, you
10 got it?

11 MR. KELLOGG: Yep.

12 JUSTICE BREYER: Okay. What's the
13 answer?

14 MR. KELLOGG: Okay. So the answer is
15 they can't go into downtown Hanover and say
16 we're the Federal Government and we're going to
17 control how you use the sidewalks, et cetera.
18 But they are going to --

19 JUSTICE BREYER: Not the sidewalks.
20 What happened is this is a national -- a state
21 park, and under the ground are some Native
22 American remains, you know, and they would like
23 to have access to those. It isn't going to
24 affect the trail and so forth, and they don't
25 want to ask anybody. They just want to do it.

1 All right?

2 So -- so what now?

3 MR. KELLOGG: Unless there is another
4 federal law --

5 JUSTICE BREYER: No.

6 MR. KELLOGG: -- that applies to
7 digging up Indian remains, then they could do
8 it, because --

9 JUSTICE BREYER: Why?

10 MR. KELLOGG: They could do it because
11 the Park Service has control over the trail on
12 federal lands, but its regulations do not extend
13 to the trail where it goes over state --

14 JUSTICE BREYER: As far as the statute
15 is concerned, can they do it? We get a Park
16 Service that doesn't like X. They don't want to
17 do it. Can they do it? I mean, and it's
18 underground. In other words --

19 MR. KELLOGG: If they are taking --

20 JUSTICE BREYER: No, no. What it is,
21 it's more like an easement. If you see it more
22 like an easement, more like an easement, or
23 covering the surface, then, of course, if it
24 goes across private land or it goes across a
25 state park or goes across a city, then the state

1 or the city or the -- whatever it is, has a
2 right to use their land as they wish.

3 If it's part going down into the earth
4 a thousand feet or to the center of the earth, I
5 don't know where these things go, but if that's
6 the case, maybe they can do it, but only if the
7 Park Service agrees. See, is that -- that's --

8 JUSTICE GORSUCH: Well, I -- I think
9 that's right. I mean, I think -- the easement
10 is very easy to understand how this would work,
11 but if it's -- property actually belongs to the
12 Park Service, is in the Park Service system,
13 then I think Justice Breyer has an interesting
14 point.

15 And, relatedly, I'm -- I'm having --
16 I'm struggling with understanding how -- what
17 the answer to this question is: Congress, when
18 it -- when it set out who's going to administer
19 these trails, said that the Park Service gets to
20 administer the ones in the east, where the
21 Forest Service owns the land, and the Forest
22 Service gets to administer the ones in the west,
23 where the Park Service owns the land. It was
24 kind of a -- you can understand it if it's
25 easements, again, you can understand that.

1 Everybody's getting a little bit of something in
2 each other's territory.

3 But if the land goes with the -- the
4 assignment of the management authority for the
5 trail, then you have the circumstance that a lot
6 of western national parks, Sequoia, Yosemite,
7 others, there are now ribbons throughout those
8 national parks that belong to the Forest Service
9 and that would be at least open to pipeline
10 development.

11 So while you might thwart a pipeline
12 here, you -- it's not a costless -- it's not a
13 zero-sum gain. You're going to invite pipelines
14 elsewhere. Now, you might tell me nobody is
15 seeking a pipeline there, but that's not a very
16 good answer, is it?

17 So on what account, I guess I'm
18 asking, would a rational Congress have opened up
19 western national parks to development like this?

20 MR. KELLOGG: Well, first of all, I
21 don't think that has happened, Your Honor,
22 because --

23 JUSTICE GORSUCH: I -- I -- I knew you
24 were going to say that.

25 (Laughter.)

1 MR. KELLOGG: If -- take the Pacific
2 Crest Trail. It runs through certain portions
3 that are, as you point out, national parks.
4 They could not build a pipeline across those
5 because you can't go under the National Park
6 Service land, even if the trail is administered
7 by the Forest Service. Where it runs across
8 Forest Service lands, where it runs across
9 state, local, or private lands, then the -- the
10 Mineral Leasing Act would allow a pipeline to
11 run.

12 Now, they raise the hypothetical,
13 well, couldn't the -- the Forest Service dig up
14 the entire trail and snake a pipeline through
15 there? I would suggest, no, both as a legal
16 matter and of course as a practical matter, they
17 couldn't. But as a legal matter, they couldn't
18 because they can only allow uses that are
19 consistent with the purposes of the trail. So I
20 think that's a -- that's a false hypothetical.

21 There's no question that back in 1970,
22 Congress -- it was 1968, Congress was saying,
23 okay, we've got -- we want to establish all
24 these national trails. We're going to give some
25 to the Forest Service. We're going to give some

1 to the Park Service. And they're going to be
2 the administrator of those trails, the overall
3 administrators.

4 Every statute that assigns
5 jurisdiction over land to a federal agency uses
6 the word "administration."

7 JUSTICE KAVANAUGH: What about the --
8 excuse me. What about the argument that there's
9 -- you have textual arguments, the other side
10 has textual arguments, but your position has
11 significant consequences to it, enormous
12 consequences.

13 And Congress did not use language in
14 this Act like it did in the Rivers Act passed on
15 the same day. And the argument goes, you would
16 expect to see clear language like that to
17 generate the significant consequences that your
18 position has.

19 MR. KELLOGG: You know, I would
20 suggest that Congress used exactly language like
21 that in the Rivers Act. The Rivers Act had to
22 be a little more specific because it put the --
23 the -- wild and scenic rivers along with their
24 adjacent lands directly into the Park Service.
25 And so it had to specify that it was talking

1 about land as well as the water.

2 But it used the same term,
3 "administered by," that you find in the Trails
4 Act, that you find in the Weeks Act, that you
5 find in the Blue Ridge Parkway Act. In every
6 instance where Congress assigns jurisdiction
7 over land, it uses that term.

8 And to be clear, the Forest Service
9 doesn't own the land. The Park Service doesn't
10 own the land. All the land belongs to the
11 federal government. It's administered by
12 agencies designated by Congress, which is
13 exactly what they did in the 1968 Act. And --

14 JUSTICE ALITO: Is there any reason
15 why the Secretary of the Interior had to
16 delegate this to the Park Service?

17 MR. KELLOGG: It did not have to. It
18 was assumed by Congress that it would do so,
19 because throughout the Trails Act, it talks
20 about when it's the Secretary of Interior, you
21 apply the rules applicable to the --

22 JUSTICE ALITO: So if Congress really
23 wanted to bring about the result that you think
24 the statutes commands, why wouldn't it leave
25 that option? Why wouldn't it require that it be

1 administered by the Park Service, rather than by
2 the Secretary of the Interior?

3 MR. KELLOGG: So the initial Trails
4 Act decided the question about pipeline
5 rights-of-ways, et cetera. That took two more
6 steps. It took the 1970 General Authorities
7 Act, in which Congress said we want all these
8 disparate areas that the Park Service
9 administered and we want to treat them on a par.

10 JUSTICE GORSUCH: Mr. Kellogg, I think
11 the question that Justice Alito is getting at
12 troubles me too, and I'm not sure you quite got
13 there.

14 Could the Secretary of the Interior
15 reassign these lands from the Park Service to
16 the Fish and Wildlife Service and then allow --

17 MR. KELLOGG: At this point, I don't
18 think they --

19 JUSTICE GORSUCH: -- and then allow
20 pipelines?

21 MR. KELLOGG: At this point, I don't
22 think so. Once it's in the parks system, it
23 works as -- seems to work as a one-way route.

24 JUSTICE GORSUCH: Okay, but it's --

25 MR. KELLOGG: There's no authority --

1 JUSTICE GORSUCH: Could it -- could --

2 MR. KELLOGG: -- to decommission.

3 JUSTICE GORSUCH: But the Secretary of
4 the Interior could have done so?

5 MR. KELLOGG: Could have done so,
6 that's correct. And, in fact, some trails have
7 been and some scenic rivers have been delegated
8 to the Fish and Wildlife --

9 JUSTICE GORSUCH: And why isn't that a
10 strike against your interpretation? Because if
11 Congress had wanted to ensure that these trails
12 were left undisturbed, it could have simply made
13 that assignment directly.

14 MR. KELLOGG: Because the critical
15 act, from our purposes, is the 1970 Act. Not so
16 much the 1968 Trails Act, but the 1970 General
17 Authorities Act.

18 If you read the government's reply
19 brief at 16-17, they make some concessions that
20 I think essentially concede away the case. They
21 said, back in 1970, the Park Service listed as
22 units the Blue Ridge Parkway, the Appalachian
23 Trail, and the Wild and Scenic Rivers, but it
24 kept those separate and apart in its listing,
25 said these were miscellaneous areas, these are

1 recreation areas; these aren't national parks.

2 And then Congress came along in the
3 General Authorities Act and said: No, no, no,
4 everything you administer is a unit of the Park
5 Service. So as a consequence, two years later,
6 when the Forest Service -- when the Park Service
7 published its new list, it listed the Wild and
8 Scenic Rivers, the Blue Ridge Parkway, and the
9 Appalachian Trail all as units of the park
10 system on a par --

11 JUSTICE BREYER: So --

12 MR. KELLOGG: -- with national parks.

13 JUSTICE BREYER: So do you -- is this
14 right that you think that -- think of Yosemite,
15 all right? I think that belongs to the Federal
16 Government, and I think it belongs to the
17 Federal Government down to the center of the
18 earth. I mean, I don't know how far you go down
19 when you have property. Maybe you go to the
20 center of the earth.

21 Is your position that that's true of
22 all the trails too?

23 MR. KELLOGG: It's certainly --

24 JUSTICE BREYER: And if -- that's --
25 that's really what I'm -- yeah, okay. Go ahead,

1 answer.

2 MR. KELLOGG: Yes, it's -- it's my
3 position, it's our position, that if -- whatever
4 agency administers the trail also can award,
5 decide right-of-ways across that trail, but only
6 consistent with their own rules and regulations.

7 JUSTICE ALITO: Well, then why does
8 the statute --

9 CHIEF JUSTICE ROBERTS: So that it
10 really does -- it really does erect a
11 impermeable barrier to any pipeline from the
12 area where the natural gas, those resources are
13 located and to the area east of it where there's
14 more of a need for them?

15 MR. KELLOGG: Absolutely incorrect,
16 Your Honor, I'm sorry, but the -- there's 55
17 pipelines currently running under the
18 Appalachian Trail; 19 of those are on federal
19 land pursuant to permanent easements granted
20 before the Trails Act. The rest of them are on
21 state and local lands. Two --

22 CHIEF JUSTICE ROBERTS: I guess maybe
23 -- maybe I'm not entirely incorrect, but that
24 seems to suggest if it is not the Appalachian
25 Trail land that runs through private property or

1 were preexisting, that to the extent it is, I'll
2 call, regular Appalachian Trail land, it does
3 operate as a barrier?

4 MR. KELLOGG: Only on federal land.

5 JUSTICE BREYER: Why?

6 CHIEF JUSTICE ROBERTS: Well, that's
7 what we're talking about.

8 MR. KELLOGG: Because the Mineral
9 Leasing Act only applies to federal land, and it
10 only exempts land in the National Park Service
11 from the definition of federal land.

12 So state, local, and private lands are
13 unaffected. The --

14 JUSTICE GORSUCH: State, local,
15 private lands are unaffected. Forest Service
16 lands, through which the trails run, are
17 unaffected. The only thing affected is where
18 there happens to be a trail?

19 MR. KELLOGG: Is the trail, plus its
20 protective corridor, which is about a thousand
21 feet wide, and which the Park Service, despite
22 their efforts in the reply brief to walk that
23 back, if you look at page 97 of the Joint
24 Appendix, they run through the numbers.

25 You know, it's 2,190 miles long. It's

1 a thousand feet wide. And they say that's
2 250,000 acres in the National Park system.
3 Those acres are included in their calculation of
4 the 89 million acres that are part of the --

5 JUSTICE BREYER: You see, go back for
6 just a second.

7 JUSTICE KAGAN: Mr. Kellogg do you
8 think --

9 JUSTICE BREYER: Because once you said
10 yes to the center of the earth. Okay. Now,
11 I'm -- I'm quite pleased, I guess as a person,
12 not a judge, that Yosemite does go down as far
13 as, but it worries me, because what you answered
14 the Chief Justice and the others is, well,
15 Congress has an Act that takes care of that.

16 It exempts the private people. But I
17 think we're here concerned not with Congress's
18 statutes so much -- of course we are -- but you
19 see, if you're saying it goes down to the center
20 of the earth, then there are all kinds of things
21 some other Congress might do. This land belongs
22 to the federal government down to the center of
23 the earth.

24 And actually what's worrying me is
25 something with that consequence, perhaps

1 Congress would have done more to make clear.
2 But am I right on my consequence that -- are you
3 following that?

4 MR. KELLOGG: I do, Your Honor.

5 JUSTICE BREYER: And -- and -- and am
6 I right?

7 MR. KELLOGG: That the subsurface
8 lands also belong to the United States?

9 JUSTICE BREYER: Yes. So Congress
10 could do what it wants, in cities, in -- in
11 cities, in private property, et cetera.

12 MR. KELLOGG: No, you are not right --

13 JUSTICE BREYER: Because of the
14 statute or because of something else?

15 MR. KELLOGG: Because the Mineral
16 Leasing Act applies only to federal lands.

17 JUSTICE BREYER: Well --

18 MR. KELLOGG: And the Park Service
19 does not purport to regulate private, state, and
20 local in-holdings. So that's not going to
21 happen.

22 JUSTICE KAGAN: Mr. Kellogg, do you
23 think it's possible that these trails are
24 jointly administered, that there is some kind of
25 joint jurisdiction over them? And if that's

1 what is going on here, what would be the effect
2 of that on this question?

3 MR. KELLOGG: Well, first of all, if
4 that were what's going on, the Court would have
5 to reverse, because under 185(c)(2) of the
6 Mineral Leasing Act, it says that if the -- if
7 the surface lands are administered by either the
8 Secretary of the Interior or by the Secretary
9 and more -- and one or more other agencies, then
10 only the Secretary of the Interior can grant --

11 JUSTICE KAGAN: I guess what I was
12 suggesting is something along the following
13 lines: You have the Weeks Act. And the Trails
14 Act comes along and it does not completely
15 repeal the Weeks Act. It just layers onto the
16 Weeks Act jurisdiction in the Secretary
17 delegated to the Park Service that goes along
18 with the Weeks Act, and then assumes that these
19 two agencies will figure out a sensible
20 distribution of regulatory and other authority.

21 And if that's the case, and that's
22 what happened, has happened, do you -- does --
23 does -- is it necessarily true that the
24 Secretary has authority over the right-of-way
25 that's at issue here?

1 MR. KELLOGG: Well, 1248(a) says
2 explicitly that it's used -- the Secretary of
3 the Interior or the Secretary of Agriculture, as
4 the case may be, and as the case may be, we know
5 refers to the Secretary who administers the
6 land.

7 The government in its reply brief
8 recognizes that's a fatal point for them, and so
9 they try to say, no, it's not really mean that,
10 but two provisions before in 1246(i) Congress
11 uses the phrase "as the case may be" in a
12 context that unmistakably refers to the
13 Secretary administering the trail.

14 So that means the Secretary of the
15 Interior, and only the Secretary of the Interior
16 can grant the rights-of-way in question here.
17 So --

18 JUSTICE SOTOMAYOR: Mr. Kellogg, I'm
19 sorry, did you misspeak? You answered Justice
20 Kagan by saying if we believed there was dual
21 administrative powers, that we had to reverse,
22 but I thought you won below?

23 MR. KELLOGG: I'm sorry, then you
24 would have to --

25 JUSTICE SOTOMAYOR: Affirm?

1 MR. KELLOGG: I'm sorry, then the
2 Fourth Circuit -- my apologies -- the Fourth
3 Circuit was correct that the Secretary -- that
4 the head of the Forest Service did not have
5 authority to grant this pipeline right-of-way.
6 So you would have to affirm on that basis. My
7 apologies for --

8 JUSTICE SOTOMAYOR: No, you were
9 confusing me, so I -- I don't know that you have
10 fully satisfied the parade of horrors that
11 have been put forth.

12 In my own judgment, the most serious
13 one is the view that if everything the Park
14 Department administers, the entire trail, that
15 that means that it can stop pipelines or other
16 things across the country, the -- the 200,000 or
17 whatever miles that this is.

18 And I -- I don't know that you have
19 actually articulated concisely a -- a response
20 to why that parade of horrors is not likely.

21 MR. KELLOGG: I can -- I can give you
22 --

23 JUSTICE SOTOMAYOR: I don't think it's
24 enough to say that they haven't done it.

25 MR. KELLOGG: I can give you a very

1 concrete example. In the past 50 years, since
2 the Trails Act was passed, there has not been a
3 single new pipeline right-of-way through federal
4 lands under the Appalachian Trail.

5 There have been a number on state,
6 local, and private lands, and the same would
7 apply to other trails. Now, they acknowledge,
8 for example, that the Blue Ridge Parkway is land
9 in the park system. They acknowledge that wild
10 and scenic rivers are land in the park system.

11 So the same principle that they would
12 block pipelines would apply to them as well.
13 And there is no reason why a parkway constitutes
14 land but a trail does not or why a wild and
15 scenic river would constitute lands and a trail
16 not.

17 Congress even provided ways in which
18 you could move the trail under certain
19 provisions by acquiring new land on which to run
20 the trail. It did the same thing with the Blue
21 Ridge Parkway.

22 JUSTICE ALITO: Why would congress
23 allow pipeline under the Blue Ridge Parkway but
24 not under the trail when those two run parallel
25 to each other and are very close in some spots?

1 MR. KELLOGG: That's actually a highly
2 disputed point, whether they have allowed a
3 pipeline under the Appalachian Trail -- under
4 the Blue Ridge Parkway. 460(a)(3), the
5 provision at issue there, is entitled Licensor
6 Permits to Owners of Adjacent Lands.

7 So that one question is, well, is a
8 right-of-way to a pipeline to an owner of an
9 adjacent land, but otherwise it says that it has
10 to be non-consistent with use of such lands for
11 pipeline purposes.

12 So --

13 JUSTICE ALITO: For -- for pipeline
14 purposes?

15 MR. KELLOGG: For parkway purposes.

16 JUSTICE ALITO: Parkway purposes.

17 MR. KELLOGG: And what you look for in
18 the parkway is the Park Service regulations
19 governing the parkway. What you look for for
20 the national -- for the Appalachian Trail is the
21 Park Service regulations governing the trail,
22 which specifically cover the kinds of
23 rights-of-ways and pipelines, et cetera, that
24 can pass over or under the trail.

25 JUSTICE ALITO: If -- if the statutes

1 allow it to go under the parkway, is there any
2 reason why Congress would say: Well, you can go
3 this far, but you can't go another thousand feet
4 in some spots and go under the trail?

5 MR. KELLOGG: Because they wanted to
6 keep the Appalachian Trail, insofar as it is on
7 federal land, where the most beautiful parts of
8 the Appalachian Trail are to be found, through
9 the national forest, through the -- through the
10 park system, Congress drew a bright line.

11 JUSTICE ALITO: Well, I mean, that
12 gets to the fundamental question I have about
13 your argument.

14 There may be all sorts of very good
15 environmental reasons why this pipeline
16 shouldn't be built. And those, I take it, are
17 involved in the other issues in the case, but do
18 you have more than a "gotcha" argument? Do you
19 -- I mean, and sometimes they work, that if you
20 fit these statutes together, this is what they
21 say, and you can't get out of it, but do you
22 really have an argument that this is what
23 Congress intended when it adopted the statutes
24 on which you rely?

25 MR. KELLOGG: I think we do. We know,

1 for example, that they had the General
2 Authorities Act before them when they passed the
3 Mineral Leasing Act and created an exception for
4 lands in the park system from -- from the
5 pipeline authority that they were granting in
6 that Act.

7 CHIEF JUSTICE ROBERTS: Thank you,
8 counsel.

9 Mr. Yang, two minutes remaining.

10 REBUTTAL ARGUMENT OF ANTHONY A. YANG
11 ON BEHALF OF THE PETITIONER IN 18-1584

12 MR. YANG: Mr. Chief Justice, thank
13 you.

14 The statutory regulation of
15 in-holdings was addressed in Sturgeon,
16 Section 10751. Counsel has not suggested that
17 that broad authority does not apply. This
18 strikes close to home. The Potomac Heritage
19 Scenic Trail runs straight through Alexandria.

20 Counsel suggests that such regulation
21 of lands in the National Park system is limited
22 to purposes of the trail. I would not feel
23 comfortable as a municipal officer given that's
24 the case.

25 And, moreover, that threatens the

1 cooperative management system whereby
2 municipalities have allowed the trail for 50
3 years, and then going fact -- going back to the
4 1920s and '30s to cross their lands without
5 necessarily having easements for the trail.

6 Two, land as a property right going
7 down to the earth, that is a very odd fit for
8 this trail that runs across the surface and it
9 can change locations.

10 Three, Congress in
11 Section 1246(a)(1)(A) specifically says the
12 Interior has overall administration of the
13 trail, but then says there's no transfer of
14 management responsibilities for
15 federally-administered lands. That's the
16 antithesis of the clarity that Congress acts
17 with when it wants to transfer its exertion of
18 land --

19 JUSTICE SOTOMAYOR: Excuse me, Mr.
20 Yang, that's the problem, which is read that
21 definition. Management and administration have
22 two different meanings. It says we don't
23 transfer management when --

24 MR. YANG: I get the point. But the
25 problem is --

1 JUSTICE SOTOMAYOR: That's the
2 problem.

3 MR. YANG: -- Petitioner -- the first
4 sentence says: "Overall administration is
5 administration and management of the trail." If
6 Petitioner is right that the trail is land, that
7 includes management of the land.

8 But that makes a hash of the second
9 sentence, which says, "no authority over the
10 land management is transferred." So Petitioner
11 also, or Respondent has a problem with Sections
12 1246(e) and (h)(1), both of which apply only
13 outside the boundaries of federally-administered
14 land, (h)(1) where the trail is outside, and (e)
15 where the right-of-way is outside.

16 There is no such thing under
17 Respondent's theory because the right-of-way and
18 the trail is federally-administered land. The
19 overall administration -- this is the position
20 of the agencies for 50 years -- that overall
21 administration is spelled out in the Act. It's
22 a continuous route.

23 You select the right-of-way and then
24 you relocate it. That's in A(2) and (b). A
25 uniform marker. You are a backstop for state

1 and local governments acquiring the required
2 right-of-way.

3 CHIEF JUSTICE ROBERTS: Thank you,
4 counsel.

5 MR. YANG: Thank you, Mr. Chief --

6 CHIEF JUSTICE ROBERTS: The case is
7 submitted. But before counsel leave, I would
8 like to invite Mr. Clement to return to the
9 lectern.

10 Mr. Clement, our records indicate that
11 this was your 100th oral argument before the
12 Court. That is a rare milestone. I recognize
13 one of the other members of the exclusive club,
14 Mr. Kneedler, at counsel table.

15 Throughout your career, Mr. Clement,
16 you have consistently advocated positions on
17 behalf of the United States and private clients
18 in an exemplary manner.

19 On behalf of the Court, I extend to
20 you our appreciation for your advocacy before
21 the Court and dedicated service as an officer of
22 this Court.

23 We look forward to hearing from you
24 many more times, beginning, I gather, next week
25 as an amicus --

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(Laughter.)

CHIEF JUSTICE ROBERTS: -- appointed
by this Court. Thank you very much. Thank you,
counsel. The case is submitted.

(Whereupon, at 11:09 a.m., the case
was submitted.)

Official - Subject to Final Review

1	<p>A(2) ^[1] 65:24 a.m. ^[3] 1:24 4:2 67:5 able ^[1] 10:8 above-entitled ^[1] 1:22 absolutely ^[3] 35:23 39:8 53:15 abstract ^[1] 37:7 accept ^[1] 15:24 access ^[1] 43:23 account ^[1] 46:17 acknowledge ^[2] 60:7,9 acquire ^[1] 37:14 acquiring ^[2] 60:19 66:1 acreage ^[3] 18:19 29:14 39:12 acres ^[5] 18:24 39:13 55:2,3,4 across ^[14] 19:10 23:4 34:18 37:2 43:3 44:24,24,25 47:4,7,8 53:5 59:16 64:8 Act ^[74] 4:14,18 5:10 6:24 7:6,10 10:15 12:16,23 15:18 16:1,3 17:21 18:2,12,13,16,21 24:21,23 27:25 29:12,15,16,17,21,23 30:19 32:3 34:1,21 35:5,9,22 36:10 37:11 38:11 39:9 40:11 42:2,7,12 47:10 48:14,14,21,21 49:4,4,5,13,19 50:4,7 51:15,15,16,17 52:3 53:20 54:9 55:15 56:16 57:6,13,14,15,16,18 60:2 63:2,3,6 65:21 action ^[1] 20:25 acts ^[2] 16:6 64:16 actually ^[9] 26:13 28:16 29:3,13 40:2 45:11 55:24 59:19 61:1 address ^[2] 10:9 16:7 addressed ^[1] 63:15 addresses ^[1] 30:24 adjacent ^[3] 48:24 61:6,9 administer ^[9] 8:18,23 15:20,25 35:2 45:18,20,22 52:4 administered ^[31] 4:16 5:13,15,15 6:1 8:13 10:12 16:16 27:11 29:25 31:7 32:12,13,13,14,18 33:15,17 35:7,10,13,17 39:5,7 47:6 49:3,11 50:1,9 56:24 57:7 administering ^[4] 4:21,22 14:14 58:13 administers ^[11] 6:7 22:5 26:22,25 27:3 31:17 34:25 42:13 53:4 58:5 59:14 administrated ^[2] 5:22,25 administration ^[14] 4:19 8:21 12:18 14:24 15:15 17:1 39:21 48:6 64:12,21 65:4,5,19,21 administrative ^[6] 12:22 17:23 21:21,22 33:1 58:21 administrator ^[1] 48:2 administrators ^[1] 48:3 adopted ^[1] 62:23 advocacy ^[1] 66:20 advocated ^[1] 66:16 affect ^[2] 26:12 43:24 affected ^[1] 54:17 Affirm ^[2] 58:25 59:6 agencies ^[16] 4:22,23 5:2 14:14 15:7,14,20,25 16:9 18:11 28:19 39:24 49:12 57:9,19 65:20</p>	<p>agency ^[11] 4:21 16:25 17:3,4 28:6,6,22,22 32:9 48:5 53:4 agree ^[1] 25:3 Agreement ^[2] 15:7,8 agrees ^[1] 45:7 Agriculture ^[1] 58:3 ahead ^[2] 42:9 52:25 AL ^[3] 1:4,8,15 Alexandria ^[1] 63:19 ALITO ^[27] 21:2,5,18 22:8,10 32:10 33:4,7,12,16,20 37:22 38:7,11,24 39:3,16 40:20 49:14,22 50:11 53:7 60:22 61:13,16,25 62:11 Alito's ^[1] 27:17 allow ^[7] 16:12 47:10,18 50:16,19 60:23 62:1 allowed ^[3] 23:2 61:2 64:2 almost ^[1] 25:14 already ^[1] 7:22 alternative ^[1] 28:14 although ^[1] 32:20 American ^[1] 43:22 amicus ^[2] 15:18 66:25 amounts ^[1] 6:5 anomalies ^[1] 32:5 another ^[4] 16:18 32:9 44:3 62:3 answer ^[7] 8:25 16:5 43:13,14 45:17 46:16 53:1 answered ^[3] 40:20 55:13 58:19 answering ^[2] 15:13 40:21 answers ^[2] 23:21 38:8 ANTHONY ^[5] 2:2 3:3,14 4:9 63:10 antithesis ^[1] 64:16 anybody ^[1] 43:25 apart ^[1] 51:24 apologies ^[2] 59:2,7 Appalachian ^[21] 4:15 8:19 9:4 13:8,12 20:8 26:19,23 34:19 35:6 36:16 51:22 52:9 53:18,24 54:2 60:4 61:3,20 62:6,8 appeal ^[1] 25:22 APPEARANCES ^[1] 2:1 Appendix ^[1] 54:24 applicability ^[1] 38:20 applicable ^[1] 49:21 applies ^[4] 14:17 44:6 54:9 56:16 apply ^[7] 30:15 42:19 49:21 60:7,12 63:17 65:12 appointed ^[1] 67:2 appreciation ^[1] 66:20 approach ^[3] 27:22,24 30:16 area ^[13] 5:15 6:1 12:18 19:23 20:15,18 33:15 35:14,18 41:2,23 53:12,13 areas ^[7] 5:22,25 9:14 35:10 50:8 51:25 52:1 aren't ^[3] 11:8 24:20 52:1 argue ^[1] 5:12 argued ^[1] 40:19 argument ^[18] 1:23 3:2,6,10,13 4:4,9 17:11 26:18 27:23 34:7 48:8,15 62:13,18,22 63:10 66:11 arguments ^[2] 48:9,10</p>	<p>around ^[4] 10:17 27:6,20 30:12 articulated ^[2] 29:3 59:19 asks ^[1] 28:22 assent ^[1] 32:9 assignment ^[2] 46:4 51:13 assigns ^[2] 48:4 49:6 Assistant ^[1] 2:2 ASSOCIATION ^[3] 1:8,15 4:6 assume ^[1] 33:9 assumed ^[1] 49:18 assumes ^[1] 57:18 assuming ^[1] 15:24 ATLANTIC ^[2] 1:11 24:10 attention ^[1] 34:14 Authorities ^[5] 35:9 50:6 51:17 52:3 63:2 authority ^[17] 8:22 13:21 14:12 17:23 21:21,22 28:1 39:20,21 46:4 50:25 57:20,24 59:5 63:5,17 65:9 authorized ^[1] 28:7 award ^[1] 53:4 away ^[2] 38:12 51:20</p>
2	<p>2,190 ^[1] 54:25 200,000 ^[1] 59:16 2020 ^[1] 1:20 24 ^[1] 1:20 250,000 ^[2] 39:13 55:2</p>		
3	<p>30s ^[1] 64:4 34 ^[1] 3:12 36 ^[3] 14:17 38:22 40:6</p>		
4	<p>4 ^[1] 3:5 40 ^[1] 30:3 460(a)(3) ^[1] 61:4</p>		
5	<p>50 ^[4] 32:24 60:1 64:2 65:20 55 ^[1] 53:16</p>		
6	<p>6.2 ^[1] 38:22 600 ^[7] 6:16 7:25 20:10 21:11,15 22:12 34:13 63 ^[1] 3:16</p>		
7	<p>7.100 ^[1] 14:17</p>		
8	<p>800 ^[1] 20:11 89 ^[1] 55:4</p>		
9	<p>97 ^[1] 54:23</p>		
A			
B		<p>back ^[12] 7:4,5 15:9 27:17 30:6 40:17,18 47:21 51:21 54:23 55:5 64:3 backpack ^[1] 11:7 backpacking ^[1] 11:7 backstop ^[1] 65:25 backyard ^[1] 37:2 barrier ^[4] 30:14 43:3 53:11 54:3 barriers ^[1] 19:2 basically ^[2] 13:17 14:4 basis ^[2] 33:2 59:6 beautiful ^[1] 62:7 became ^[1] 18:21 beginning ^[1] 66:24 behalf ^[13] 2:4,6,8 3:4,8,12,15 4:10 17:12 34:8 63:11 66:17,19 believe ^[2] 12:15 13:19 believed ^[1] 58:20 belong ^[2] 46:8 56:8 belongs ^[6] 36:6 45:11 49:10 52:15,16 55:21 below ^[11] 19:14,18 20:10,11,24 21:11,16 22:12 24:1,24 58:22 between ^[8] 4:20 17:22 18:10 21:13,21 22:11,13 26:17 bike ^[1] 11:6 biking ^[1] 11:8 bit ^[4] 20:12 21:24 43:4 46:1 blaze ^[1] 30:23 block ^[1] 60:12 Blue ^[8] 20:9 49:5 51:22 52:8 60:8,20,23 61:4 both ^[7] 12:5 15:25 20:10,21,22 47:15 65:12 boundaries ^[2] 5:22 65:13 BREYER ^[34] 19:3,9,17,22 20:2,5,14,17 21:6 23:12,15 24:9,17 42:15,18,22 43:2,12,19 44:5,9,14,20 45:13 52:11,13,24 54:5 55:5,9 56:5,9,13,17</p>	

Official - Subject to Final Review

<p>bridge ^[1] 6:15 bridges ^[3] 6:14 11:11 27:1 brief ^[13] 8:9 9:20,25 10:2 12:6 15:18 25:3 26:10 30:6 37:6 51:19 54:22 58:7 briefed ^[4] 25:18,19 26:2,15 briefly ^[1] 16:13 briefs ^[5] 12:5,7 19:6 20:3 25:24 bright ^[1] 62:10 bring ^[1] 49:23 broad ^[1] 63:17 broader ^[1] 10:21 broadly ^[1] 35:20 build ^[2] 36:13 47:4 building ^[2] 33:22 35:15 built ^[1] 62:16</p>	<p>CLEMENT ^[46] 2:5 3:7 10:4,7,8,10 17:10,11,13 19:8,16,21,25 20:3,6,16,20 21:3,17 22:9,14 23:13 24:9,14,16,18 25:1,9,16,23 26:3,6 27:16 28:12 31:10,13 32:16 33:6,11,14,18,21 34:5 66:8,10,15 clients ^[2] 21:18 66:17 close ^[2] 60:25 63:18 club ^[1] 66:13 COAST ^[3] 1:11 11:18 24:10 coexistent ^[1] 16:10 College ^[1] 6:13 come ^[3] 5:8 8:1 40:5 comes ^[2] 19:24 57:14 comfortable ^[1] 63:23 coming ^[1] 24:7 commands ^[1] 49:24 completely ^[1] 57:14 components ^[2] 29:8 34:19 concede ^[1] 51:20 concept ^[1] 36:23 concerned ^[2] 44:15 55:17 concerns ^[1] 8:21 concessions ^[1] 51:19 concisely ^[1] 59:19 conclude ^[1] 20:23 concrete ^[1] 60:1 concurrence ^[1] 14:13 condemnation ^[1] 37:14 confers ^[1] 8:22 confusing ^[1] 59:9</p>	<p>costless ^[1] 46:12 coterminous ^[1] 17:1 couldn't ^[4] 19:6 47:13,17,17 counsel ^[7] 63:8,16,20 66:4,7,14 67:4 count ^[1] 34:14 country ^[1] 59:16 counts ^[2] 34:20 35:18 course ^[4] 18:22 44:23 47:16 55:18 COURT ^[20] 1:1,23 4:12 7:19,20,22 8:6 17:14 24:4 26:9 34:10 35:18 38:16 41:8 57:4 66:12,19,21,22 67:3 Court's ^[1] 34:14 cover ^[3] 14:21 36:10 61:22 covering ^[1] 44:23 COWPASTURE ^[3] 1:7,14 4:5 crazy ^[1] 29:23 created ^[1] 63:3 creates ^[1] 32:4 creating ^[1] 29:24 Crest ^[2] 31:4 47:2 critical ^[3] 21:20 28:25 51:14 cross ^[2] 7:25 64:4 crosses ^[2] 6:13 37:23 crossing ^[2] 7:13 20:25 currently ^[1] 53:17 cut ^[1] 27:19 cuts ^[1] 10:21</p>	<p>30:15 46:10,19 devoted ^[2] 7:2 15:19 difference ^[5] 21:21 22:11,13 26:17 30:7 differences ^[1] 22:19 different ^[9] 12:1 13:10 17:4,6 25:8 27:7 29:5 36:22 64:22 difficult ^[1] 10:16 dig ^[1] 47:13 digging ^[1] 44:7 dimensions ^[1] 19:5 directly ^[3] 34:11 48:24 51:13 director ^[1] 14:4 disagreeing ^[1] 25:17 disparate ^[1] 50:8 disputed ^[1] 61:2 distinct ^[2] 10:24 36:24 distinction ^[6] 10:17 11:2 17:21 18:9 21:13 22:17 distinguishes ^[1] 4:20 distribution ^[1] 57:20 disturb ^[1] 20:25 Divide ^[1] 31:5 divided ^[1] 39:21 documents ^[1] 31:23 doing ^[2] 29:19,22 done ^[8] 8:3,4 36:15 39:13 51:4,5 56:1 59:24 doubt ^[1] 18:19 doubts ^[4] 8:10 9:21,22 31:15 down ^[7] 45:3 52:17,18 55:12,19,22 64:7 downtown ^[12] 27:2,7,8,12,12,13 40:24,25 41:3,15,18 43:15 dozen ^[2] 6:12 26:24 dramatically ^[3] 5:10 6:3,4 draw ^[3] 17:21 21:12 22:16 drew ^[1] 62:10 dual ^[2] 16:20 58:20</p>
<p style="text-align: center;">C</p> <p>calculation ^[1] 55:3 call ^[4] 5:6 13:3 34:14 54:2 called ^[3] 29:9,11 30:9 calls ^[1] 30:17 came ^[2] 1:22 52:2 cannot ^[4] 6:2 7:24,25 23:24 care ^[4] 5:3 20:22 39:18 55:15 career ^[1] 66:15 cars ^[1] 14:10 Case ^[38] 4:4,7,13 6:17 7:3,15,18 8:16 9:1 14:21 21:8,19 22:1,11 24:11 25:19 26:8,9 28:13 30:10 34:12,17 35:19 40:2,19 41:8,20 45:6 51:20 57:21 58:4,4,11 62:17 63:24 66:6 67:4,5 cases ^[2] 24:4 25:14 center ^[6] 45:4 52:17,20 55:10,19,22 cert ^[2] 7:23 8:6 certain ^[6] 4:25 9:13 14:8 38:5 47:2 60:18 certainly ^[4] 10:11 11:9 41:4 52:23 cetera ^[4] 43:17 50:5 56:11 61:23 CFR ^[3] 14:17 38:22 40:6 challenge ^[2] 23:19 24:6 change ^[5] 5:10 6:4 7:19 18:6 64:9 charge ^[1] 14:5 charged ^[1] 14:24 charges ^[1] 4:18 CHIEF ^[21] 4:3,11 16:11 17:5,8,13 34:4,9 36:1,11,18 53:9,22 54:6 55:14 63:7,12 66:3,5,6 67:2 choose ^[2] 39:10 43:1 Circuit ^[3] 7:1 59:2,3 circumstance ^[1] 46:5 cite ^[1] 26:8 cities ^[3] 40:23 56:10,11 City ^[6] 27:12,14 42:25 43:2 44:25 45:1 clarity ^[2] 16:6 64:16 Clark ^[1] 11:14 clear ^[10] 12:21 17:23 18:3 35:3,23 38:17 39:9 48:16 49:8 56:1 clearly ^[1] 16:6</p>	<p>Congress ^[38] 8:20 11:13 12:21 14:10 16:6 18:14 29:5,9,18,23 35:2,20 42:1 45:17 46:18 47:22,22 48:13,20 49:6,12,18,22 50:7 51:11 52:2 55:15,21 56:1,9 58:10 60:17,22 62:2,10,23 64:10,16 Congress's ^[1] 55:17 consequence ^[3] 52:5 55:25 56:2 consequences ^[6] 7:5 17:19 18:23 48:11,12,17 conserve ^[1] 6:8 conserved ^[1] 22:24 considered ^[1] 7:22 consistent ^[2] 47:19 53:6 consistently ^[1] 66:16 consists ^[2] 9:13 32:11 consolidated ^[1] 4:7 constitute ^[1] 60:15 constitutes ^[1] 60:13 construe ^[1] 23:8 contemporaneous ^[1] 17:1 context ^[4] 12:17 17:19 18:8 58:12 Continental ^[1] 31:5 continuous ^[1] 65:22 control ^[3] 28:10 43:17 44:11 convert ^[1] 17:15 converted ^[1] 19:2 converts ^[1] 4:14 cooperative ^[1] 64:1 coordinates ^[1] 4:23 Correct ^[4] 7:7 14:8 51:6 59:3 corridor ^[1] 54:20</p>	<p style="text-align: center;">D</p> <p>D.C ^[4] 1:19 2:3,5,7 dams ^[1] 6:10 Dartmouth ^[1] 6:13 dates ^[1] 15:9 day ^[5] 7:21 12:24 18:13 29:12 48:15 day-to-day ^[1] 33:2 deal ^[3] 12:17 22:7 28:18 dealt ^[2] 7:1 32:25 debate ^[1] 36:19 decide ^[6] 23:17 24:4 35:20 39:11 40:12 53:5 decided ^[1] 50:4 decision ^[1] 7:11 decommission ^[1] 51:2 dedicated ^[1] 66:21 defense ^[1] 26:7 definition ^[5] 9:12 37:12,19 54:11 64:21 definitions ^[2] 24:22 37:6 delegate ^[1] 49:16 delegated ^[4] 35:8 39:23 51:7 57:17 delegation ^[1] 8:20 delusion ^[1] 30:1 Department ^[2] 2:3 59:14 Department's ^[1] 16:2 designated ^[1] 49:12 despite ^[1] 54:21 details ^[2] 30:20,25 develop ^[1] 5:20 development ^[6] 13:14 15:1 19:2</p>	<p style="text-align: center;">E</p> <p>each ^[2] 46:2 60:25 earth ^[9] 21:9 45:3,4 52:18,20 55:10,20,23 64:7 easement ^[13] 19:19,24 25:6 36:2,8 37:2 38:14,16 39:4 44:21,22,22 45:9 easements ^[4] 24:24 45:25 53:19 64:5 east ^[2] 45:20 53:13 Easy ^[3] 30:11 34:12 45:10 effect ^[2] 26:9 57:1 effects ^[1] 31:2 effort ^[1] 17:15 efforts ^[1] 54:22 either ^[2] 26:1 57:7 elephants-in-the-mouse-hole-type ^[1] 30:16 else's ^[1] 37:8 elsewhere ^[1] 46:14 employees ^[2] 5:7 22:3 enacted ^[3] 11:13 12:23 14:16 encourage ^[1] 5:19 end ^[2] 7:21 9:22</p>

Official - Subject to Final Review

<p>ends ^[1] 27:12 English ^[1] 12:5 enormous ^[1] 48:11 enough ^[2] 30:11 59:24 ensure ^[1] 51:11 enter ^[3] 19:18,18,22 enterprise ^[1] 8:3 enters ^[2] 19:25 20:14 entire ^[8] 5:14 15:19 22:4 31:24 39:14 42:14 47:14 59:14 entirely ^[1] 53:23 entitled ^[1] 61:5 environment ^[1] 6:9 environmental ^[3] 7:5,12 62:15 equivocation ^[1] 35:6 erect ^[1] 53:10 especially ^[1] 30:18 ESQ ^[4] 3:3,7,11,14 essentially ^[3] 38:13,15 51:20 establish ^[3] 39:12 40:9 47:23 established ^[1] 38:6 ET ^[7] 1:4,8,15 43:17 50:5 56:11 61:23 even ^[7] 9:4 15:15 26:20 37:19 39:24 47:6 60:17 event ^[1] 7:3 everybody ^[1] 10:19 Everybody's ^[1] 46:1 everything ^[4] 33:24 41:3 52:4 59:13 exactly ^[8] 18:16 20:16,20 42:6,12, 24 48:20 49:13 example ^[6] 14:20 22:21 41:22 60:1,8 63:1 except ^[2] 11:1 35:24 exception ^[1] 63:3 exceptions ^[1] 38:21 exclude ^[1] 38:19 exclusive ^[1] 66:13 exclusively ^[1] 32:13 Excuse ^[3] 14:3 48:8 64:19 exemplary ^[1] 66:18 exempts ^[2] 54:10 55:16 exertion ^[1] 64:17 existed ^[1] 9:4 exits ^[1] 19:25 expanded ^[1] 11:13 expect ^[3] 18:17 32:8 48:16 experience ^[2] 20:22 21:1 expired ^[1] 16:12 explain ^[1] 25:21 explicitly ^[1] 58:2 extend ^[2] 44:12 66:19 extends ^[1] 35:23 extent ^[4] 31:16,18 41:6 54:1</p>	<p>February ^[1] 1:20 federal ^[25] 4:14 5:25 14:14 18:10 22:3 26:20 28:4,6 35:24 39:24 43:16 44:4,12 48:5 49:11 52:15,17 53:18 54:4,9,11 55:22 56:16 60:3 62:7 federally ^[4] 5:14,15,22 6:1 federally-administered ^[3] 64:15 65:13,18 feel ^[1] 63:22 feet ^[13] 7:25 19:16,17 20:10,11 21:11,15 22:12 34:13 45:4 54:21 55:1 62:3 fell ^[1] 13:4 Ferry ^[3] 5:7 22:5 31:20 few ^[1] 38:20 figure ^[2] 28:21 57:19 finally ^[1] 35:22 find ^[4] 12:10 49:3,4,5 fine ^[1] 23:19 finish ^[1] 15:23 first ^[9] 4:4 9:10 17:20 21:25 37:19 38:17 46:20 57:3 65:3 Fish ^[2] 50:16 51:8 fit ^[2] 62:20 64:7 five ^[1] 36:17 fix ^[1] 5:8 fly ^[1] 22:6 following ^[2] 56:3 57:12 foot ^[1] 8:19 footpath ^[1] 8:19 forbids ^[1] 14:10 FOREST ^[42] 1:3 4:5 5:4,5 6:11 7:6 8:2 10:19,21 13:3 15:8,10 16:1 18:25 20:1,21 22:2,9,21,25 23:7 25:5,5 30:21 31:7 32:23 38:3,18 39:6 41:10 45:21,21 46:8 47:7,8, 13,25 49:8 52:6 54:15 59:4 62:9 forests ^[1] 22:23 forget ^[1] 31:3 former ^[1] 17:24 formulation ^[1] 28:20 forth ^[3] 19:20 43:24 59:11 forward ^[1] 66:23 found ^[1] 62:8 Fourth ^[3] 6:25 59:2,2 front ^[1] 10:4 full ^[2] 32:13,18 fully ^[1] 59:10 fundamental ^[1] 62:12 further ^[1] 18:12</p>	<p>GINSBURG ^[13] 6:20,23 7:8 8:8 9:6,8,18,20 10:1,6 31:8,11,13 give ^[8] 14:19 22:20 24:23 37:1 47:24,25 59:21,25 given ^[3] 20:24 28:9 63:23 gives ^[1] 27:25 giving ^[1] 37:4 GORSUCH ^[16] 41:15,18,24 42:8, 17,21,25 45:8 46:23 50:10,19,24 51:1,3,9 54:14 Got ^[7] 20:5,5 30:10,19 43:10 47:23 50:12 gotcha ^[1] 62:18 govern ^[1] 40:15 governing ^[4] 40:9,10 61:19,21 government ^[7] 25:3 43:16 49:11 52:16,17 55:22 58:7 government's ^[1] 51:18 governments ^[1] 66:1 grant ^[9] 16:2 25:6 26:11 28:7 37:17,18 57:10 58:16 59:5 granted ^[4] 8:6 17:24 34:16 53:19 granting ^[1] 63:5 granular ^[1] 30:25 grateful ^[1] 24:19 great ^[2] 12:6,6 ground ^[7] 19:23 21:19 24:1,12 28:14 34:13 43:21 groups ^[2] 39:25,25 guess ^[5] 13:6 46:17 53:22 55:11 57:11</p>	<p>huge ^[1] 30:14 hundred ^[3] 6:16 19:16,17 hydroelectric ^[1] 6:10 hypothetical ^[2] 47:12,20</p> <hr/> <p>I</p> <p>idea ^[2] 27:6,17 imagining ^[1] 12:13 impermeable ^[1] 53:11 impermissible ^[1] 7:14 implemented ^[2] 9:3 14:15 implications ^[2] 24:5 30:7 important ^[3] 7:24 8:5 29:6 importantly ^[1] 37:16 in-holding ^[3] 38:2 41:16,19 in-holdings ^[5] 38:4 41:9,11 56:20 63:15 include ^[2] 11:12,14 included ^[1] 55:3 includes ^[1] 65:7 including ^[3] 6:12,15 28:1 inconsistent ^[3] 5:9 9:1,9 incorrect ^[2] 53:15,23 increase ^[1] 6:4 increasing ^[1] 30:3 Indian ^[1] 44:7 indicate ^[1] 66:10 indicating ^[1] 37:20 informs ^[1] 4:25 inherent ^[2] 15:12 24:21 initial ^[1] 50:3 insofar ^[1] 62:6 instance ^[5] 5:12 11:12 12:23 16:18 49:6 instances ^[1] 16:15 instead ^[1] 21:12 intended ^[1] 62:23 inter ^[1] 7:18 interaction ^[1] 29:16 interesting ^[1] 45:13 interests ^[1] 36:22 Interior ^[17] 4:19 8:18 14:25 32:7 34:17 35:7 49:15,20 50:2,14 51:4 57:8,10 58:3,15,15 64:12 interlocking ^[1] 35:3 interlocutory ^[1] 7:18 interpretation ^[1] 51:10 interpreted ^[1] 31:1 interstates ^[1] 6:16 invite ^[2] 46:13 66:8 involved ^[4] 18:19 28:5 30:10 62:17 isn't ^[6] 12:3 23:15 29:23 33:17 43:23 51:9 issue ^[10] 4:13 6:24 7:16,20,24 8:6 23:17 35:4 57:25 61:5 issues ^[3] 6:25 8:16 62:17 itself ^[5] 18:2 34:21 36:6 37:9,21</p>
<p>F</p> <p>fact ^[4] 14:15 36:15 51:6 64:3 fails ^[1] 17:18 falls ^[4] 5:4 14:22 18:5 22:1 false ^[1] 47:20 far ^[8] 19:13,14 20:24 22:16 44:14 52:18 55:12 62:3 fatal ^[1] 58:8</p>	<p>G</p> <p>gain ^[1] 46:13 gas ^[1] 53:12 gather ^[1] 66:24 General ^[6] 2:2 35:9 50:6 51:16 52:3 63:1 Generally ^[2] 25:12 26:10 generate ^[1] 48:17 Georgia ^[2] 22:2,7 gets ^[5] 18:25 39:10 45:19,22 62:12 getting ^[4] 30:20 40:21 46:1 50:11</p>	<p>H</p> <p>h)(1) ^[2] 65:12,14 haec ^[1] 29:21 halt ^[1] 41:2 Hampshire ^[6] 6:13 22:2,7,22 23:3 42:23 Hanover ^[3] 6:12 42:23 43:15 happen ^[1] 56:21 happened ^[4] 43:20 46:21 57:22, 22 happens ^[4] 16:15 21:15 41:3 54:18 happy ^[1] 21:19 hard ^[1] 21:24 harm ^[1] 23:20 Harpers ^[3] 5:7 22:5 31:20 hash ^[1] 65:8 head ^[6] 10:17 27:6 28:7,22,22 59:4 heads ^[2] 14:13 17:3 hear ^[1] 4:3 hearing ^[1] 66:23 Heritage ^[1] 63:18 higher ^[1] 20:13 highly ^[1] 61:1 highways ^[1] 6:17 historic ^[4] 35:15 41:22 42:2,4 Historical ^[2] 27:4,10 home ^[1] 63:18 Honor ^[3] 46:21 53:16 56:4 horribles ^[2] 59:10,20 Hudson ^[1] 6:15</p>	<p>J</p> <p>job ^[1] 24:11 Joint ^[2] 54:23 56:25 jointly ^[1] 56:24 judge ^[1] 55:12</p>

Official - Subject to Final Review

<p>judgment ^[1] 59:12 jurisdiction ^[11] 17:25 23:14 28:6, 19,23 29:13 34:22 48:5 49:6 56:25 57:16 Justice ^[157] 2:3 4:3,11 6:20,23 7:8 8:8 9:6,7,8,18,20 10:1,6,14,16 11:5,24 12:4,25 13:6,22,25 14:3, 19 15:11,13,23 16:8,11 17:5,8,13 19:3,9,17,22 20:2,5,14,17 21:2,5,6, 18 22:8,10 23:12,15 24:9,16,17,18 25:2,7,11,16,20,24 26:5 27:16,17 31:8,11,13 32:10 33:4,7,12,16,20 34:4,9,20 36:1,11,18 37:22 38:7, 11,24 39:3,16,17 40:1,14,17,20,22 41:5,15,18,24 42:8,10,15,17,18,21, 22,25 43:2,12,19 44:5,9,14,20 45:8,13 46:23 48:7 49:14,22 50:10, 11,19,24 51:1,3,9 52:11,13,24 53:7,9,22 54:5,6,14 55:5,7,9,14 56:5, 9,13,17,22 57:11 58:18,19,25 59:8, 23 60:22 61:13,16,25 62:11 63:7, 12 64:19 65:1 66:3,6 67:2</p>	<p>18:6 21:23 23:10 26:18,20,21 27:5,8,14 28:4,23 29:20 30:4 32:1,1, 5,11,19 33:3 34:23,24,25 35:2,24, 24 36:14,15 37:25 38:6,19,23 42:5 44:12 47:8,9 48:24 50:15 53:21 54:12,15,16 56:8,16 57:7 60:4,6, 15 61:6,10 63:4,21 64:4,15 language ^[4] 24:21 48:13,16,20 large ^[2] 11:23 12:18 later ^[2] 35:9 52:5 latter ^[1] 17:25 Laughter ^[3] 24:13 46:25 67:1 law ^[2] 12:19 44:4 layers ^[1] 57:15 Leasing ^[14] 6:24 7:10 10:15 15:18 27:25 29:17 34:21 35:22 36:10 47:10 54:9 56:16 57:6 63:3 least ^[2] 7:2 46:9 leave ^[3] 16:24 49:24 66:7 leaves ^[2] 17:24 20:17 lectern ^[1] 66:9 left ^[3] 18:19 41:8 51:12 legal ^[2] 47:15,17 legislation ^[2] 7:12,12 length ^[1] 39:14 level ^[1] 36:20 Lewis ^[1] 11:14 Licensor ^[1] 61:5 life ^[1] 11:2 likely ^[1] 59:20 limitation ^[1] 35:11 limitations ^[1] 41:12 limited ^[4] 26:7,19,20 63:21 line ^[5] 8:9 20:7 31:9,14 62:10 lines ^[2] 23:4 57:13 list ^[1] 52:7 listed ^[2] 51:21 52:7 listing ^[1] 51:24 little ^[5] 20:12 21:24 43:4 46:1 48:22 LLC ^[1] 1:11 local ^[8] 42:5 47:9 53:21 54:12,14 56:20 60:6 66:1 located ^[2] 5:21 53:13 locations ^[1] 64:9 locutions ^[1] 12:11 long ^[1] 54:25 longer ^[1] 7:20 look ^[10] 5:17 18:12 29:4 30:5,8,13 54:23 61:17,19 66:23 looked ^[1] 13:7 looking ^[5] 14:9,11 21:7 25:25 27:20 loose ^[1] 33:25 lot ^[1] 46:5 lots ^[1] 38:4 Louis ^[1] 11:17</p>	<p>Management ^[12] 7:6 15:15 17:4 39:22 46:4 64:1,14,21,23 65:5,7, 10 managing ^[3] 4:22 5:2 15:7 manner ^[1] 66:18 Many ^[2] 34:3 66:24 map ^[1] 30:8 maple ^[1] 23:3 maps ^[1] 30:5 marker ^[1] 65:25 markers ^[1] 14:9 matter ^[7] 1:22 12:4 17:20 22:18 47:16,16,17 mean ^[24] 10:24 12:5,9 19:5,7 20:6 22:20 23:16 25:2 27:2 31:3 32:12, 17,20,22 37:1 42:22 43:3 44:17 45:9 52:18 58:9 62:11,19 meaning ^[1] 10:12 meaningful ^[1] 13:2 meanings ^[1] 64:22 means ^[6] 11:25 12:2 32:17,19 58:14 59:15 meant ^[1] 10:20 members ^[1] 66:13 Memorandum ^[2] 15:6,8 metaphysical ^[2] 32:22 36:20 MICHAEL ^[3] 2:7 3:11 34:7 might ^[4] 7:11 46:11,14 55:21 mile ^[1] 19:1 miles ^[4] 6:11 29:24 54:25 59:17 milestone ^[1] 66:12 military ^[1] 16:20 million ^[1] 55:4 Mineral ^[17] 6:24 7:10 10:13 15:18 16:1,24 27:20,25 29:17 34:21 35:22 36:10 47:10 54:8 56:15 57:6 63:3 minutes ^[1] 63:9 miscellaneous ^[1] 51:25 Mississippi ^[1] 11:16 Missouri ^[1] 11:16 misspeak ^[1] 58:19 MLA ^[1] 28:8 model ^[1] 18:9 modest ^[1] 30:8 Monday ^[1] 1:20 Montgomery ^[2] 27:3,8 monument ^[1] 35:16 moot ^[3] 7:11,16,17 Moreover ^[2] 18:2 63:25 morning ^[1] 4:4 most ^[6] 22:15 29:25 37:16 43:8 59:12 62:7 mostly ^[1] 25:14 move ^[3] 11:21 18:4 60:18 moved ^[1] 18:3 moves ^[1] 18:7 much ^[7] 20:22 25:17 41:9,11 51:16 55:18 67:3 multi-uses ^[1] 22:23 multiple ^[2] 17:20 23:1 municipal ^[1] 63:23 municipalities ^[1] 64:2</p>	<p style="text-align: center;">N</p> <p>narrow ^[1] 24:11 national ^[54] 5:11 6:6 7:6 8:10,14 9:10,11,13,15,23 11:19 13:9,13,16 17:18 22:2,21,22 23:10 27:4,9,10, 15 29:8,20 30:4,11,13 31:12,19 32:2,6 33:19,23 35:11,25 38:3 41:22 42:2,4 43:20 46:6,8,19 47:3,5, 24 52:1,12 54:10 55:2 61:20 62:9 63:21 nationally ^[1] 8:5 Native ^[1] 43:21 natural ^[3] 6:8 33:23 53:12 near ^[1] 6:15 nearly ^[1] 6:10 necessarily ^[2] 57:23 64:5 necessary ^[2] 7:21 29:18 need ^[2] 18:12 53:14 needs ^[2] 12:16 16:6 NEPA ^[1] 7:6 New ^[10] 6:12 22:2,6,22 23:3 29:20 42:23 52:7 60:3,19 next ^[1] 66:24 nightmare ^[1] 40:19 nine ^[3] 5:6 22:3 31:19 nobody ^[2] 11:1 46:14 non-consistent ^[1] 61:10 Northwest ^[1] 31:6 nothing ^[2] 5:24 16:25 NRDC's ^[1] 15:17 number ^[2] 7:2 60:5 numbers ^[1] 54:24 numerous ^[1] 6:14</p> <p style="text-align: center;">O</p> <p>Obviously ^[1] 34:23 odd ^[1] 64:7 offhanded ^[1] 31:22 office ^[2] 33:8,9 officer ^[2] 63:23 66:21 Ohio ^[2] 11:14,15 Okay ^[8] 20:2 43:9,12,14 47:23 50:24 52:25 55:10 Once ^[3] 39:17 50:22 55:9 one ^[28] 6:17 7:1 8:10,16 9:21,22 11:18 16:17 22:20,22 23:2 24:6 26:4,6,11 28:6 29:2 30:17 31:15 32:17 34:24 35:11 37:7 42:19 57:9 59:13 61:7 66:13 one's ^[1] 10:17 one-way ^[1] 50:23 ones ^[3] 30:22 45:20,22 only ^[18] 6:9 9:1 14:17 17:24 27:1 38:24 39:3 45:6 47:18 53:5 54:4,9, 10,17 56:16 57:10 58:15 65:12 open ^[2] 41:8 46:9 opened ^[1] 46:18 operate ^[2] 5:19 54:3 opposite ^[2] 42:6,12 option ^[1] 49:25 oral ^[8] 1:23 3:2,6,10 4:9 17:11 34:7 66:11 Oregon ^[3] 27:10,13,14</p>
--	--	--	---

Official - Subject to Final Review

<p>Organic [6] 18:12,21 29:21 32:3 34:1 40:11</p> <p>organizations [1] 4:24</p> <p>other [22] 6:17 10:1 13:16 14:13 16:4 26:19 32:5 36:4 37:9 38:13 39:24 40:18 44:18 48:9 55:21 57:9,20 59:15 60:7,25 62:17 66:13</p> <p>other's [1] 46:2</p> <p>others [2] 46:7 55:14</p> <p>otherwise [1] 61:9</p> <p>out [19] 5:8 8:1 19:6,24 23:4 25:15 28:21 30:18 33:8 34:12,21 35:19 37:5 38:17 45:18 47:3 57:19 62:21 65:21</p> <p>outside [6] 5:21,24,24 65:13,14,15</p> <p>over [37] 5:4 6:14,15,16 7:13 8:4,23 12:22 13:4 17:24,25 21:21,23 27:1 28:10,20,23 34:18,22 36:2,5,9 37:8,9,18,20 38:9 39:4,5 44:11,13 48:5 49:7 56:25 57:24 61:24 65:9</p> <p>overall [8] 4:19 8:21 39:21 48:2 64:12 65:4,19,20</p> <p>own [6] 4:24 13:11 49:9,10 53:6 59:12</p> <p>owner [1] 61:8</p> <p>Owners [1] 61:6</p> <p>owns [2] 45:21,23</p>	<p>passed [5] 18:13 29:12 48:14 60:2 63:2</p> <p>passes [1] 8:24</p> <p>past [2] 36:16 60:1</p> <p>path [2] 10:21 13:4</p> <p>PAUL [3] 2:5 3:7 17:11</p> <p>people [2] 23:18 55:16</p> <p>perfectly [1] 21:19</p> <p>perhaps [1] 55:25</p> <p>permanent [1] 53:19</p> <p>permission [3] 16:2,4 23:6</p> <p>Permits [1] 61:6</p> <p>person [2] 28:10 55:11</p> <p>Petitioner [8] 1:12 2:6 3:8 17:12 63:11 65:3,6,10</p> <p>Petitioners [5] 1:5 2:4 3:4,15 4:10</p> <p>philosophers [1] 32:23</p> <p>phrase [1] 58:11</p> <p>picked [1] 29:5</p> <p>piece [2] 12:10 15:20</p> <p>ping [1] 43:5</p> <p>PIPELINE [32] 1:11 19:2,4,12,15 20:10,24 21:4,10 24:10 28:18 30:12,14 34:23 36:14 46:9,11,15 47:4,10,14 50:4 53:11 59:5 60:3,23 61:3,8,11,13 62:15 63:5</p> <p>pipelines [9] 22:14 23:23 28:2 46:13 50:20 53:17 59:15 60:12 61:23</p> <p>pipes [1] 16:3</p> <p>Pittsburgh [1] 11:15</p> <p>plain [1] 12:4</p> <p>plane [1] 22:6</p> <p>please [5] 4:12 17:14 34:10 42:9,17</p> <p>pleased [1] 55:11</p> <p>plus [1] 54:19</p> <p>Point [11] 6:16 24:3 37:5 38:17 45:14 47:3 50:17,21 58:8 61:2 64:24</p> <p>pointed [2] 34:21 35:19</p> <p>pong [1] 43:5</p> <p>portions [2] 5:20 47:2</p> <p>Portland [2] 27:13,14</p> <p>position [8] 5:14 18:24 48:10,18 52:21 53:3,3 65:19</p> <p>positions [1] 66:16</p> <p>possible [1] 56:23</p> <p>possibly [1] 15:15</p> <p>potential [1] 7:9</p> <p>potentially [1] 7:17</p> <p>Potomac [1] 63:18</p> <p>power [1] 42:3</p> <p>powerfully [1] 18:8</p> <p>powers [1] 58:21</p> <p>practical [4] 22:11,18,21 47:16</p> <p>preexisting [1] 54:1</p> <p>preliminary [2] 6:21,23</p> <p>PRESERVATION [3] 1:7,14 4:6</p> <p>pretty [1] 22:16</p> <p>primarily [1] 8:18</p> <p>principle [1] 60:11</p> <p>private [26] 4:15 8:3 20:1 30:22 36:9,14 37:23,25 38:5,9,12,19,23 39:4 41:11 42:4 44:24 47:9 53:25 54:12,15 55:16 56:11,19 60:6 66:17</p>	<p>probably [4] 20:11 30:3 31:22 32:17</p> <p>problem [6] 20:3 32:24 64:20,25 65:2,11</p> <p>problems [1] 24:20</p> <p>proceedings [1] 37:14</p> <p>property [11] 8:2 36:24 37:23 38:2,9,12 45:11 52:19 53:25 56:11 64:6</p> <p>proposed [1] 28:5</p> <p>protective [1] 54:20</p> <p>provide [3] 14:8 15:1,4</p> <p>provided [4] 15:5,6 16:19 60:17</p> <p>provision [7] 9:9 15:19 25:2 28:17,25 29:1 61:5</p> <p>provisions [5] 17:21 28:16 30:19 58:10 60:19</p> <p>public [1] 16:19</p> <p>published [1] 52:7</p> <p>purport [1] 56:19</p> <p>purposes [9] 23:1,2 47:19 51:15 61:11,14,15,16 63:22</p> <p>pursuant [2] 32:2 53:19</p> <p>put [7] 6:10 19:11,12 38:23 41:2 48:22 59:11</p> <p>puts [1] 14:4</p>	<p>regular [1] 54:2</p> <p>regulate [5] 17:7 41:1,7,11 56:19</p> <p>regulates [3] 6:8 13:13 39:18</p> <p>regulating [2] 14:5 41:14</p> <p>regulation [8] 13:17,19 14:16 32:7 40:3,5 63:14,20</p> <p>regulations [11] 13:7 38:5,18,20 40:7,9,13 44:12 53:6 61:18,21</p> <p>regulatory [3] 14:11 42:3 57:20</p> <p>reinforces [1] 18:8</p> <p>relatedly [1] 45:15</p> <p>relevant [1] 16:21</p> <p>relocate [1] 65:24</p> <p>relocated [2] 11:22,25</p> <p>rely [1] 62:24</p> <p>remaining [1] 63:9</p> <p>remains [2] 43:22 44:7</p> <p>remember [1] 9:17</p> <p>removing [1] 24:7</p> <p>repeal [1] 57:15</p> <p>repeatedly [2] 4:20 37:11</p> <p>reply [11] 8:9 9:17,20,25 10:2 25:3 26:10 30:6 51:18 54:22 58:7</p> <p>represent [1] 24:10</p> <p>require [2] 37:13 49:25</p> <p>required [2] 34:2 66:1</p> <p>requires [4] 5:18 14:2,12 15:9</p> <p>requiring [1] 17:3</p> <p>reserved [1] 20:18</p> <p>resist [1] 24:11</p> <p>resources [1] 53:12</p> <p>respect [2] 31:14 37:24</p> <p>respond [1] 16:13</p> <p>Respondent [1] 65:11</p> <p>Respondent's [1] 65:17</p> <p>Respondents [6] 1:9,16 2:8 3:12 5:11 34:8</p> <p>Respondents' [3] 5:9 17:15 18:23</p> <p>response [1] 59:19</p> <p>responsibilities [4] 5:1 15:16 16:10 64:14</p> <p>responsibility [2] 12:22 39:23</p> <p>responsible [3] 4:24 5:6 15:20</p> <p>rest [1] 53:20</p> <p>restrict [1] 23:21</p> <p>restriction [1] 39:2</p> <p>restrictions [1] 34:1</p> <p>result [1] 49:23</p> <p>return [1] 66:8</p> <p>reverse [2] 57:5 58:21</p> <p>reviews [1] 7:9</p> <p>ribbons [1] 46:7</p> <p>ridge [12] 19:10,10 20:7,8,9 49:5 51:22 52:8 60:8,21,23 61:4</p> <p>right-of-way [17] 7:25 16:2,17 26:11 28:5,7,9 37:7,18 57:24 59:5 60:3 61:8 65:15,17,23 66:2</p> <p>right-of-ways [1] 53:5</p> <p>rights [11] 16:24 26:13 34:15 35:24 36:24,25 37:13,23 38:2,9,12</p> <p>rights-of-way [3] 28:1,18 58:16</p> <p>rights-of-ways [3] 34:18 50:5 61:23</p>
Q			
<p style="text-align: center;">P</p> <p>Pacific [4] 13:10 31:4,6 47:1</p> <p>PAGE [4] 3:2 5:17 9:22 54:23</p> <p>pages [1] 7:2</p> <p>par [2] 50:9 52:10</p> <p>parade [2] 59:10,20</p> <p>parallel [1] 60:24</p> <p>parcels [1] 16:16</p> <p>Park [130] 4:16,23 5:7,13 6:6,6,7,7 8:1,11,13,14 9:10,11,13,15,23 11:19 13:9,13,16 14:4,16,17 17:16,18 18:20,25 20:21 22:4,23,25 23:10,13,17 24:7,23 25:9 26:22,24 27:3,5,9,11,15 29:20,25 30:4,11,21 31:12,16,17,19,21,23,25 32:2,6,11,12,14,15,23 33:2,3,8,9,13,15,17,19,25 35:1,8,10,11,13,25 37:17,24 38:3 39:8,10,15,22 40:7,8,11,12,15 41:1,10,13,16,19 43:21 44:11,15,25 45:7,12,12,19,23 47:5 48:1,24 49:9,16 50:1,8,15 51:21 52:4,6,9 54:10,21 55:2 56:18 57:17 59:13 60:9,10 61:18,21 62:10 63:4,21</p> <p>parks [7] 46:6,8,19 47:3 50:22 52:1,12</p> <p>Parkway [17] 20:9,12,23 35:16 49:5 51:22 52:8 60:8,13,21,23 61:4,15,16,18,19 62:1</p> <p>parkway's [1] 20:12</p> <p>part [8] 9:16 33:12,13 35:11 41:9,10 45:3 55:4</p> <p>particular [2] 20:24 39:23</p> <p>parts [2] 27:7 62:7</p> <p>pass [1] 61:24</p> <p>passage [3] 37:8,10,20</p>	<p>quadrupling [1] 30:2</p> <p>quaint [1] 30:19</p> <p>question [21] 6:24 7:10 13:1 15:24 23:16,20,21 34:11 38:8 41:7 42:19,24 43:9 45:17 47:21 50:4,11 57:2 58:16 61:7 62:12</p> <p>quite [6] 11:1 23:16 24:5 40:20 50:12 55:11</p>	<p style="text-align: center;">R</p> <p>raise [1] 47:12</p> <p>rangers [1] 31:20</p> <p>rare [1] 66:12</p> <p>rather [1] 50:1</p> <p>rational [1] 46:18</p> <p>read [7] 12:8,16 25:1,4 28:16 51:18 64:20</p> <p>reading [4] 6:1 21:25 25:22 31:15</p> <p>real [1] 11:2</p> <p>reality [1] 32:25</p> <p>really [12] 11:1 28:21 30:17 32:19,19,21 49:22 52:25 53:10,10 58:9 62:22</p> <p>reason [7] 7:23 18:15 25:18,21 49:14 60:13 62:2</p> <p>reasons [3] 11:22 17:18 62:15</p> <p>reassign [1] 50:15</p> <p>REBUTTAL [2] 3:13 63:10</p> <p>recently [1] 11:13</p> <p>recognition [1] 36:5</p> <p>recognize [1] 66:12</p> <p>recognizes [1] 58:8</p> <p>reconsideration [1] 7:4</p> <p>records [1] 66:10</p> <p>recreation [1] 52:1</p> <p>refers [3] 37:9 58:5,12</p>	<p>quaint [1] 30:19</p> <p>question [21] 6:24 7:10 13:1 15:24 23:16,20,21 34:11 38:8 41:7 42:19,24 43:9 45:17 47:21 50:4,11 57:2 58:16 61:7 62:12</p> <p>quite [6] 11:1 23:16 24:5 40:20 50:12 55:11</p>

Official - Subject to Final Review

<p>RIVER [6] 1:7,14 4:6 11:15,15 60:15 ivers [15] 6:14 12:23 18:13,16 29:12,15,16 48:14,21,21,23 51:7,23 52:8 60:10 roads [2] 6:16 27:2 ROBERTS [15] 4:3 16:11 17:5,8 34:4 36:1,11,18 53:9,22 54:6 63:7 66:3,6 67:2 route [6] 18:4,7 20:10 39:11 50:23 65:22 rules [2] 49:21 53:6 run [6] 23:4 47:11 54:16,24 60:19,24 running [1] 53:17 runs [9] 33:8 40:23,24 47:2,7,8 53:25 63:19 64:8</p>	<p>13 6:6,7,11 8:2,2,14 11:19 13:3,9,13,17 14:4,16 15:8,10 17:18 18:20 19:1 20:1,21,21 22:9 23:7,10,14,18 24:7,23 25:5,6,10 26:22,24 27:3,5,9,11,15 30:1,21,21 31:7,21,23,25 32:2,6,12,14,15,23,24 33:2,3,8,9,15,17 34:2 35:1,8,10,14 37:18,24 38:4,18 39:6,8,10,22 40:7,8,12 41:1,10,10,13,16,19 44:11,16 45:7,12,12,19,21,22,23 46:8 47:6,7,8,13,25 48:1,24 49:8,9,16 50:1,8,15,16 51:21 52:5,6,6 54:10,15,21 56:18 57:17 59:4 61:18,21 66:21 Service's [1] 22:24 Service-administered [2] 14:18 17:17 set [1] 45:18 severe [1] 41:12 shall [6] 5:19 8:18 14:25 15:3 35:6 40:3 shared [1] 10:10 shift [1] 12:22 shouldn't [1] 62:16 show [1] 33:24 shows [1] 30:9 side [4] 26:19 40:18 43:4 48:9 sidewalks [2] 43:17,19 significant [3] 8:6 48:11,17 silentio [1] 31:2 simple [1] 21:7 simply [2] 4:18 51:12 simultaneous [2] 15:14 16:10 since [2] 7:8 60:1 single [1] 60:3 sitting [1] 31:20 Six [2] 19:16,17 size [1] 30:3 small [1] 11:23 snake [1] 47:14 snowmobiling [1] 40:4 Solicitor [1] 2:2 solid [1] 38:23 somebody [5] 23:19 24:6 36:6 37:2,8 somehow [1] 12:14 someone [1] 36:3 sometimes [3] 11:9 16:23 62:19 somewhere [3] 19:13 37:3 40:25 sorry [6] 41:17 42:10 53:16 58:19,23 59:1 sort [3] 28:17 29:2 30:9 sorts [2] 32:5 62:14 SOTOMAYOR [22] 9:7 15:11,23 16:8 24:16,18 25:2,7,11,16,20,24 26:5 40:14,17 41:5 58:18,25 59:8,23 64:19 65:1 speaking [2] 26:10 36:12 specific [2] 39:22 48:22 specifically [6] 34:15 38:18 40:8 42:2 61:22 64:11 specificity [1] 30:25 specify [1] 48:25 spelled [1] 65:21 spend [1] 25:17</p>	<p>spots [2] 60:25 62:4 square [1] 21:25 St [1] 11:17 stage [1] 7:23 start [1] 8:4 started [1] 27:20 starts [1] 27:11 state [20] 4:14 33:23,23 34:3 36:9,14 38:19 39:25 42:4 43:20 44:13,25,25 47:9 53:21 54:12,14 56:19 60:5 65:25 statements [2] 31:22,23 STATES [7] 1:1,3,24 4:5 5:19 56:8 66:17 stating [1] 8:17 status [1] 18:6 statute [16] 9:2,3,5 13:23 18:10 25:25 29:7 30:17,24 32:4,10 35:21 44:14 48:4 53:8 56:14 statutes [9] 12:17,21 35:4 43:5 49:24 55:18 61:25 62:20,23 statutory [3] 9:9,12 63:14 stay [1] 33:3 steer [1] 30:11 steps [1] 50:6 still [4] 22:18 37:1,4 38:5 stop [1] 59:15 straight [2] 6:14 63:19 straightforward [1] 26:16 strange [2] 12:8,11 strike [2] 36:23 51:10 strikes [2] 13:7 63:18 strip [1] 37:9 struggling [1] 45:16 Sturgeon [3] 35:19 41:8 63:15 sub [1] 31:2 subject [5] 18:11,21 29:20 32:6 33:25 submitted [3] 66:7 67:4,6 subsidiary [1] 28:17 substratum [1] 28:9 subsurface [2] 26:13 56:7 sudden [2] 23:9,11 suggest [3] 47:15 48:20 53:24 suggested [1] 63:16 suggesting [1] 57:12 suggests [2] 28:8 63:20 superficial [1] 25:22 supersede [2] 16:1,4 support [1] 26:14 suppose [3] 21:18 22:15 40:2 supposed [2] 19:15 22:24 SUPREME [2] 1:1,23 surface [17] 21:11,15,16 22:12 23:5,9 25:12 28:3,4,10,20,24 34:23,25 44:23 57:7 64:8 surface/subsurface [1] 27:24 system [41] 5:11 6:4,7,10 8:11,15 9:10,11,13,15,23 29:9,20 30:4,11,14 31:12,16,17,19 32:11 33:13,19,25 34:2 35:12,25 38:3 39:15 40:11,16 45:12 50:22 52:10 55:2 60:9,10 62:10 63:4,21 64:1 systems [1] 17:6</p>	<p style="text-align: center;">T</p> <p>table [1] 66:14 tact [1] 25:11 talked [3] 18:18 29:13,14 talks [4] 28:3 29:16 34:22 49:19 tap [1] 23:3 temporarily [1] 16:22 ten [2] 22:3 31:19 tens [1] 29:24 term [5] 29:5,7 35:20 49:2,7 territory [1] 46:2 text [3] 9:2 17:18,20 textual [2] 48:9,10 thanks [1] 34:3 themselves [1] 17:25 theories [1] 30:7 theory [4] 5:9 29:3 41:19 65:17 There's [19] 10:20 12:1 16:18 19:7 21:6 26:23 29:14 31:4,5 34:12 36:8 41:12,21 47:21 48:8 50:25 53:13,16 64:13 they've [1] 39:13 thinking [3] 26:12,14 36:18 thinks [1] 11:18 third [2] 6:25 16:23 though [3] 18:15 21:20 22:17 thousand [6] 6:11 19:1 45:4 54:20 55:1 62:3 Thousands [3] 18:24,24 29:24 threatens [1] 63:25 three [4] 16:14 19:5 35:3 64:10 throughout [3] 46:7 49:19 66:15 thwart [1] 46:11 together [2] 28:16 62:20 took [2] 50:5,6 top [3] 12:14 21:9 24:24 topic [1] 28:13 total [1] 22:4 tough [1] 43:4 toward [1] 9:22 towns [1] 6:12 tradition [1] 18:23 Trail [162] 4:15,20,21,25 5:3,5,11,12,14,24,25 6:4 7:13,24 8:1,10,13,18,19,22,23 9:4,11,14,21,23 10:11,19,21,23,24,25 11:6,6,7,14,20,21 12:3,9,11 13:8,10,12,14,14,15,18 14:5,9,22 15:25 16:3 17:17,22 18:3,4,4 19:6,7,12,14 20:9,11,18,23 21:3,8,12,13,14,16,22 22:5,12 23:5,25 24:25 26:12,17,20,22,23 27:4,4,10 29:8 30:23 31:4,5,6,12,16,17,24,24 32:1 33:1 34:19 35:6,17 36:9,16,21 37:13,15,18,21,23 38:11 39:11,12,14,17,18 40:4,10,23 41:22 42:14 43:24 44:11,13 46:5 47:2,6,14,19 51:23 52:9 53:4,5,18,25 54:2,18,19 58:13 59:14 60:4,14,15,18,20,24 61:3,20,21,24 62:4,6,8 63:19,22 64:2,5,8,13 65:5,6,14,18 trail-wide [1] 5:1 Trails [46] 4:14 5:20,21 6:19 11:12,</p>
--	---	--	---

Official - Subject to Final Review

<p>22 12:16,20 14:10 15:2 16:16 17:21 18:2 19:1 26:24 27:6 29:4,7,23, 24 30:13,18 35:5 37:11 39:9 42:2, 4,7,12,20 45:19 47:24 48:2 49:3, 19 50:3 51:6,11,16 52:22 53:20 54:16 56:23 57:13 60:2,7</p> <p>transfer ^[3] 64:13,17,23</p> <p>transferred ^[4] 18:18,20,25 65:10</p> <p>transferring ^[3] 6:5 29:13,19</p> <p>transfers ^[2] 18:10,17</p> <p>transformative ^[1] 31:2</p> <p>traversed ^[3] 4:15 17:16 32:1</p> <p>traverses ^[3] 10:19 11:20 17:22</p> <p>traversing ^[2] 12:12 36:4</p> <p>treat ^[1] 50:9</p> <p>tree ^[7] 5:4,8 13:4 14:22 18:5 22:1 24:7</p> <p>trees ^[2] 23:3,4</p> <p>troubles ^[1] 50:12</p> <p>true ^[6] 7:17 28:11 30:10 41:25 52:21 57:23</p> <p>try ^[1] 58:9</p> <p>trying ^[4] 9:17 19:4 28:13,21</p> <p>TVA's ^[1] 6:9</p> <p>two ^[25] 6:9 15:14,19,24 16:9,15 17:3 19:4 22:12 25:15 26:24 28:19 30:5 35:9 36:15 37:6 50:5 52:5 53:21 57:19 58:10 60:24 63:9 64:6,22</p> <p>two-dimensional ^[1] 20:4</p> <p>type ^[1] 20:8</p> <p>types ^[1] 16:14</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>ultimately ^[2] 5:2,2</p> <p>unaffected ^[3] 54:13,15,17</p> <p>under ^[36] 6:19 7:5,11 8:1 14:12 20:10 22:16 23:13 27:21,24 28:5, 8 30:1 33:1 34:13,18,20,24 36:14, 14,16,21 43:21 47:5 53:17 57:5 60:4,18,23,24 61:3,3,24 62:1,4 65:16</p> <p>underground ^[2] 19:13 44:18</p> <p>underlying ^[1] 16:24</p> <p>underneath ^[1] 25:13</p> <p>understand ^[6] 10:18,20 20:7 45:10,24,25</p> <p>understanding ^[1] 45:16</p> <p>undisturbed ^[2] 18:1 51:12</p> <p>uniform ^[1] 65:25</p> <p>uniforms ^[1] 31:21</p> <p>unimpaired ^[3] 22:25 33:23 34:3</p> <p>unit ^[3] 22:4 39:15 52:4</p> <p>UNITED ^[6] 1:1,3,24 4:5 56:8 66:17</p> <p>units ^[3] 40:9 51:22 52:9</p> <p>unless ^[2] 25:15 44:3</p> <p>unlike ^[1] 22:23</p> <p>unmistakably ^[1] 58:12</p> <p>untenable ^[1] 18:23</p> <p>until ^[1] 6:17</p> <p>unusual ^[2] 36:3,23</p> <p>up ^[16] 7:19 11:16 12:10 19:14 20:7 21:22 22:6,21 27:12 35:19 37:4</p>	<p>40:8,12 44:7 46:18 47:13</p> <p>uses ^[7] 13:13 28:20 37:11 47:18 48:5 49:7 58:11</p> <p>using ^[1] 37:19</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>vast ^[1] 6:5</p> <p>vehicles ^[1] 13:14</p> <p>verba ^[1] 29:21</p> <p>versus ^[1] 4:5</p> <p>viable ^[2] 26:1,4</p> <p>view ^[5] 10:9 23:22 24:20 32:4 59:13</p> <p>viewing ^[1] 22:11</p> <p>views ^[2] 19:20 20:19</p> <p>Virginia ^[2] 22:6 31:20</p> <p>volunteer ^[1] 39:24</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>walk ^[3] 11:5 37:2 54:22</p> <p>walking ^[4] 11:8,10,10,11</p> <p>wanted ^[3] 49:23 51:11 62:5</p> <p>wants ^[4] 12:21 24:6 56:10 64:17</p> <p>warm ^[1] 28:13</p> <p>Washington ^[5] 1:19 2:3,5,7 33:10</p> <p>waste ^[1] 38:23</p> <p>water ^[3] 9:14 35:14 49:1</p> <p>waters ^[3] 6:18 11:19,21</p> <p>waterways ^[1] 11:12</p> <p>way ^[17] 9:2,3 11:17 14:15 15:4,5 20:6 21:7 25:4,19 26:2,11,14,16 27:18,19 32:7</p> <p>ways ^[5] 16:20 22:12 34:16 37:13 60:17</p> <p>week ^[1] 66:24</p> <p>Weeks ^[5] 49:4 57:13,15,16,18</p> <p>weirdness ^[1] 13:11</p> <p>West ^[5] 6:15 11:17 22:5 31:20 45:22</p> <p>western ^[2] 46:6,19</p> <p>whatever ^[3] 45:1 53:3 59:17</p> <p>whereby ^[1] 64:1</p> <p>Whereupon ^[1] 67:5</p> <p>whether ^[14] 4:13 8:17,20,22 27:21 30:20 34:12 35:15,15,16,16 36:20,21 61:2</p> <p>who's ^[1] 45:18</p> <p>whole ^[2] 8:3 26:22</p> <p>wide ^[2] 54:21 55:1</p> <p>width ^[2] 18:18 39:11</p> <p>wild ^[5] 48:23 51:23 52:7 60:9,14</p> <p>Wildlife ^[2] 50:16 51:8</p> <p>will ^[5] 7:9,10 14:19 16:12 57:19</p> <p>win ^[5] 21:19 23:22 27:21,24 28:13</p> <p>winning ^[1] 24:11</p> <p>wish ^[1] 45:2</p> <p>withdrawn ^[1] 16:19</p> <p>within ^[3] 10:12 19:23,23</p> <p>without ^[4] 32:8 35:5,10 64:4</p> <p>won ^[1] 58:22</p> <p>wondered ^[1] 27:21</p> <p>wonderful ^[1] 30:19</p> <p>word ^[2] 29:2 48:6</p>	<p>words ^[3] 13:16 36:4 44:18</p> <p>work ^[3] 45:10 50:23 62:19</p> <p>works ^[1] 50:23</p> <p>worries ^[1] 55:13</p> <p>worrying ^[2] 43:7 55:24</p> <p>wrap ^[1] 10:17</p> <p>wrapped ^[1] 12:10</p> <p>writers ^[2] 12:6,7</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>YANG ^[44] 2:2 3:3,14 4:8,9,11 6:20, 22 7:7,15 8:12 9:7,16,19,24 10:3, 8,15,17 11:3,9 12:2,15 13:1,5,19, 24 14:2,7 15:3,11,22 16:5,14 17:6, 9 31:9 63:9,10,12 64:20,24 65:3 66:5</p> <p>years ^[7] 32:25 35:9 36:17 52:5 60:1 64:3 65:20</p> <p>Yep ^[2] 13:5 43:11</p> <p>Yosemite ^[3] 46:6 52:14 55:12</p> <p>yourself ^[1] 12:10</p> <hr/> <p style="text-align: center;">Z</p> <hr/> <p>zero-sum ^[1] 46:13</p>
--	---	--