

Scoping Meeting 10 September 2024U.S. COAST GUARD VIDA VIABILITY TESTING PEIS
SCOPING MEETING COMMENTS

Tuesday, September 10, 2024

Transcript of a public meeting that was held virtually via Microsoft Teams platform, commencing at 4:00 p.m. on the day and date above set forth, was produced by Tara Wilson, Professional Reporter and Notary Public in and for the Commonwealth of Pennsylvania.

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Scoping Meeting 10 September 2024

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ATTENDEES

- Jacqueline Boltz
- Kristen Tonche
- Zach Wells
- Tim O'Brien (USCG)
- Gabrielle Cantor (USCG)
- Andrew Murphy (USCG)
- June Mire
- Alayna Ness
- Scott Blackburn (GLS)
- Melissa Perera (USCG)
- John Morris (USCG)
- Jessica Held (USCG)
- Tom (Guest)
- Mckenna Hampton
- Peter Nordstrom

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1 MS. BOLTZ: Hello and welcome to
2 today's scoping meeting. My name is Jackie Boltz
3 and I'll be moderating this public meeting. I'm
4 a senior public outreach specialist with Tetra
5 Tech, who has been contracted by the Coast Guard
6 to support their National Environmental Policy
7 Act, or NEPA process, including developing the
8 Programmatic Environmental Impact Statement, or
9 PEIS, and the supporting public outreach.

10 My role today is to ensure that the
11 meeting runs on schedule, that we honor the
12 ground rules and that meeting participants have
13 the opportunity to provide comments.

14 The same presentation and materials
15 will be used at all three virtual public meetings
16 this week, as listed in the Notice of Intent for
17 Consideration for Acceptance of One or More
18 Viability Testing Methods for Type Approval of
19 Ballast Water Management Systems. This was
20 published in the Federal Register on August 21,
21 2024. The publication of this Notice of Intent
22 started a 45-day scoping period during which the
23 public may submit comments.

24 Commenting at a public meeting is only
25 one way to submit a comment. Comments may also

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1 be submitted during the scoping period via
2 regulations.gov, as explained in the Notice of
3 Intent. Please note that this meeting is being
4 recorded.

5 Following this introduction, today's
6 meeting has two parts:

7 First, U.S. Coast Guard will provide a
8 brief overview of the NEPA process and the
9 specific proposed action they are evaluating in
10 this PEIS. The second part of the meeting is
11 when you will have the opportunity to comment on
12 the information contained in the Coast Guard's
13 Notice of Intent. The U.S. Coast Guard's
14 presentation of their proposed action mirrors
15 what is written in the Notice of Intent.

16 Each commenter will have about three
17 minutes to speak. You will use the Raise Hand
18 tool to indicate you would like to make a verbal
19 comment. You will be asked to say and spell your
20 name before commenting. If time allows, previous
21 commenters may make additional three minute
22 comments.

23 If you would like to turn on closed
24 captioning during the meeting you can do that by
25 selecting More from the toolbar, then Language

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1 and Speech and Turn On Live Captions. You can
2 also adjust your screen layout by selecting the
3 View tool, from there you can choose from options
4 including Full Screen and Focus On Content, which
5 will highlight the presentation.

6 As mentioned previously, there are
7 several ways to comment during the scoping
8 process. You can comment verbally at any of the
9 three virtual public meetings. Written comments
10 can be submitted online through regulations.gov,
11 the Federal Decision-Making portal.

12 And with that, I would like to turn the
13 meeting over to Tim O'Brien, the Coast Guard's
14 Environmental Protection Specialist.

15 MR. O'BRIEN: Hello and welcome. It's
16 my pleasure to welcome you all to today's public
17 meeting. I am an Environmental Protection
18 Specialist with the Coast Guard's Office of
19 Standards Evaluation and Development. I help
20 lead the Environmental review of the Coast
21 Guard's proposed action.

22 We are conducting this NEPA evaluation
23 with collaborators from the Office of Operating
24 and Environmental Standards Division, which
25 includes Commander Murphy, Chief of the

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1 Environmental Standards Division, and many of his
2 staff. This meeting is focused on the scope of
3 the Programmatic Environmental Impact Statement,
4 PEIS, for Consideration for Acceptance of
5 Viability Testing Methods for Type Approval of
6 Ballast Water Management Systems, which we will
7 refer to as the PEIS.

8 The 45-day scoping period allows the
9 public to read the preliminary materials, attend
10 public meetings, and submit comments for
11 consideration. The last day of the scoping
12 period is October 7, 2024. The meeting
13 objectives are to provide clear information on
14 the National Environmental Policy Act Process and
15 give an opportunity to offer formal comments.

16 The National Environmental Policy Act
17 of 1970 requires that all federal agencies notify
18 and seek input from the public during planning
19 stages of major federal actions. NEPA allows
20 three levels of environmental review:

21 One, categorical exclusions otherwise
22 known as CATEX. Two, environmental assessment or
23 Finding of No Significant Impact or EA or FONSI;
24 or three, Environmental Impact Statement or EIS.

25 The Coast Guard has determined that the

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1 acceptance of a submitted viability testing
2 method has the potential for significant
3 environmental impacts. In this case, agencies
4 could choose to prepare an Environmental
5 Assessment to determine whether impacts would be
6 significant or an Environmental Impact Statement.

7 The U.S. Coast Guard chose to prepare a
8 Programmatic Environmental Impact Statement due
9 to the nationwide geographic scope of the
10 proposed action, the multiple types of Ballast
11 Water Management Systems that the U.S. Coast
12 Guard could ultimately type approve using one or
13 more viability test methods, if accepted, and the
14 inherent uncertainties that exist in doing so.

15 Our EIS will contain at a minimum, an
16 Executive Summary, Introduction and Background,
17 Purpose and Need, Alternatives Including the
18 Proposed Action, Affected Environment and
19 Environmental Consequences, List of Preparers and
20 Appendices.

21 This timeline illustrates the NEPA
22 process. We are in the scoping phase, which
23 continues for 45 days after the Notice of Intent
24 was published. The scoping period allows the
25 public to read the preliminary materials, attend

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1 public meetings and submit comments for
2 consideration. The scoping period ends on
3 October 7, 2024. The next phase is the
4 development of the draft PEIS. You will have
5 another opportunity to comment once the public
6 draft PEIS is published.

7 Now, I would like to introduce to you
8 Commander Murphy who will speak about the U.S.
9 Coast Guard's proposed action.

10 COMMANDER MURPHY: Hello, and thank you
11 all for attending today's meeting. My name is
12 Commander Andrew Murphy, and I am the division
13 chief of the U.S. Coast Guard's Environmental
14 Standards Division, where we develop standards
15 and regulations addressing the environmental
16 impacts of shipping.

17 As background, Congress passed the
18 Vessel Incidental Discharge Act or VIDA in 2018.
19 VIDA requires the U.S. Coast Guard to consider
20 using viability as a measure of whether or not
21 ballast water is meeting the ballast water
22 discharge standard. VIDA further requires that
23 the U.S. Coast Guard use best available science
24 to evaluate viability testing methods submitted
25 to the Coast Guard. A viability test method, if

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1 accepted, would be used in the Coast Guard's
2 ballast water management system type approval
3 process. In the next few slides, I will discuss
4 these terms so that we are all in agreement about
5 what VIDA says.

6 Viability is the ability of an organism
7 to reproduce. Currently compliance with the
8 ballast water discharge standard is measured
9 using a live/dead metric as prescribed in EPA's
10 Environmental Technology Verification, otherwise
11 known as the ETV Protocol. This is the standard
12 used for testing Ballast Water Management Systems
13 to verify the system produces a discharge with
14 the number of live organisms below the discharge
15 standard. This means most organisms have to be
16 dead to be released in ballast water discharge.

17 VIDA requires the U.S. Coast Guard to
18 consider also using viability as a metric. Using
19 viability as a metric, most organisms must either
20 be dead, or if alive, they must be unable to
21 reproduce in order to be released in the ballast
22 water discharge. In other words, living
23 organisms that are deemed unable to reproduce
24 would not be counted toward the limit and could
25 be legally discharged.

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1 Using best available science means
2 Coast Guard will consider the most thorough
3 scientific information we can find when making
4 decisions about the suitability of any viability
5 testing method. Including peer-reviewed and
6 publicly available data ensures the Coast Guard
7 reaches beyond our own experts to incorporate
8 research and experiences of others.

9 Thorough scientific reporting includes
10 an honest assessment of the limitations of the
11 data represented, potential alternative
12 interpretations of the data and known gaps in the
13 completeness of the data. An analysis of
14 uncertainties is a key component of high-quality
15 scientific communication. Using best available
16 science maximizes the quality, objectivity and
17 the integrity of information; uses peer-reviewed
18 and publicly available data; and clearly
19 documents and communicates risks and
20 uncertainties in the scientific basis for such
21 projects.

22 A viability test is meant to count how
23 many living individuals in a water sample are
24 capable of reproducing now or in the future. The
25 test would have to first distinguish living from

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1 nonliving, or dead, organisms, then identify
2 which of the living organisms would be able to
3 reproduce at any time in the future, and which
4 are permanently incapable of reproduction.

5 Water taken into the ballast water
6 tanks contain millions of microscopic organisms.
7 A Ballast Water Management System is an onboard
8 system that will treat ballast water to reduce
9 viable organisms in order to comply with the
10 applicable discharge standards for ballast water
11 before it is discharged into U.S. waters.

12 Type approval is the Coast Guard's
13 formal certification that a particular device or
14 piece of equipment, in this case a Ballast Water
15 Management System, has been tested for its
16 ability to meet legal and regulatory
17 requirements.

18 The PEIS is a direct outcome of two
19 previous events. The first was VIDA, passed by
20 Congress in 2018. The second was when the Coast
21 Guard prepared Policy Letter 02-22, Type Approval
22 Testing Methods for Ballast Water Management
23 Systems That Render Organisms Nonviable in
24 Ballast Water, in July 2019 and the final policy
25 letter became effective in early 2022.

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1 VIDA instructs the Coast Guard to take
2 into consideration testing methods that use
3 culture methods and statistical analysis to
4 determine whether an allowable number of
5 reproductively viable organisms are in a ballast
6 water sample. This action fulfills the
7 Congressional requirements from VIDA.

8 The Coast Guard would consider,
9 evaluate and potentially accept one or more
10 viability testing methods submitted by a third
11 party. The viability testing method would then
12 be used in type approval of one or more Ballast
13 Water Management Systems. Ultimately, if a
14 Ballast Water Management System is type approved
15 using viability as a metric, dead organisms that
16 are alive but permanently unable to reproduce,
17 could be released to U.S. waters. The PEIS
18 evaluates the risk associated with this proposed
19 action.

20 Thank you all for attending and we
21 welcome your comments on any of the topics
22 addressed in this presentation that may be
23 affected by the proposed action.

24 At this time, I'll turn the meeting
25 back over to our Environmental Protection

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1 Specialist Tim O'Brien.

2 MR. O'BRIEN: Now that Commander Murphy
3 has described the U.S. Coast Guard's proposed
4 action, I will continue by describing the No
5 Action Alternative. NEPA requires the lead
6 agency --

7 MS. BOLTZ: I'm sorry. Tim, you're a
8 little garbled. Could you start again?

9 MR. O'BRIEN: Sure. NEPA requires the
10 lead agency, in this case, the U.S. Coast Guard,
11 to consider reasonable alternatives to the
12 proposed action that would avoid or minimize
13 adverse effects or enhance the quality of the
14 human environment.

15 In the case of the No Action
16 Alternative, the Coast Guard would consider,
17 evaluate, but not accept any viability testing
18 method and thus the Coast Guard would continue to
19 use the live/dead metric of measuring compliance
20 with the standard for type approval of Ballast
21 Water Management Systems.

22 NEPA requires the Coast Guard to
23 identify and evaluate reasonably foreseeable
24 impacts to the environment that would result from
25 the Proposed Action and alternative. The

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1 potential impacts of the proposed action could be
2 widespread because Coast Guard Ballast Water
3 Management Systems type approval covers vessels
4 discharging ballast water to all U.S. waters.
5 The affected environment includes fresh water
6 habitats like the Great Lakes, and marine and
7 estuarine habitats on all U.S. coasts, including
8 Alaska, Hawaii, and all U.S. Territories.

9 The Coast Guard foresees potential
10 impacts to water quality and aquatic organisms
11 where discharges occur. Residual chemicals from
12 Ballast Water Management Systems could change
13 water quality locally where ballast water is
14 discharged. In addition, if organisms that are
15 presumed nonviable are actually viable,
16 nonindigenous and invasive, they could become
17 established in U.S. waters and/or coastal areas.
18 Impacts in a given location would depend on
19 numerous factors, such as traits of the organisms
20 released, concentration of organisms released in
21 each location at one time, factors favoring
22 population establishment and growth of the
23 invasive organism, and existing stressors on
24 native species in the area.

25 Specific managed resources that could

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1 be affected by the proposed action include
2 managed fisheries, essential fish habitat,
3 endangered species, marine protected areas and
4 water quality. When ecosystems are disrupted,
5 secondary effects on human health, recreation and
6 socioeconomics can follow. It's not possible for
7 the Coast Guard to predict exactly which invasive
8 species could be introduced or where they would
9 become established and cause harm to the
10 ecosystem. It would also be impossible to
11 accurately predict if an invasive species would
12 be introduced at all as a result of the proposed
13 action.

14 Actual impacts would be influenced by
15 the specific viable organisms released in
16 specific locations under specific conditions that
17 favor population establishment and growth.
18 Nevertheless, the Coast Guard will attempt to
19 analyze the environmental consequences resulting
20 from a potential change in the number of invasive
21 organisms discharged in ballast water discharge
22 if viability were used as a metric.

23 We are currently in the scoping phase.
24 The scoping phase will end October 7, 2024. We
25 expect to have the draft PEIS available for

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1 review in 2025 and the final PEIS within two
2 years of publication of the NOI.

3 We welcome your comments on any of the
4 topics addressed in this presentation, especially
5 regarding potential environmental impacts and
6 resources that may be affected by the proposed
7 action.

8 I'll turn the meeting over to our
9 moderator who will lead us through the listening
10 session.

11 MS. BOLTZ: Thank you, Tim.

12 I'll take this opportunity to encourage
13 you to submit comments either during this meeting
14 or online at regulations.gov, you can use the
15 docket number shown on the slide. And we will
16 now move to the second part of the meeting to
17 hear public comments.

18 For those of you just joining us,
19 today's meeting is on the scope of the PEIS for
20 Consideration for Acceptance of Viability Testing
21 Methods for Type Approval of Ballast Water
22 Management Systems. Please limit your comments
23 to this topic.

24 I'll call names in the order in which
25 hands are raised, Teams assigns a number. When

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1 your name is called, your microphone will be
2 available for you to unmute and begin speaking.
3 Please allow a few seconds for the microphone to
4 become available. Before making your comment,
5 state your name and spell it and your
6 affiliation, if any, unless you wish to remain
7 anonymous. The Coast Guard cares about your
8 privacy and wants you to be aware that your
9 entire comment, including your personal
10 identifying information, may be made publicly
11 available. If you wish for your name or other
12 personally identifiable information to be
13 withheld, please state this clearly at the
14 beginning of your comment.

15 Each speaker will have a three minute
16 limit on their remarks so we can hear from
17 everyone who wishes to speak tonight. If there
18 is time available at the end, we may be able to
19 allow additional time for those who have already
20 commented. Please note that the Coast Guard
21 personnel are here to listen carefully to your
22 comments, but they will not be responding to your
23 comments today or any questions that you pose in
24 your comments.

25 I apologize in advance if I have to cut

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1 you short because I know that you've spent time
2 preparing your remarks. Fortunately, you can
3 always amplify what you said today in a written
4 comment. And just as a reminder, the comment
5 period closes on October 7, 2024.

6 This slide shows how to raise your hand
7 to indicate you would like to make a comment.
8 Click on the Raise Hand icon in the toolbar and
9 you will be added to the list of commenters.
10 Teams assigns a number in the order in which
11 hands are raised. I will be using that order to
12 identify speakers. If you are joining the
13 meeting by phone only, you can dial Star 6 to
14 raise your hand. When I call on you, I will give
15 you access to unmute your microphone. This may
16 take a few seconds.

17 Again, once your microphone is unmuted,
18 please state and spell your name and any
19 affiliation before beginning your comment. I
20 will let you know when you have about 30 seconds
21 left in your three minutes, so that you can wrap
22 up your comments. I will look and see if we have
23 any hands raised. This is your opportunity to
24 make comments. If we do not have anyone who is
25 interested in commenting at this time, we will be

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1 in recess for 15 minutes and then check back and
2 see if there are any commenters, and we'll do
3 that twice. And if there are no individuals who
4 would like to make comments during the scoping
5 meeting, we will adjourn the meeting at 5:00 p.m.
6 Eastern Time. I don't see anyone indicating
7 they'd like to make a comment, so we'll be in
8 recess for the time being.

9 (Meeting in recess from 4:21 p.m. to
10 4:34 p.m.)

11 MS. BOLTZ: As a reminder, we are here
12 to take public comment. If you would like to
13 make a comment you may raise your hand using the
14 Raise Hand icon in the meeting controls and
15 you'll be recognized. Your microphone will
16 become available, you can unmute it and make a
17 comment. And if there are no individuals who
18 would like to make a comment at this time, we'll
19 remain in the meeting but in recess for another
20 15 minutes and check in at that time. And again,
21 we will be here until 5:00 p.m. Eastern if there
22 are no commenters.

23 I do see Mckenna Hampton. Just one
24 moment, let me allow your microphone. You should
25 be able to unmute yourself and make your comment.

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1 Please state your name and spell it and any
2 affiliation.

3 MCKENNA HAMPTON: Hi. My name is
4 Mckenna Hampton. I go to Baylor University and I
5 am under NDA, so I can't say much about what
6 we're doing other than the fact that we're -- I'm
7 working for a company doing research and
8 development on the analysis of microscopic
9 aquatic organisms. And I just had a few
10 questions about time frame in the document that
11 you sent out.

12 First being, that it appears that the
13 PEIS is structured in such a way as to allow time
14 for a solution to be developed, verified and
15 deployed. I just wanted to confirm that.

16 MS. BOLTZ: I know you just joined. We
17 are taking comments and the Coast Guard is here
18 to listen but aren't necessarily responding to
19 questions. Tim O'Brien is the Environmental
20 Protection Specialist. I'll let him state if
21 he'd like to respond.

22 MR. O'BRIEN: Yes. I'm afraid that
23 question's outside the scope of this -- purpose
24 of this public meeting. Thank you, though, for
25 your questions.

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1 MCKENNA HAMPTON: Okay. Thank you.

2 MS. GABRIELLE CANTOR: Jackie, if you are
3 speaking you were on mute.

4 MS. BOLTZ: I was just saying if
5 Mckenna would to add to those comments for
6 consideration in the development of the draft
7 PEIS. You can add additional comments that will
8 be included in the transcript and considered in
9 preparation of the draft document. If not, we
10 will -- oh, go ahead.

11 MCKENNA HAMPTON: Sorry. I was just
12 saying, I'll withhold any additional comments.
13 Thank you.

14 MS. BOLTZ: Thank you.

15 I don't see any additional hands
16 raised. Again, if you would like to make a
17 comment, please raise your hand using the Hand
18 Raise tool in the toolbar and you'll be
19 recognized. If there aren't any individuals, who
20 would like to comment at this time, we'll be in
21 recess for another 15 minutes at which time we'll
22 check in. And again, we'll adjourn the meeting
23 at 5:00 p.m. Eastern if there are no further
24 commenters, but I'll check back in 15 minutes to
25 see if anybody would like to make a comment at

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1 that time. Thank you.

2 (Meeting recessed at 4:37 p.m. until
3 4:45 p.m.)

4 MS. BOLTZ: As a reminder, if you would
5 like to make a comment, you can raise your hand
6 using the Raise Hand icon on the toolbar. We
7 will be here for another 15 minutes until 5:00
8 p.m. Eastern Time. And in the absence of anyone
9 who'd like to make a comment at this time we will
10 continue to be in recess. Thank you.

11 (Brief pause in proceedings.)

12 MS. BOLTZ: For those who are just
13 joining us, we are here to receive public
14 comments. If you would like to make a comment,
15 you can raise your hand using the toolbar and you
16 will be recognized to make your comment. And if
17 there's no one who would like to make a comment
18 at this time, we'll be recess until 5:00 p.m.
19 Eastern, at which time we'll adjourn the meeting.
20 And I will share the information before we
21 adjourn as how you can submit comments in
22 writing. Again, if you'd like to make a comment,
23 please select the Raise Your Hand icon in the
24 meeting control and you'll be recognized.

25 (Meeting recessed from 4:46 p.m. to

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1 4:51 p.m.)

2 MS. BOLTZ: I see we have a hand
3 raised. Tom, just a moment. I will allow your
4 mike. You should be able to unmute yourself and
5 if you would state and spell your name. Tom,
6 you'll need to click on the microphone to unmute
7 yourself. Tom, I see you have your hand raised,
8 I have given you access to your microphone. If
9 you would like to make a comment, please click on
10 the microphone to open it up and state your name
11 and your comment. Thank you.

12 Again, Tom, I see that you have your
13 hand raised. I have given you access to your
14 microphone if you'd like to comment, please
15 unmute yourself. And if you're unable to do so,
16 in just a few moments, I'll share the information
17 about how you can submit a comment in writing.
18 Thank you.

19 (Meeting in recess from 4:53 p.m. to
20 4:58 p.m.)

21 MS. BOLTZ: We are approaching the top
22 of the hour, so again, if anyone would like to
23 make a comment, you can raise your hand using the
24 Raise Hand icon as shown on the screen and you'll
25 be recognized. And it doesn't appear that we

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1 have any hands raised, so I will share this next
2 slide. If you would like to provide additional
3 comments or additional information, you can do so
4 in a written comment using the method shown on
5 the slide through the regulations.gov docket.
6 And one last reminder, the comment period does
7 close on Monday, October 7, 2024.

8 I'd like to thank you all for
9 participating in today's meeting. And as
10 reminder, there is one additional meeting that
11 will be held tomorrow at 7:00 p.m. Eastern Time.
12 Information on how to join that meeting can be
13 found in the Federal Register notice.

14 And with that, I don't see any
15 additional hands raised. I'll just wait another
16 few seconds. Again, I'd like to thank you for
17 participating in today's meeting and with that, I
18 will end the meeting.

19 (Meeting concluded at 5:00 p.m.)

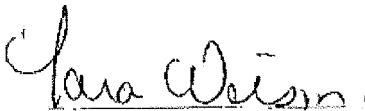
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C E R T I F I C A T E

I hereby certify that the proceedings are contained fully and accurately, to the best of my ability, in the notes taken by me, at the meeting in the above matter; and that the foregoing is a true and correct transcript of the same.



TARA WILSON, C.R.

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