

**IN THE MATTER OF AN ARBITRATION UNDER CHAPTER ELEVEN OF THE NORTH
AMERICAN FREE TRADE AGREEMENT
AND THE UNCITRAL ARBITRATION RULES**

BETWEEN:

**WILLIAM RALPH CLAYTON, WILLIAM RICHARD CLAYTON,
DOUGLAS CLAYTON AND DANIEL CLAYTON AND BILCON OF DELAWARE INC.**

Claimants

AND:

GOVERNMENT OF CANADA

Respondent

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3	R-238	Email from Helen MacPhail to Jean Crépault	September 8, 2004
3	R-239	News Release, <i>Whites Point Quarry and Marine Terminal Project – Joint Review Panel, The Public is invited to Comment on the Draft Guidelines</i>	November 10, 2004
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4	R-285	<i>Natural Aggregates - Foundation of America's Future, Mineral Resources Program</i>	February 1999
4	R-286	<i>Whites Point Quarry and Marine Terminal Public Hearing Transcript, Day 1, Volume 1, p. 142</i>	June 16, 2007
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5	R-351	<i>Voisey's Bay Mine and Mill Environmental Assessment Panel Report</i>	March 1999
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6	R-362	Newfoundland and Labrador Refining Corporation Crude Oil Refinery & Marine Terminal, <i>Environmental Assessment Track Report</i>	March 22, 2007
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7	R-398	<i>Bow Valley Naturalists Society v. Canada (Minister of Canadian Heritage)</i> , 2001 CarswellNat 39, 37 C.E.L.R. (N.S.) 1, 266 N.R. 169, 27 Admin.	January 10, 2001
7	R-399	<i>Bowen v. Canada (Attorney General)</i> , 139 F.T.R.1, [1998] 2 F.C.395	November 7, 1997
7	R-400	<i>Cacouna Energy LNG Terminal Project, Inquiry and Public Hearing Report</i> , Joint Review Panel	November 2006
7	R-401	<i>Cantwell v. Canada (Minister of the Environment)</i> 1991 CarswellNat 5, 2006 CarswellNat 3642, 6 C.E.L.R. (N.S.) 16, 41 F.T.R.18	January 18, 1991

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8	R-417	<i>Guidelines for the Preparation of an Environmental Impact Statement</i> , Marathon Platinum Group Metals and Copper Mine Project, pursuant to the <i>Canadian Environmental Assessment Act</i> and <i>Ontario Environmental Assessment Act</i>	August 2011
8	R-418	<i>MidAtlantic Minerals Inc. Aguathuna Quarry Development, Environmental Impact Comprehensive Study Report, Executive Summary</i>	July 13, 2009

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8	R-423	<i>National Energy Board Act</i> , National Energy Board Electricity Regulations, SOR/97-130	1997
8	R-424	News Release, <i>Georgia Strait Crossing Pipeline Project Referred to Environmental Assessment Panel</i>	October 4, 2000
8	R-425	Project Rabaska, <i>Notice of Commencement of an Environmental Assessment</i>	June 23, 2004
8	R-426	<i>Orca Sand and Gravel Project, Comprehensive Study Report</i> , excerpt	June 30, 2005
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8	R-429	<i>Prosperity Gold-Copper Mine Project, Taseko Mines Ltd. British Columbia, Report of the Federal Review Panel</i> , excerpt	July 2, 2010
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8	R-431	<i>Rabaska Project, Environmental Assessment Track Decision Report</i> for the Minister of the Environment	October 27, 2004
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8	R-434	<i>Responsible Authority's Guide: The Manager's Guide</i> , Canadian Environmental Assessment Agency	November 1994
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8	R-440	<i>The Constitution Act</i> , 1867 (UK), 30 & 31 Victoria, c 3	1867
8	R-441	National Energy Board, Sable Offshore Projects, Transcript Hearing, Volume 56	July 14, 1997
8	R-442	<i>Vancouver Island Peace Society v. Canada</i> 1992 CarswellNat 108, [1992] 3 F.C. 42	April 14, 1992
8	R-443	<i>Voisey's Bay Mine and Mill Environmental Assessment Panel Report, Summary</i> , Canadian Environmental Assessment Agency	March 12, 2010
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8	R-452	Email from Randy Decker to David Estrin	November 6, 2009
8	R-453	News Release, <i>Proposed Aguathuna Quarry Development Project Clears Environmental Assessment Phase</i>	November 10, 1999
8	R-454	Letter from C. Jackman, Minister, Appointment of an Environmental Assessment Committee for the Belleoram Crushed Rock Export Quarry	June 22, 2006
8	R-455	News Release, <i>Belleoram Marine Terminal Project: Environment Minister Announces Decision</i>	November 22, 2007
8	R-456	Letter from Michael Lowe to Bob Petrie	March 14, 2004
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9	R-475	<i>Belleoram Crushed Rock Export Quarry, Draft Comprehensive Study Report</i>	March 2007
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9	R-477	Whites Point Quarry and Marine Terminal Public Hearing Transcript, Day 4, excerpt	June 20, 2007
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9	R-482	<i>Operational Policy Statement</i> , OPS-EPO/3 - 1999	March 1999
9	R-483	Letter to Paul Buxton from Robert Fournier with Panel Information Requests (IRs)	January 8, 2006
9	R-484	<i>A Reference Guide for the Canadian Environmental Assessment Act, Addressing Cumulative Environmental Effects</i> , prepared by the Federal Environmental Assessment Review Office	November 1994
9	R-485	Email from Debra Myles to Josephine Lowry	December 19, 2006
9	R-486	<i>Bilcon Information Request Responses</i> , s. 7, pp. 28-29	February 2007
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9	R-488	<i>Whites Point Quarry & Marine Terminal, Environmental Impact Statement</i> , Volume VII, c. 9.3-11, pp. 69, 85 & 102	March 31, 2006
9	R-489	<i>Whites Point Quarry & Marine Terminal, Environmental Impact Statement</i> , Volume VII, Chapters 9.3-11, p. 144	March 31, 2006
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9	R-513	<i>Keltic Petrochemicals, Report and Recommendations to the Nova Scotia Minister of Environment and Labour</i>	February 21, 2007
9	R-514	Victor Diamond Mine, Public Registry report	Undated

**IN THE MATTER OF AN ARBITRATION UNDER CHAPTER ELEVEN OF THE NORTH AMERICAN
FREE TRADE AGREEMENT
AND THE UNCITRAL ARBITRATION RULES**

BETWEEN:

**WILLIAM RALPH CLAYTON, WILLIAM RICHARD CLAYTON,
DOUGLAS CLAYTON AND DANIEL CLAYTON AND BILCON OF DELAWARE INC.**

Claimants

AND:

GOVERNMENT OF CANADA

Respondent

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10	R-530	Email from Jean Crepault to Christopher Daly and Cheryl Benjamin	November 10, 2003
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10	R-551	2003 Journal of Derek McDonald, page 24	June 10, 2003
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R-0620	November 27, 2007	Background/Analysis Note annexed to the Whites Point Memorandum to Cabinet
R-0621	April 2008	M. Doelle, <i>The Federal Environmental Assessment Process, A Guide and Critique</i> , excerpt
R-0622	2013	R. Gibson, <i>Sustainability Assessment in Canada in Sustainability Assessment: Pluralism, practice and progress</i> (Routledge London and New York: 2013)
R-0623	May 1, 2014	<i>Report of the Joint Review Panel, Site C Clean Energy Project</i> , B.C. Hydro and Power Authority, British Columbia
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R-0689	June 2015	U.S. Energy Information Administration, Marine Fuel Choice for Ocean Going Vessels within Emissions Control Areas
R-0690	October 28, 2016	International Maritime Organization, IMO sets 2020 date for ships to comply with low sulphur fuel oil requirement
R-0691	September 4, 1996	CRH Press Release, "Irish Firm to Purchase Tilcon, Reports Say"
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R-0694	April 30, 2001	CRH Press Release, "CRH acquires major New Jersey quarry operation"
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R-0715	November 23, 2015	Control Engineering news article, "Quarry carves out twice the production"
R-0716	Undated	USGS website excerpt, "Who We Are"
R-0717	April 2004	Business Plan for Whites Point Quarry, Prepared by Clayton Concrete
R-0718	February 4, 2002	Letter from Nova Stone Exporters Inc. to Bill Clayton
R-0719	April 1, 2004	Financial Statements of Global Quarry Products
R-0720	February 10, 2016	Document Production Request of the Government of Canada
R-0721	November 27, 2010	CIM Definition Standards – For Mineral Resources and Mineral Reserves, Prepared by the CIM Standing Committee on Reserve Definitions
R-0722	2008	Brealey, R. A., Myers, S. C., & Allen, F., (2011) <i>Principles of corporate finance</i> (10 th ed.) New York, NY: McGraw-Hill/Irwin
R-0723	November 2, 2016	Clayton Hunt, "Company Still Interested in Belleoram Rock Quarry", <i>The Gander Beacon</i> , 20 October 2014
R-0724	October 2014	Continental Stone Limited, "Environmental Assessment Registration Document", Newfoundland and Labrador Department of the Environment and Conservation
R-0725	December 2007	Darren Constantino, "State of the Industry," Pit & Quarry
R-0726	February 5, 2008	Martin Marietta Quarter 4 2007 Earnings Call Transcript
R-0727	April 30, 2007	Martin Marietta, Historic Stock Lookup
R-0728	October 22, 2007	Martin Marietta, Historic Stock Lookup
R-0729	2007	Bloomberg, Vulcan Materials Historic Closing Prices
R-0730	Undated	Bloomberg USD/CAD forwards
R-0731	July 13, 2007	Joint Review Panel of the Whites Point Quarry and Marine Terminal Project - Invoice #01-07/08

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R-0732	November 27, 2007	Joint Review Panel of the Whites Point Quarry and Marine Terminal Project - Invoice #02-07/08
R-0733	March 27, 2008	Joint Review Panel of the Whites Point Quarry and Marine Terminal Project - Invoice #03-07/08, 27 March 2008
R-0734	2008-2017	Aswath Damodaran, ERP Estimates By Month
R-0735	May 2008	The Most Important Number in Finance: The Quest for the Market Risk Premium, JP Morgan
R-0736	Undated	Moody's Long Term Ratings of Martin Marietta and Vulcan Materials, Bloomberg
R-0737	September 2007	"Moody's Seasoned Baa Corporate Bond Yield, Percent Monthly, Not Seasonally Adjusted," Federal Reserve Bank of St. Louis
R-0738	1990	Fisher, Franklin M., and R. Craig Romaine. "Janis Joplin's yearbook and the theory of damages" <i>Journal of Accounting, Auditing & Finance</i> 5.1
R-0739	2017	"Harmonized Tariff Schedule of the United States (2017)" Section V: Mineral Products. Chapter 25
R-0740	January 3, 2000 – February 23, 2017	Daily PX_LAST of CAD BGN Currency, Bloomberg LP
R-0741	2003-2015	Domestic Exports of 251710 Pebbles, gravel, broken/crushed stone, used for concrete aggregates w/n heat-treat from Canada, Canadian International Merchandise Trade Database.
R-0742	October 22, 2007	20-Year Treasury Constant Maturity Rate (GS20), Federal Reserve Economic Data
R-0743	September 2007	Five-year monthly levered betas, (IQ_CUSTOM_BETA), Capital IQ
R-0744	October 2002 – September 2007	Effective tax rate, (IQ_EFFECT_TAX_RATE), Capital IQ
R-0745		Book value of total debt in USD millions (IQ_TOTAL_DEBT), Capital IQ

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R-0746		Monthly market cap (IQ_MARKETCAP), Capital IQ
R-0747	January 3, 2000 – February 21, 2017	Monthly HISTORICAL_MARKET_CAP, Monthly RT116, and Daily PX_LAST of MLM US Equity and VMC US Equity, Bloomberg LP
R-0748		Frequently Asked Questions: How do I convert between short tons and metric tons, U.S. Energy Information Administration
R-0749	December 1983	Nordberg Process Machinery, Reference Manual, Second Edition [Excerpt]
R-0750	November 2006	Adel, G., Kojovic, T., Thornton, D., Mine-to-Mill Optimization of Aggregate Production, Final Report
R-0751	Undated	Rock Fragmentation Presentation
R-0752	Undated	Metso, Cone Crushers - HP Series Cone Crushers
R-0753	Undated	Metso, Crushing and screening solutions
R-0754	June 9, 2017	SCMA, Simulation Crushing Model and Production Cost Worksheet
R-0755	September 4, 1996	The Independent article, “\$329m Tilcon deal gives CRH a new building block”
R-0756	June 9, 2017	SCMA, Cost Curve Analysis
R-0757	April 2004	Business Plan for Whites Point Quarry, Digby County, Nova Scotia
R-0758	August 18, 2017	SCMA, Explanation of Figure 3 of the SCMA Report
R-0759	June 9, 2017	SCMA, Data Extracted from MSHA
R-0760	August 18, 2017	SCMA, Explanation of MSHA Data
R-0761	Undated	New York Sand & Stone 2006 Projected Sales Revenue
R-0762	November 30, 2006	Email from M. Power to T. Dooley re: 2007 NYS&S Pricing
R-0763	Undated	Energy and Environmental Profile of the U.S. Mining Industry, “Limestone and Crushed Rock”

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R-0764	April 1, 2015	Siemens, "How a California Quarry Doubles Production, Lowers Costs"
R-0765	Undated	Port Authority of New York and New Jersey, Bridges and Tunnels, Tolls
R-0766	August 15, 2017	SCMA, Explanation of Basis for 15% Price Decline
R-0767	June 9, 2017	New York State and New Jersey Granite Volumes and Prices
R-0768	August 2006	SCMA, Cement Consumption Forecast for New York State by County by Year (2000 to 2017)

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R-0769	October 11, 2017	Whalesitings Database, Population Ecology Division, Fisheries and Oceans Canada, Dartmouth, NS
R-0770	August 2000	Report of the EUB-CEAA Joint Review Panel, Cheviot Coal Project, Cardinal River Coals Ltd., EUB Decision 2000-59
R-0771	May 6, 2008	Canadian Environmental Assessment Agency, Joint Panel Report Kearl Oil Sands Project, Addendum to EUB Decision 2007-013
R-0772	March 5, 2011	Environment Canada Review, "A Presentation to the Lower Churchill Hydroelectric Generation Project Joint Review Panel"
R-0773	May 2005	Government of Canada website excerpt, Species at Risk Public Registry, Schedule 1, Fin Whale Atlantic population Species Profile
R-0774	April 1, 2015	Bear Head LNG, Updated Registration Document [Excerpt]
R-0775	February 16, 2015	Christopher E. Smith, "Bear Head LNG exempted from 2012 environmental act", Oil & Gas Journal
R-0776	May 15, 2015	Province of Nova Scotia Environmental Assessment Approval, Bear Head LNG Project
R-0777	October 2017	Fisheries and Oceans Canada, unpublished fisheries data
R-0778	February 4, 2010	Letter from Sterling Beilliveau, Minister of Environment to Ms. Bonnie L. Miles-Dunn, Fundy Gypsum Plant
R-0779	January 2001	Laist et al., <i>Collisions Between Ships and Whales</i> , in Marine Mammal Science, 17(1):35-75
R-0780	January 13, 2015	Vulcan Materials Company news release, "Black Point Quarry Project Receives Major Endorsement from Fishermen"
R-0781	July 2005	Sovereign Resources Quarry Modification Project, Environmental Assessment Registration

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R-0782	February 2015	Black Point Quarry Project, Environmental Impact Statement, Part 1 - Sections 1-5
R-0783	November 22, 2006	Keltic Petrochemical and Liquefied Natural Gas Facility, Hearing Transcript of November 22, 2006 [Excerpt], Nova Scotia Department of Environment & Labour, Presentation to NSEAB
R-0784	September 10, 2015	<i>Ontario Power Generation v Greenpeace Canada</i> , 2015 FCA 186
R-0785	May 14, 2014	<i>Greenpeace Canada v. Canada (Attorney General)</i> , 2014 FC 463 [Excerpt]
R-0786	August 2011	Joint Review Panel Environmental Assessment Report, Darlington New Nuclear Power Plant Project, Report Summary
R-0787	March 5, 2011	Lower Churchill Hydroelectric Generation Project, Joint Review Panel Hearing Transcript, Volume 4 [Excerpt]
R-0788	March 31, 2011	Lower Churchill Hydroelectric Generation Project, Joint Review Panel Hearing Transcript, Volume 23 [Excerpt]
R-0789	March 17, 2011	Lower Churchill Hydroelectric Generation Project, Joint Review Panel Hearing Transcript, Volume 13 [Excerpt]
R-0790	April 28, 2010	Prosperity Gold-Copper Mine Project, Federal Review Panel Hearing Transcript, Volume 31 [Excerpt]
R-0791	July 30, 2013	New Prosperity Gold-Copper Mine Project, Federal Review Panel Hearing Transcript, Volume 8 [Excerpt]
R-0792	April 30, 2010	Prosperity Gold-Copper Mine Project, Federal Review Panel Hearing Transcript, Volume 33 [Excerpt]
R-0793	October 31, 2013	Report of the Federal Review Panel, New Prosperity Gold-Copper Mine Project, Taseko Mines Ltd., British Columbia [Excerpt]

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R-0794	April 7, 2004	<i>Order Transferring to the Department of Transport Certain Portions of the Public Service in the Department of Fisheries and Oceans and of the Powers, Duties and Functions of the Minister of Fisheries and Oceans under certain paragraphs of the Canada Shipping Act, SI/2004-35</i>
R-0795	October 10, 2017	E-mail from Carl Ripley, Manager, Navigation Protection Programs of Transport Canada, to Robert Connelly
R-0796	April 23, 1998	Letter from Donald R. Downe, Nova Scotia Minister of Environment, to Owen Davis, Riverland Developments Limited
R-0797	June 11, 1998	Letter from Donald R. Downe, Nova Scotia Minister of Environment, to John King, Greenhills Development
R-0798	May 2013	The Effects of Shale Gas Production on Natural Gas Prices, U.S. Bureau of Labor Statistics (“BLS”)
R-0799	June 2011/2016	BLS CPI Inflation Calculator
R-0800	1986	James R. McGuigan and R. Charles Moyer, <i>Managerial Economics</i> , Fourth Edition (St. Paul, MN: West Publishing Company, 1986)
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R-0803	July 5, 2016	Investor’s Business Daily, “Investors Love Vulcan Materials’ Results Like A Rock”
R-0804	2011	Bodie, Zvi, et al, <i>Investments, Ninth Edition</i> , McGraw-Hill Irwin
R-0805	2009	Patrick A. Gaughan, <i>Measuring Business Interruption Losses and other Commercial Damages, 2nd Edition</i> (John Wiley and Sons 2009)

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R-0807	Undated	Martin Marietta Materials, “Company History”
R-0808	2011	Reference Manual on Scientific Evidence, Third Edition, Federal Judicial Center 2011 [Excerpt]
R-0809	2015	U.S. Geological Survey, Advance Data Release of the 2015 Annual Tables
R-0810	May 29, 2017	<i>Tseil-Waututh Nation v. Canada (Attorney General)</i> , 2017 FCA 128
R-0811	1998	Donald J. Brown and Hon. John Evans, <i>Judicial Review of Administrative Action in Canada</i> [Excerpt]
R-0812	November 25, 2016	<i>Alberta (Information and Privacy Commissioner) v. University of Calgary</i> , 2016 SCC 53, [2016] 2 S.C.R. 555
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R-0814	May 31, 2012	<i>Canada v. South Yukon Corporation</i> , 2012 FCA 165
R-0815	February 8, 1983	<i>Thorne’s Hardware Ltd. v. The Queen</i> , [1983] 1 S.C.R. 106
R-0816	2015	Paul Muldoon, Alastair Lucas, Robert B. Gibson, Peter Pickfield and Julie Williams, <i>An Introduction to Environmental Law and Policy in Canada</i> (2d, 2015) [Excerpt]
R-0817	July 20, 1995	<i>R. v. Canadian Pacific Ltd.</i> , [1995] 2 S.C.R. 1031
R-0818	June 26, 2013	<i>Elderkin v. Nova Scotia (Minister of Service & Municipal Relations)</i> , 2013 NSCA 79
R-0819	April 6, 2017	<i>Bay of Fundy Inshore Fisherman’s Assn. v. Nova Scotia (Minister of Environment)</i> , 2017 NSSC 96
R-0820	May 20, 2014	<i>Malcolm v. Canada (Minister of Fisheries and Oceans)</i> , 2014 FCA 130

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R-0821	January 30, 2012	<i>Specter v. Nova Scotia (Minister of Fisheries and Aquaculture)</i> , 2012 NSSC 40
R-0822	1998	<i>Municipal Government Act</i> , S.N.S. 1998 c. 18 [Excerpt]
R-0823	November 26, 2004	<i>DRL Environmental Services, Demolition Resources Ltd. v. Nova Scotia (Attorney General)</i> , 2004 NSSC 245
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R-0827	2002	<i>Species at Risk Act</i> , S.C. 2002, c. 29 Assented to 2002-12-12
R-0828	September 2007	Fisheries and Oceans Canada, Recovery Potential Assessment for Right Whale (Western North Atlantic Population)
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R-0830	2009	<i>Lawson and Gosselin</i> , Distribution and Preliminary Abundance Estimates for Cetaceans Seen During Canada’s Marine Megafauna Survey - A Component of the 2007 TNASS
R-0831	September 22, 2007	Canadian Coast Guard, Written Notices to Shipping – Maritimes, Search Results of Notices Issued on September 22, 2007
R-0832	October 26, 2017	CBC News article, “More speed fines levied against ships in Gulf of St. Lawrence”
R-0833	Undated	Baltic and International Maritime Council website excerpt, “BIMCO Contracts”
R-0834	2010-2014	Martin Marietta, Invoices to New York Sand and Stone
R-0835	November 6, 2017	Marsoft Updated Capital Cost Model – Bilcon Ship Freight Costs

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R-0836	Undated	Port Technology International, The transshipment solution: overcoming constraints in port logistics in developing countries
R-0837	Undated	CSL Americas, Vessel Design Information of the CSL Tacoma and Sheila Ann
R-0838	Undated	Algoma Central Corporation, Vessel Design Information of the Weser Stahl
R-0839	2012-2017	Canadian Coast Guard, Vessel Speed Data on <i>Alice Oldendorff</i>
R-0840	April 19, 2017	McInnis Cement Press Release, “Construction Begins at McInnis Cement’s Bronx Terminal”
R-0841	2014-2017	Price of Bitumen “NYSDOT Average Posted Price for Asphalt”
R-0842	November 6, 2017	SCMA, Whites Point Production Output Based on 2017 AggFlow Mass Flow Balance
R-0843	Undated	The Cement Grinding Office, Particle Size Distribution Representation (Part 3)
R-0844	Undated	Mineral Tech, Technical Notes 2 – Particle Populations and Distribution Functions
R-0845	November 6, 2017	SCMA, Background Information on Lippmann 50” x 62” Jaw Crusher
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R-0847	2011	Telsmith Inc., Mineral Processing Handbook (13 th Ed.)