

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

The Honorable Ralph King Anderson, III, Administrative Law Judge

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SC Court of Appeals

Appellate Case No. 2026-000221
Docket No. 24-ALJ-07-0232-CC

South Carolina Department of Environmental Services and
South Carolina Coastal Conservation League Respondents-Appellants,
v.

Rom Reddy,.....Appellant-Respondent.

RECORD ON APPEAL – VOLUME 5 OF 16
(pp. 1555-2015)

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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

South Carolina Department of
Environmental Services and South Carolina
Coastal Conservation League

Petitioners,

v.

Rom Reddy,

Respondent.

Docket No.: 24-ALJ-07-0232-CC

DEPARTMENT'S MOTION
FOR RECONSIDERATION AND
CLARIFICATION OF THE AMENDED
FINAL ORDER

TO: THE COURT AND ALL PARTIES

PLEASE TAKE NOTICE that the Petitioner, South Carolina Department of Environmental Services ("Department"), hereby moves this Court, pursuant to Rules 29(D) and 68 SCALC, and Rules 52 and 59, SCRCP, for reconsideration and clarification of the Amended Final Order in this matter dated December 30, 2025 ("Amended Final Order").

Rule 29(D), SCALC, provides: "any party may move for reconsideration of a final decision of an administrative law judge in a contested case to alter or amend the final decision, subject to the grounds for relief set forth in Rule 59, SCRCP..." A party may file a motion for reconsideration when the party believes "the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it. A party *must* file such a motion when an issue or argument has been raised, but not ruled on, in order to preserve it for appellate review." *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004) (emphasis in original). The Department moves for reconsideration of the following findings and issues set forth in the Amended Final Order.

I. The Department requests that the Court reconsider its findings related to limitations of the Department's qualifications and experience including those of Ms. Boynton.

In the Amended Final Order, the Court added Footnote 21 on page 8 that contained a finding that “[w]hile GIS and GPS field collection, shoreline change, and feature identification may be important tools in the establishment of the escarpment/vegetation line, the Department’s specialized knowledge is limited to the establishment of the baseline and setback line.” The Court also made a similar finding as to Ms. Boynton’s specialized knowledge in Footnote 31 on page 12 as follows:

While I found Ms. Boynton’s testimony to be generally credible, I do not find her experience and specialization expands to the use of GIS, GPS field collection, shoreline change, or feature identification. Indeed, the Department has been entrusted to establish the baseline and setback line. While GIS and GPS field collection, shoreline change, and feature identification may be important tools in the establishment of these lines, Ms. Boynton’s specialized knowledge is limited to the establishment of the baseline and setback line. S.C. Code Ann. §§ 48-6-30 (2018) & -39-280 (Supp. 2024); S.C. Code Ann. § 1-23-330(4) (2005).

The Department respectfully requests that the Court reconsider these findings because (1) while the Department has specialized knowledge of setting the baseline and setback line, this is only one of the many statutorily-mandated tasks that they have been entrusted to do by the General Assembly which uses GIS, GPS, shoreline change and feature analysis; (2) the testimony presented at the hearing demonstrates that the Department staff has specialized knowledge and skill including collecting data, feature analysis and mapping in analyzing the shoreline that they have acquired in performing their other duties and responsibilities; (3) the specialized knowledge and skills used in setting the baseline and setback line are the same skills that the Department uses in determining the escarpment and vegetation lines for other purposes.

The Department is charged with managing the coastal zone which encompasses the four critical areas. S.C. Code Ann. §§ 48-39-10, *et seq.* The Department is also charged with exercising

“all incidental powers necessary to carry out” these duties. S.C. Code Ann. § 48-39-50(O). At the trial, the Department showed many escarpment and vegetation lines collected throughout the years to assess shoreline change. Joint Ex. 057, page 2. Ms. Boynton explained how the GIS software was used to display the vegetation and escarpment lines collected to create the maps contained in Joint Ex. 057. Tr. 689:11-690:17. Ms. Boynton explained that some of these lines were digitized by the Department using feature analysis while others were collected using GPS. (Tr. 692:15-20.) As shown by the vegetation lines’ various dates depicted on Joint Ex. 057, it is important to note that this data was not specifically collected during the jurisdictional line cycles to delineate the baseline and setback lines but to assess conditions at the site and along the coast as part of the Department staff’s broader responsibilities and duties pursuant to the Act. For example, Mr. Slagel testified that the September 1, 2023 escarpment/vegetation line was collected when they visited the southern end of Isle of Palms to document conditions after Idalia. Tr. 108:8-109:1. Similarly, Mr. Slagel testified that the line collected on December 18, 2023, was collected after a nor’easter to assess the erosion and shoreline change. Tr. 128:12-24.

There was no testimony or other evidence offered that supports that the Department’s specialized knowledge of GIS, GPS field collection, shoreline change, or feature identification is limited to setting the baseline and setback line. The Department staff who appeared at trial testified as follows:

- Mr. Slagel, Ms. Boynton, Mr. Prevost and Mr. Stout all testified as to their GIS training and certification. Tr. 76:13-18; Tr. 688:4-7; Tr. 269:21-270:20; Tr. 700:20-701:4; Tr. 1308:21-25.
- Christopher Stout, current Chief of the Department’s Bureau of Coastal Management, testified that he had master’s level coursework that utilized GIS to map data. Tr. 1309:3-7.

He further testified that when he was a project manager within the Department's Critical Area Permitting Section, he was responsible for delineation of critical area lines and was responsible for performing GIS reviews. Tr. 1309:11-19; 1310: 16-25. Mr. Stout did not limit this experience to using GPS and GIS for purposes of establishing the baseline and setback line and this limitation was not established in cross either.

- Mr. Slagel, Beachfront Section Manager, testified not only about his experience collecting data for the baseline and setback line, but also for assessing shoreline change and erosion as part of ongoing damage assessment along the coast as set forth above.
- Jacques Prevost, a Department Compliance Project Manager, testified that part of his duties included collecting "survey data using a variety of GPS or GNSS, known as Global Navigation Satellite System, equipment to essentially create visualized exhibits of the data that I did collect." Tr. 269:11-20. As a compliance manager, Mr. Prevost did not testify that he had any duties related to setting the setback line and baseline but used these skills to assess the sites for compliance.

As for the Court's limited recognition of Ms. Boynton's specialized knowledge, Ms. Boynton testified in detail as to her knowledge and experience acquired both prior to the Department and as part of exercising her duties with the Department. Ms. Boynton is the Director of Department's Coastal Services Section and has a master's degree in biology with an emphasis in GIS and remote sensing. Tr. 680:16-23.) After earning her master's degree with an emphasis in GIS and remote sensing, Ms. Boynton acquired more than twenty years of work experience, thirteen of which was with the Department, that strongly focused on GIS, GPS and data analysis, including feature interpretation. Tr. 682:11-23. She also has taken approximately fifteen to twenty classes related to GIS and she has experience collecting high resolution GPS data in the field. Tr.

681:16-21. Ms. Boynton has acquired years of experience and specialized knowledge that extends far beyond setting the baseline and setback line. While Ms. Boynton leads the Department's effort to review the baseline and setback line of the Beach/Dune System Critical Area, Tr. 685:11-15, Ms. Boynton also has been using GIS for a variety of analysis including feature interpretation for more than twenty years, Tr. 687:2-7. She has extensive experience in the use of GIS, GPS, feature analysis and shoreline change analysis. Ms. Boynton testified:

A: Sure. So, the positions that I've held for the last 20-plus years have all had a strong focus on GIS, GPS and data analysis. I started at the Rocky Mountain Biological Lab in Colorado, and I was their GIS/GPS coordinator, and I built a comprehensive mapping program collecting location information and providing data analysis for the researchers on all sorts of things, from – from marmots to salamanders to all sorts of plant species. From there, I came to the South Carolina Department of Natural Resources in their Marine Resources Division and I was their GIS coordinator -- GIS manager.

Q: And approximately for how long were you there?

A: I was there for just over five years. And at the Marine Resources Division, I again provided GIS analysis and mapping for oyster resource, for sea turtles and various fishery programs doing feature interpretation and analysis.

Q: And can you tell – explain to us what feature interpretation analysis is?

A: Sure. It's using remotely sensed data, aerial imagery would be a great example, to identify features and using those features to draw conclusions and make measurements, that sort of thing.

THE COURT: What do you mean by features?

A: Features would be anything that you could see really in the image. It can be man-made features, such as roads or habitable structures, all sorts of man-made things. They can also be natural features. I did a lot of feature analysis at the DNR on the oyster research. The oyster research is like a – sorry, the oyster resource in South Carolina. How much oyster resource is there; where is it located; what type of condition is it in. In Colorado, we mapped – we did feature interpretation, looking for avalanche runs. So, you'd have to look at land cover type and what kind of vegetation you had. So, you can really do feature analysis on any features on the ground.

Q: Does feature analysis include identification of escarpment?

A: Yes, it would.

Tr. 682:11-684:6. Ms. Boynton went on to testify about her work and experience with the Department as follows:

Q: And go ahead and tell us about – when did you come to the Department of Environmental Services, the Department.

A: I came to the Department in 20- -- 2013.

Q: Okay. And in what position did you start out with?

A: I started with the Department as a shoreline specialist. And when I moved into the team lead role between 2018 and 2020- -- 2022 and then came into the role that I'm in now.

Q: What is a shoreline specialist?

A: The shoreline specialist handled data analysis, specifically GIS based analysis and GPS field data collection. I also did project and contract management and outreach and education.

Q: And how did your responsibilities change when you became a team lead?

A: The team lead had similar responsibilities in terms of the technical side of things, but also additional management and supervisory responsibilities.

Q: And how about section manager?

A: As the section manager, I lead a team of seven. We provide data and technology services to the Bureau, including GIS and GPS mapping services. We also do outreach and engagement, as well as program enhancements.

Tr. 684:7-685:8. Ms. Boynton has spent hundreds and hundreds of hours on the beachfront, collecting data, Tr. 687:11-22, has used GPS hundreds of times, Tr. 701:5-9, and as the section manager for the Department's Coastal Services Section, she oversees training for all staff on mapping and survey grade GPS hand units, Tr. 700:25-701:4. Ms. Boynton further testified that she serves as the coastal program representative to the South Carolina State Map Advisory Committee and is the founding member of the Coastal GIS User Group. She also was part of a team that received an award in 2024 from the State Library's Notable Documents Award for the

Department's Coastal Atlas Story Map which has many GIS features. Tr. 686:17-687:7. There was no evidence in cross-examination or otherwise that would diminish her experience and specialized knowledge and that would support a finding that "Ms. Boynton's specialized knowledge is limited to the establishment of the baseline and setback line."

If the Department understands the Court's footnotes, the Court seems to make a distinction between the Department's specialized knowledge used to establish the baseline and setback line and the Department's knowledge in establishment of the escarpment/vegetation line. However, the Department establishes escarpment/vegetation lines as part of setting the baseline and setback line. So, these skills are the same regardless of whether the Department is assessing them for the Beaches Critical Area or the Beach/dune System Critical Area. Identifying the escarpment and vegetation lines for purposes of assessing where the Beaches Critical Area is located uses the same specialized knowledge as locating these lines for setting the baseline and setback lines. For example, in unstabilized inlet erosion zones the Department is looking for the most landward point of erosion in the last forty years and in a standard zone, there are situations where the Department must determine the landward edge of the active beach. S.C. Code Ann. § 48-39-280(A)(1)(ii). The Department respectfully requests the Court reconsider the limitations in Footnotes 21 and 30 as to the Department's specialized knowledge. This limitation is not consistent with testimony and evidence submitted at trial showing the various manners by which the Department acquires these skills and utilizes them in performing their duties. These duties include the assessment of where the Beaches Critical Area and active beach are located.

- II. **The Department requests a finding that the alterations including the installation of non-beach-compatible materials in October of 2023, not related to the installation of the wall, were a violation of the Act and an order requiring those non-beach-compatible materials be removed.**

While the Court held that it did not need to reach the question of whether Reddy's alterations occurred in the Beaches Critical Area since it was ordering the removal of the walls and the non-beach-compatible materials associated with their construction, this holding does not address Reddy's alterations prior to construction of the walls and whether those alterations violated the Act. The Department found Reddy violated the Act by having installed artificial turf, gravel, filter fabric, clay, webbing material, metal fencing, wood, and gravel rock which were becoming debris on the beach. Joint Ex. 019. Texts between Respondent and his contractor show that Respondent was altering the critical area as he told his contractor that he "should try and finish up clay and move sand back behind critical line today." Joint Ex. 192, Blutide 00016. Coastal Science and Engineering provided photographs to the Department notifying the Department that there were activities at the Reddys on the beach that possibly had not been authorized or reviewed by the Department. The photographs showed the non-beach-compatible materials located in the wet sand of the beach and debris from these materials in front of the altered area and adjacent to it. Tr. 125:19-126:20; Joint Ex. 019, BCM Reddy 016991-92; Joint Ex. 10, Administrative Order, Attachment A, BCM Reddy 002297. Mr. Prevost, Department Compliance Project Manager, conducted a site inspection to investigate the complaint of unauthorized activities in the critical area and marine debris on October 5 and October 6, 2023. Tr. 272:21- 273:10; Joint Ex. 098; Tr. 400:9-15. He documented the site conditions by taking photographs and also collected the seaward edge of the non-beach-compatible materials at the site using an RTK unit. Tr. 273:11-274:18; Joint Ex. 10, Administrative Order paragraphs 17 and 18, BCM Reddy 00227. On October 20, 2023, Mr. Prevost sent a Notice to Comply to remove the unauthorized non-beach-compatible materials from the active beach and/or Beaches Critical Area at the Site within thirty (30) days of receipt of the Notice. Joint Ex. 004; Joint Ex. 019, BCM Reddy 016991-92; Joint Ex. 10 Administrative

Order, paragraph 19, BCM Reddy 002278. Mr. Reddy did not comply with the directive. The Department requests a finding that these alterations were in violation of the Act. The Department further requests that the Court order the removal of these as the non-beach-compatible materials on the beach are adverse to the public interest. They can detrimentally impact the threatened and endangered sea turtles and cause public access and safety concerns for the public who are recreating on the beach. Joint Ex. 072, Audio Tr. 24:40-50; Tr. 133:3-12; Tr. 471:2-17.

III. The Department requests that the Court reconsider its finding that there was no nexus between Reddy's actions and the non-compatible materials observed along the beach as there is evidence in the record that establishes this nexus.

The Court found that "the Department failed to convincingly establish a nexus between Respondent's actions and the non-compatible materials observed along the beach." (Amended Final Order, p. 11, FN 27.) The Department respectfully requests that the Court clarify the finding and reconsider this finding in light of the evidence submitted at trial including testimony concerning the debris, documents with contractors that show these same materials were being purchased and placed in this area by the Respondent and photographs that show the debris of the materials used by Reddy in close proximity to the alterations. This evidence includes:

- The photographs, inspection and documentation concerning the non-beach-compatible materials and resulting debris in the October 2023 time frame as set forth above and shown in Joint Ex. 010, Administrative Order BCM Reddy 002277 & 002297; Joint Ex. 019 & Joint Ex. 123.
- Photographs of clay debris in close proximity of where Mr. Reddy had put the unauthorized clay down as shown in Joint Ex. 203, ProGreen_000162 (clay materials immediately seaward and southwest of the wall); Joint Ex. 086, BCM Reddy 003022 (clay in front of the wall and clay balls scattered southwest of the wall); Joint Ex. 135, BCM Reddy 002217

(a significant amount of clay material immediately adjacent to the wall and in the sand seaward and southwest of the wall); Joint Ex. 104 and Joint Ex. 137 (clay debris scattered on the beach and in close proximity to the Reddy's alterations.) The texts and invoices with Blutide Marine Construction show that clay was purchased and installed by Reddy. Joint Ex. 191 & Joint Ex. 192.

- Photographs of yellow spray foam filling the cracks in the wall and fraying/shredding filter fabric embedded into wall, balls of the same-colored spray foam on the beach and Respondent Reddy's email to his contractor to clean it up as shown in Joint Ex. 147, BCM Reddy 002219; BCM Reddy 002247; & Joint Ex. 200. There was no evidence presented that any other beachfront property owner used this distinctive spray foam.
- Photographs of debris from artificial turf materials as shown in Joint Ex. 209, AES 0002 (center of picture depicts a remnant piece of artificial turf with same underside tape landward of wall during construction), AES 0003 and 0009 (artificial turf debris at adjacent areas to the northeast and southwest of the Site matching the artificial turf materials that are actively being disturbed at the Site); Joint Ex. 142, BCM Reddy 000496 & 000512 (remnant turf landward of wall), & Joint Ex. 142, BCM Reddy 000447 (remnant turf marine debris to the southwest of construction site).
- Photographs of filter fabric debris materials including Joint Ex. 143, BCM Reddy 018249 (exposed filter fabric shredding from exposure to the elements), & 018270 (torn/damaged filter fabric seaward of wall).
- Photographs of orange plastic mesh/fencing shown in Joint Ex. 142, BCM Reddy 000416, 000509; Joint Ex. 201, CNT 078 (shows the same orange plastic mesh/fencing buried/embedded in the sand as marine debris in the same location as can be seen in Joint

Ex. 142 and is surrounded by remnant artificial turf, shredded remnant geotextile filter fabric, rock debris and clay debris).

- Photographs of rock debris. Joint Ex. 120, BCM Reddy 000243-000244 depicts photos of an intact rock placement on the seaward/exterior perimeter of the wall. Joint Ex. 106, BCM Reddy 000209-000210 shows that by January 11, 2024 the previously placed rocks were starting to scatter and Joint Ex. 139, BCM Reddy 000316-000317 shows that on January 25, 2024 the rock is scattered more, and scattered clay balls are also evident. Joint Ex. 140, BCM Reddy 000354 is of scattered rocks and clay balls on January 29, 2024.

In addition to this evidence, the Department staff testified to their multiple inspections and the debris that they documented from the non-beach-compatible materials used by the Respondent Reddy. The Department respectfully submits that these photographs, documents between Reddy and his contractors and the Department's staff testimony establish a nexus between the Respondent's activities and the non-beach-compatible materials observed along the beach.

IV. The Court's finding related to Department's witness not being able to confirm where "beaches" was located at the time of trial fails to properly consider that the Department's expert was not retained to opine about the location of the Beaches Critical Area at the time of trial.

The Court found that "[i]ndeed, while at one point ERC-1 and the hard structure may have encroached on the beaches, even the Department's own witness could not confirm where the 'beaches' is now." (Amended Final Order, p. 18.) There was only one witness, Christopher Jones (the Petitioners' expert), that was asked this question. This information was not solicited in direct or cross examination by the parties but by the Court, and only after Mr. Reddy ended his cross examination of Mr. Jones. However, the Department did not retain Mr. Jones to evaluate the Beaches critical area *at the time of trial*, but at the time of the Respondent's multiple alterations that were at issue in the Administrative Order. Mr. Jones relied on photographic evidence and data

taken over the relevant time period. There is no evidence he was provided any evidence to review related to current conditions at the time of trial or that he was asked to evaluate the current conditions of the beach, so using his inability to answer the Court's questions as a basis to imply that the Department did not know where the Beaches Critical Area was at the time of trial is not a reasonable inference from this testimony. Moreover, Chris Stout was prepared to testify as to where the critical area was *at the time of trial* in rebuttal/response to the Court's questions once the Department understood the Court was interested in this issue. Department's counsel asked Mr. Stout about three photographs Mr. Stout took on May 14, 2025, after the Court questioned Mr. Jones on current conditions. Department's counsel asked, "what do these photos show regarding the beaches critical area line?" Tr. 1339:10-25; 1341:1-7. Before Mr. Stout could answer the question, there were discussions about whether this evidence should be allowed. Tr. 1341:7-1347:7. As the primary issue before the Court was whether the alterations were in beaches critical area at the time of their installation, the Department decided that it was best to move on. The Court's adverse inference that "even the Department's own witness could not confirm where the 'beaches' is now," does not properly consider the circumstances surrounding this testimony, including the Department's attempt to present a Department witness on this very issue. Therefore, the Department respectfully requests that this finding to be reconsidered.

V. **The Court's finding related to "the Department's isolated observations on September 1, 2023" is not consistent with the testimony presented at the hearing of the case and the Department requests the Court reconsider it.**

On page 13 of the Amended Final Order the Court writes "[h]owever, the Department's isolated observations on September 1, 2023 do not establish that ERC-1 was subject to periodic inundation nor that it is in the statutorily defined beaches which again, requires evidence of a lack of nonlittoral vegetation." (Amended Final Order, p. 13.) The reference to "the Department's

isolated observations” does not comport with the testimony presented at trial. When asked on cross about whether the September 1, 2023 line was the only data the Department collected leading up to the assessment of Reddy’s alterations in the Beaches Critical Area, Mr. Slagel responded that the Department also had another line collected in June 2023 and the Reddy’s own survey in July 2023 that showed that segments of the wall were landward of the top of the bank even before Idalia. Tr. 229:10-20. The testimony also showed additional evidence including site visits by the Department staff prior to September 1, 2023, and other vegetation and escarpment lines that the Department had collected. Ms. Boynton confirmed that Mr. Slagel would have had this information when he was assessing the Beaches Critical Area in September 2023. Tr. 809: 17-23. Given that this sentence stands alone in the Order, it seems to imply that this was the only information the Department had at the time it determined there was periodic inundation occurring at the site. The Department respectfully requests that the Court clarify this finding to consider the evidence presented at the hearing.

Further, the presence and/or absence of nonlittoral vegetation does not represent an “isolated observation” of periodic inundation. The witnesses’ testimony, including Respondent’s own expert, was that the presence of nonlittoral vegetation can indicate where periodic inundation is occurring and the landward extent of where the water is reaching. (Department’s Proposed Order pp. 9-10, 45, 63 & 81.) Therefore, when the Department staff is documenting whether there is nonlittoral vegetation on the site, this is not the result of an isolated occurrence of inundation but the effect of whether repeated inundation has occurred “so that no non-littoral vegetation is established.” This interpretation is consistent with the plain meaning of the statutory definition of “beaches”. Therefore, the Court’s finding related to the Department’s isolated observation, and inference that can be taken from that finding, fails to account for the General Assembly’s guidance

that the Department is to use the presence of nonlittoral vegetation as an indicator as to whether periodic inundation is occurring.¹ The Department respectfully requests that the Court clarify this finding to consider both the evidence presented at the hearing and the direction provided by the General Assembly in the definition of “beaches.” For the reasons set forth herein, the Department respectfully requests that this Court reconsider and alter or amend the Amended Final Order in this matter.

Respectfully submitted,



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January 9, 2026
Charleston, South Carolina

¹ The Court notes in Footnote 35 that the statutory definition of beaches “requires both periodic inundation *and* no nonlittoral vegetation.” (Amended Final Order, p. 14, FN 35.) “Beaches” is defined as “those lands subject to periodic inundation by tidal and wave action so that no nonlittoral vegetation is established” (S.C. Code Ann. 48-39-10(H)). The General Assembly did not use “and” but a modifier of “so that” to indicate what was necessary for a finding of periodic inundation. This interpretation is consistent with the testimony that nonlittoral vegetation can be a good indicator of periodic inundation since the Department staff cannot be on site every day to monitor where periodic inundation is occurring.

South Carolina Department of	)	Docket No.: 24-ALJ-07-0232-CC
Environmental Services and South Carolina	)	
Coastal Conservation League,	)	
	)	
Petitioners,	)	RESPONDENT ROM REDDY’S
	)	MOTION TO STAY AND FOR
vs.	)	SUPERSEDEAS
	)	
Rom Reddy,	)	
	)	
Respondent.	)	
	)	

PROCEDURAL BACKGROUND

In the Amended Final Order, the Court ordered that, within 60 days of the issuance of that order, Reddy must submit a Corrective Action Plan (CAP) to be approved by the Department for

the removal of the structure, including all non-beach compatible materials that were used for its construction. The Amended Final Order further requires Reddy to commence work to remove the structure within 90 days of the Department's approval and to complete work within 30 days from the commencement of the work.

STANDARD OF REVIEW

Under Rule 29(E), SCALCR, “[a]t any time prior to the filing of a notice of appeal, and upon the motion of any party, with notice to all parties, the administrative law judge may stay the final order upon appropriate terms.” Also, Rule 68, SCALCR, provides that the “South Carolina Appellate Court Rules, in contested cases and appeals respectively, may, in the discretion of the presiding administrative law judge, be applied to resolve questions not addressed by these Rules.” In determining whether to grant a stay, it is helpful for the Court to refer to Rule 241, SCACR. *South Carolina Coastal Conservation League v. S.C. Dep’t of Health & Envtl. Control*, Docket No. 15-ALJ-07-0369-CC, 2018 SC ENV LEXIS 62, *3 (SCALC Dec. 14, 2018).

Under Rule 241(c)(1), SCACR, a party may move for an order imposing supersedeas of matters decided in the order, which suspends or stays the matters decided in the order. In determining whether supersedeas should issue, the court “should consider whether such an order is necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot.” Rule 241(c)(2), SCACR.

The purpose of a supersedeas or stay is “to preserve the status quo pending the determination of the appeal and to preserve to appellant the fruits of a meritorious appeal where they might otherwise be lost to him.” *Graham v. Graham*, 301 S.C. 128, 130, 390 S.E.2d 469, 470 (Ct. App. 1990). “[I]t is an abuse of discretion to deny supersedeas where a refusal to supersede the judgment would deny the right to any appeal.” *Richland County Sch. Dist. One Bd.*

of Commissioners v. Clear Dot Charter School, Docket No. 19-ALJ-30-0036-AP, 2019 SC ALJ LEXIS 178, *3 (SCALC Jul. 17, 2019) (citing 4 C.J.S., *Appeal and Error* § 528 (2012)).

ARGUMENT

I. A stay or supersedeas is necessary to prevent the issues on appeal from becoming moot.

In this case, a stay or supersedeas is necessary to prevent Reddy's prospective appeal from becoming moot. In the Amended Final Order, the Court orders that Reddy submit a CAP for the removal of the structure and any non-beach compatible materials used for its construction. Compliance with the order would require Reddy to take the exact action that he seeks to avoid in his prospective appeal. If the appellate court ruled, in the absence of a stay or supersedeas, that the order requiring the removal of the hard structure was issued in error, that ruling would be too late because the hard structure would already be removed. This result would effectively moot the issue on appeal and deny Reddy the fruits of a meritorious appeal. *See Skydive Myrtle Beach, Inc. v. Horry Cty.*, 424 S.C. 298, 818 S.E.2d 224, 227 (Ct. App. 2018) ("A case becomes moot when judgment, if rendered, will have no practical effect upon the existing controversy. Mootness also arises when some event occurs making it impossible for the reviewing court to grant effectual relief."). Thus, a stay is necessary to preserve the status quo and ensure that Reddy is not denied his right of appeal.

The conclusion that a stay or supersedeas is justified in this case is confirmed by the South Carolina Supreme Court's recent order in *Friends of Coastal South Carolina v. S.C. Dep't of Envtl. Servs.*, Memo. Op. No. 2025-MO-046 (S.C. Sup. Ct. Dec. 18, 2025). In that case, the Department issued a Coastal Zone Consistency Certification and granted coverage under the Construction General Permit, authorizing construction of 27 homes and the filling of wetlands. Friends of Coastal South Carolina, who is represented by the same attorneys representing the Coastal

Conservation League in this case, filed a contested case with the ALC challenging the CZC certification and permit coverage. After the ALC lifted the automatic stay, Friends of Coastal South Carolina petitioned the Supreme Court to reinstate the stay pending resolution of the contested case. According to that petition, a stay was necessary to preserve the status quo and to prevent the contested issue from becoming moot and unreviewable under Rule 241(c)(2), SCACR. In response, the Supreme Court granted the stay.

Although the stay in *Friends of Coastal South Carolina* arises from a different procedural posture, its rationale applies equally here. In both cases, a stay is necessary to preserve the status quo and provide the parties with a meaningful opportunity for judicial review. And just as the absence of a stay in *Friends of Coastal South Carolina* would have mooted the issue involved in that contested case, the absence of a stay here would likewise moot Reddy's appeal intended to maintain the structure and protect his property. Therefore, the Court should impose a stay or issue supersedeas pending resolution of Reddy's prospective appeal.

II. Reddy will suffer substantial irreparable harm absent a stay.

In addition to being necessary to prevent the issue on appeal from becoming moot, a stay or supersedeas is necessary to prevent irreparable harm that Reddy will suffer if he is forced to comply with the Amended Final Order and remove the structure. Specifically, removal of the structure would expose Reddy's property to erosion from the ocean, which has worsened in recent months. (Reddy Aff. ¶ 7.) In fact, conditions have become so severe that the Department recognized that "emergency conditions" exist and issued an emergency order allowing for sandbags to be installed on properties on both sides of Reddy's property and on several properties north and south of Reddy's property. (*Id.* at ¶ 6.) The sandbags protecting his neighbors' properties make Reddy's property even more vulnerable to erosion than before the structure was

installed. (*Id.*) Thus, if a stay is not imposed, Reddy is in actual and imminent of harm of losing a significant portion of his property to erosion.

As shown by Reddy's affidavit and its attached pictures, several properties near and immediately adjacent to Reddy's property have been fortified by sandbags to protect their properties from erosion in near proximity to Reddy's structure. (*Id.* at ¶ 4, Ex. 1.) Before those sandbags could be installed, the Department must have issued an emergency order under S.C. Code Regs. § 30-15.H. Under this regulation, the Department may issue emergency orders "allowing property owners to construct temporary barriers against wave uprush" if a "structure is determined to be in imminent danger when erosion comes within (20) feet of that structure." This regulation permits emergency orders for sandbags "to construct temporary protection for existing habitable structures and critical infrastructure if the Department or appointed official determines a structure to be in imminent danger and emergency conditions conform with the definition of emergency in S.C. Code Section 48-39-10(U), or as allowed in R.30-13.Q(1)."¹ S.C. Code Regs. § 30-15.H(1).

With respect to the properties of Reddy's immediate neighbors at 116 Ocean Boulevard and 120 Ocean Boulevard, it appears that his neighbors were permitted to install the sandbags within 20 feet of the pools in their backyard. (Reddy Aff. ¶ 6.) Reddy, however, does not have a pool in his backyard and would not be able to install sandbags on his property until erosion reached within 20 feet of his home. (*Id.*) Under this scenario and the applicable regulation, up to 60 feet of Reddy's backyard landward of the structure, including shrubs, artificial turf, gravel, and other non-beach compatible materials, would be washed into the ocean or onto the beach before Reddy could install sandbags to protect his home. (*Id.*)

¹ "Emergency" is defined as "any unusual incident resulting from natural or unnatural causes which endanger the health, safety, or resources of the residents of the State, including damages or erosion to any beach or shore resulting from a hurricane, storm, or other such violent disturbance." S.C. Code Ann. § 48-39-10(U).

The likelihood of a significant portion of Reddy's property being washed away is not mere conjecture. In fact, the Department's recognition of "emergency conditions" that justify sandbags to protect habitable structures next to Reddy's property shows that there is actual and imminent danger to his property. As testified at trial, the subject beach area has never received a major nourishment in the beach's history despite the desperate need for replenishment. And, as the pictures attached to Reddy's affidavit show, the current elevation of Reddy's property seaward of the structure is six to eight feet below the property landward of the structure in Reddy's backyard. (*Id.* at Ex. 2.) As a result, Reddy's structure is the only thing preventing his yard from collapsing onto the beach and taking with it the artificial turf, polypropylene pad, fabric, plants, and gravel in his yard. (*Id.* at ¶ 8.) Unlike his neighbors who have in-ground pools in their backyard that act as erosion control structures for their properties, Reddy's property would be exposed to immediate harm due to the disparity in elevation landward and seaward of the structure if he removed it. (*Id.* at ¶¶ 6-8.) Until the City of Isle of Palms addresses its substantially declining beach elevations, removal of Reddy's structure will unreasonably expose Reddy and his property to irreparable damage.

Not only would erosion imminently endanger Reddy's property, it would also imminently endanger the property of his neighbors. Because there would be no protection to Reddy's property, erosion could wash out highland along both neighboring property boundaries and into the neighbors' back yards, thereby undermining the protection that the neighbors obtained by installing sandbags in their back yard. (*Id.* at ¶¶ 8-9.) Put simply, unless a stay or supersedeas is issued, the removal of Reddy's structure would be counterproductive to the public interest that the Amended Final Order seeks to promote. Therefore, the Court should issue a stay or supersedeas

to protect Reddy - and his neighbors - from the “emergency conditions” that the Department has recognized exist on the southern beach of the Isle of Palms.²

III. The public interest will be better served by granting a stay.

The issuance of a stay or supersedeas will not adversely affect the public interest. Instead, it will likely advance the public interest under the current emergency conditions by ensuring that public access to the beach near Reddy’s property is maintained and by protecting his neighbors’ property from erosion. Therefore, this factor also favors the imposition of a stay.

Staying the removal of Reddy’s structure will not interfere with public access to the beach near Reddy’s property. As proven at trial, the public has access to the beach through a path established by an easement on Reddy’s and his northern neighbor’s properties. The structure is not within the easement, and the path remains open for use by the public with the structure in its current location, as shown in the photographs attached to Reddy’s affidavit. (*Id.* at ¶ 10, Ex. 3.) To the extent that public access has been obstructed in recent months, that obstruction has arisen solely from the sandbags that have been installed to protect his neighbor’s property. (*Id.*)

If anything, it is likely that maintaining the structure will protect the public’s access to the beach adjacent to Reddy’s property. As explained above, Reddy’s neighbor to the north has protected her property with sandbags. If the wall is removed, erosion is likely to encroach further into Reddy’s property, the beach path, and the neighbor’s property. (*Id.* at ¶ 11.) That erosion will either wash away portions of the beach path or require the installation of sandbags within 20’ feet of the neighbor’s pool, which would be in the public beach access path:³ (*Id.*)

²² In addition to suffering the irreparable harm of losing his property, Reddy would also sustain the financial and personal injury of spending invaluable time and resources to remove the structure in compliance with the Amended Final Order. If he prevailed on his appeal, he would also lose the money he initially spent on the structure.

³ The below aerial photograph and measurement is taken from Charleston County’s public GIS website found at: https://gisccweb.charlestoncounty.org/public_search/.



Either way, public access to the beach is threatened if the structure is removed. Therefore, a stay is necessary to protect public access to the beach along Reddy's property.

Also, because neighboring properties have been fortified with emergency sandbags under the existing emergency conditions that are posing an imminent danger to habitable structures, the removal of the structure will not have any negative impact on neighboring properties. Although the Court's Amended Final Order purports to advance the public interest of preventing accelerated erosion of adjacent properties, those properties are currently protected by emergency sandbags, which means that removal of the structure will only accelerate erosion on Reddy's property and likely into the neighbors' side yards.

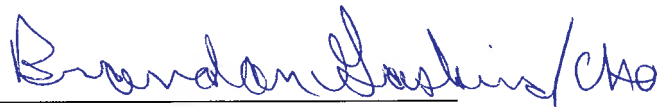
In fact, Reddy's northern neighbor has recognized that Reddy's structure has been beneficial to her property. (*Id.* at ¶ 13, Ex. 4.) In a letter that she sent to Isle of Palms City Council, the neighbor stated, "I would like to state for the record that Mr. Reddy's wall has not been detrimental to my property. In fact, there's been some benefit to having it present." (*Id.*) Thus, removal of the structure will be adverse to the public interest and Reddy's neighbors under current emergency conditions.

In addition, removal of the structure poses potential threats to the safety of the public and the contractors who will be involved in the removal of the wall based on existing elevations. (*Id.* at ¶ 12.) As stated above and depicted in the attached photographs, the current elevation of Reddy's property seaward of the structure is six to eight feet below the property landward of the structure. (*Id.* at ¶ 7, Ex. 2.) This creates potentially dangerous working conditions and safety risks for workers and the public during the demolition and restoration process. As a result, it would be in the public's interest for the removal to be delayed at least until the City of Isle of Palms can increase the elevation of the beach adjacent to Reddy's property in its planned beach renourishment, which is scheduled to begin in 2026.

CONCLUSION

For the foregoing reasons, Reddy respectfully requests the Court grant this Motion to Stay and for Supersedeas of the Court's Amended Final Order compelling Reddy to remove the structure and perform other related activities.

Respectfully submitted,

A handwritten signature in blue ink that reads "Brandon Gaskins/CHO". The signature is stylized and cursive.

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January 15, 2026
Charleston, South Carolina

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Environmental	)	Docket No.: 24-ALJ-07-0232-CC
Services and South Carolina Coastal	)	
Conservation League,	)	
	)	
Petitioners,	)	RESPONDENT ROM REDDY'S
	)	RESPONSE IN OPPOSITION TO
vs.	)	PETITIONER SOUTH CAROLINA
	)	COASTAL CONSERVATION
Rom Reddy,	)	LEAGUE'S MOTION FOR
	)	RECONSIDERATION AND
Respondent.	)	CLARIFICATION OF THE
	)	AMENDED FINAL ORDER

Pursuant to Rule 29(D)(1) of the South Carolina Rules of Procedure for the Administrative Law Court and Rule 59(e) of the South Carolina Rules of Civil Procedure, Respondent Rom Reddy (“Reddy”) submits this Response in Opposition to the Motion for Reconsideration of the Amended Final Order submitted by Petitioner South Carolina Coastal Conservation League (“CCL”) in the above-captioned matter.

ARGUMENT

I. CCL’s motion improperly seeks to relitigate jurisdictional issues that the Court has previously declined to address definitively on two prior occasions.

In its motion for reconsideration, CCL fails to address any points that were overlooked or misapprehended by the Court. Instead, it seeks “clarification” of the Court’s ruling in a way that effectively attempts to relitigate the jurisdictional issues that already have been addressed in the Court’s Final Order and again in the Amended Final Order upon reconsideration. Most significantly, CCL seeks clarification from the Court that Reddy’s installation of the structure and other was not authorized or permitted, which presupposes that the Department had jurisdiction over the area of Reddy’s property in question in this case. However, the Court has already definitively declined to make this determination on two occasions, and CCL presents no

compelling reason for the Court to revisit the issue for a third time. Therefore, CCL's motion for reconsideration on this ground should be denied.

II. CCL's request for reconsideration is based on mischaracterizations of the Court's findings.

CCL additionally argues that the Court should clarify its Amended Final Order based on inaccuracies and mischaracterizations of the Court's findings. Most strikingly, CCL argues that the Court's order details how areas were "rendered more susceptible to inundation as a result of Respondent's own alterations to the site." Although CCL claims that such finding is found on page 7 of the Amended Final Order, that page contains no such finding. Therefore, the Court should reject CCL's attempt to "clarify" the Amended Final Order based on inaccurate representations of what the Court actually found.

III. Reconsideration of the Court's conclusion not to impose a penalty is unwarranted because it is limited to the particular facts of this case.

CCL also argues that clarification is requested to "ensure that the Order is not construed to foreclose civil penalty authority under S.C. Code Ann. § 48-39-130(D) in this or future cases, or to diminish the Department's statutory role in enforcing the Act through the full range of remedies authorized by the General Assembly." The Amended Final Order, however, includes no language that limits the Department's statutory authority to seek penalties for actual violations of the Act. Here, the Court clearly articulated its rationale for not imposing penalties based on the particular facts of this case. Accordingly, there is no reason for reconsideration of the Court's conclusion that penalties are not warranted in this case.

IV. CCL's motion for reconsideration further demonstrates that its intervention in this case was unwarranted and is resulting in a waste of the Court's and Reddy's time and resources.

As Reddy argued at trial, CCL should not have been allowed to intervene in this case because the interests they purport to represent are adequately represented by the Department. CCL's repetitive motions for reconsideration only underscore this point. CCL makes no material arguments that the Department has not made, and their motions only require the Court and Reddy to devote unnecessary resources to considering or responding to CCL's parroting of the Department. While CCL claims it is protecting public access to the beach, there is no evidence that Reddy's structure has interfered or will interfere with that access. Indeed, Reddy's property contains an easement allowing the public to access the beach over his property, and the structure in no way interferes with that easement. Moreover, all of the area claimed to be in the disputed jurisdiction of the Department is on Reddy's private property, to which the public has no right to trespass. For these reasons, as well as those discussed above, the Court should reject CCL's present request for reconsideration.

CONCLUSION

For the foregoing reasons, Reddy requests that this Court deny CCL's Motion for Reconsideration and Clarification.

Respectfully submitted,



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**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Environmental	)	Docket No.: 24-ALJ-07-0232-CC
Services and South Carolina Coastal	)	
Conservation League,	)	
	)	
Petitioners,	)	RESPONDENT ROM REDDY'S
	)	RESPONSE IN OPPOSITION TO
	)	PETITIONER SOUTH CAROLINA
vs.	)	DEPARTMENT OF
	)	ENVIRONMENTAL SERVICES'
Rom Reddy,	)	MOTION FOR RECONSIDERATION
	)	AND CLARIFICATION OF THE
Respondent.	)	AMENDED FINAL ORDER

Pursuant to Rule 29(D)(1) of the South Carolina Rules of Procedure for the Administrative Law Court and Rule 59(e) of the South Carolina Rules of Civil Procedure, Respondent Rom Reddy ("Reddy") submits this Response in Opposition to the Motion for Reconsideration and Clarification submitted by Petitioner South Carolina Department of Environmental Services (the "Department") in the above-captioned matter.

ARGUMENT

I. The Court correctly found that the Department's qualifications and experience are limited.

In its motion, the Department first requests that the Court reconsider its finding in footnotes 21 and 31 that the Department's specialized knowledge, including that of Jessica Boynton, is limited to the establishment of the baseline and setback lines. In support of this request, the Department cites various testimony purporting to establish that the Department and Ms. Boynton have vast experience in using GIS, GPS, and features analyses. However, regardless of Ms. Boynton and her colleagues' experience with these tools and analyses, that experience does not undermine the Court's ultimate conclusion, which was not modified in the Amended Final Order, that the Department's use of these tools to identify the vegetation line on one particular day after

a tropical storm was a subjective and dubious way of determining the so-called “Beaches Critical Area.”

As the Court determined and the Department admits, the purpose of Ms. Boynton’s assessment on September 1, 2023 using a handheld GPS was to determine the vegetation line after Tropical Storm Idalia. The assessment was not conducted to determine the extent of periodic inundation for the purpose of establishing the extent of “Beaches Critical Area.” Importantly, there is nothing in the Coastal Tidelands and Wetlands Act (the “Act”) establishing that the Department’s jurisdiction is based on the location of the vegetation line. Instead, the definition of “Beaches” is dependent on whether there has been “periodic inundation by tidal and wave action so that no nonlittoral vegetation is established.” S.C. Code Ann. § 48-39-10(H). The determination of whether periodic inundation has resulted in the lack of nonlittoral vegetation is a separate inquiry from the location of the vegetation line after one storm.

Nor was there any evidence presented by the Department that it has used GIS, GPS, and features analysis in the past to establish “Beaches Critical Area” as it purports to have done in this case. While it is not disputed that the Act authorizes the Department to establish the baseline and setback line based on scientific data (S.C. Code Ann. § 48-39-280), the Act does not envision the determination of the Department’s jurisdiction based on the use of GIS, GPS field collection, and features analysis. In the absence of any statutory authority to determine the location of “Beaches Critical Area” based on these tools and analysis and any precedence demonstrating that the Department has engaged in similar analysis, there is no basis to conclude that the Department has specialized knowledge beyond establishing baselines and setback lines as the Court found.

In sum, the Court correctly found that a single assessment of the vegetation line conducted a day after Tropical Storm Idalia is a “dubious” way of determining “the location of the beaches

critical area line,” and the Department’s testimony and arguments regarding its employees’ experience does not warrant a reconsideration of this finding.

II. The Department has not presented any compelling reason for the Court to reconsider its findings about the installation of non-beach compatible materials.

In the Department’s second argument in support of reconsideration, it urges the Court to find that Reddy violated the Act by installing non-beach compatible materials other than the structure on his property. However, the Department provides no evidence that any of these alleged acts occurred seaward of the setback line. Thus, the Department again attempts to relitigate whether the Department has jurisdiction over “Beaches Critical Area,” which the Court has now addressed on two occasions already. The Department presents no compelling reason for the Court to consider this issue for a third time, and the Court should reject the Department’s argument accordingly.

III. Reconsideration of footnote 27 is unwarranted because it is immaterial to the Court’s ultimate decision.

Next, the Department requests reconsideration of footnote 27 in the Amended Final Order, in which the Court found that the Department “failed to convincingly establish a nexus between Respondent’s actions and the non-compatible materials observed along the adjacent beach.” The Department, however, fails to articulate why this footnote should be reconsidered in light of the Court’s resolution of the issues before it. Put simply, footnote 27 is immaterial to the Court’s rationale in deciding this case, and reconsideration of this footnote would have no practical impact on the case’s outcome. It appears that this is another attempt by the Department to relitigate issues that were previously presented to and rejected by the Court. As a result, there is no justification to reconsider footnote 27 of the Amended Final Order.

IV. The Court correctly found that that the Department's expert could not determine whether the structure was in Beaches critical area at the time of trial, which reinforces his conclusion that the Department's argument, if adopted, would undermine consistency in coastal zone regulation.

The Department also seeks reconsideration of the Court's statement that the Department's own witness, Chris Jones, "could not confirm where the 'beaches' is now" on the grounds that he was not retained to evaluate the location of Beaches critical area at the time of trial. Regardless of what timeframe Mr. Jones was retained to testify about, there is no doubt the Court characterized his testimony accurately. As a result, there is nothing erroneous about the Court's statement that would warrant reconsideration and a different finding.

Also, Mr. Jones's inability to identify the current location of the Beaches critical area only reinforces the Court's concerns about the Department's expansive view of its jurisdiction. The mere fact that an expert is unable to opine about the location of the Beaches critical area without being retained to do so demonstrates that property owners would be incapable of understanding what specific portions of their property are subject to the Department's jurisdiction. As the Court explained, "if there is no consistent delineation of the Department's permitting authority along the shoreline, permissive use or alteration of the critical area will be consistently in a state of flux." If an expert, such as Mr. Jones, has to be retained specifically to determine the location of Beaches critical area at a particular moment in time, as the Department now argues, then a normal homeowner has no hope of being able to determine the scope and extent of the Department's ever-changing claim of jurisdiction. So, regardless of whether Mr. Jones was retained to testify about the location of Beaches critical area at the time of trial, his inability to do so illustrates the Court's broader point that "leaving the Department's authority ever changing with no certainty to either landowners or this Court" would cause an "undesirable result" that is contrary to the General Assembly's intent of establishing consistency in coastal zone regulation. Therefore, the Court's

statement that the Department's expert could not determine the location of Beaches critical area at the time of trial should be left undisturbed.

V. The Court's findings that the Department's "isolated observations" is insufficient to establish that the structure is in Beaches critical area is supported by sufficient evidence.

Finally, the Department requests that the Court clarify its finding that the Department's "isolated observations on September 1, 2023 do not establish" that the structure was installed in an area subject to periodic inundation. The clear preponderance of the evidence, however, demonstrates that the Court's finding in this regard is correct and supported by the evidence.

To begin, the Department's own witnesses admitted that the assessment on September 1, 2023 was not made to establish whether any particular area on Reddy's property had been subject to periodic inundation. Instead, the assessment was made to determine the vegetation line after Tropical Storm Idalia. In addition, there was no evidence that the Department had claimed that the area was part of the Beaches critical area prior to September 1, 2023.

In contrast, Reddy testified that Tropical Storm Idalia was the first time that water intrusion had occurred landward of the escarpment on his property and that vegetation existed on the escarpment after the nor'easter in May 2023. (Tr. p. 1198; Jt. Ex. 69.) Reddy also presented evidence that he manually removed some of the vegetation to drape turf over the escarpment for protection because there were no dunes. (Jt. Exs. 53 and 65.) Yet, even after this vegetation was removed, the palm in the center of the property and other vegetation on the properties' side boundaries remained in the area that the Department claimed was in the Beaches critical area based on its September 1, 2023 observations. (Jt. Ex. 82.)

In an attempt to show that it relied on more than the isolated assessment on September 1, 2023, the Department claims in its motion that it relied on data collected by Matt Slagel in June

2023 “that showed segments of the wall were landward of the top of the bank even before Idalia.” However, the Department’s own evidence shows that the entire structure was landward of the escarpment/vegetation line observed in June 2023. (Jt. Ex. 1, p. 19.) Also, there was no evidence that the May 2023 nor’easter resulted in periodic inundation beyond the escarpment, and Reddy provided testimony and photographs showing that nonlittoral vegetation remained on the escarpment after that storm. (Jt. Ex. 69; Tr. p. 1268.) Taken together, the preponderance of the evidence clearly shows that the Department’s claim of jurisdiction is based on its “isolated observations” of the area on September 1, 2023. Thus, the Court correctly found that the Department failed to prove that the structure was installed in an area subject to periodic inundation based on observations made on a single day.

Also, the Department mistakenly claims that Reddy’s July 2023 survey was another data point relied upon to determine that the structure was located within Beaches critical area. To support this claim, the Department cites Mr. Slagel’s testimony found on p. 229, lines 10-20. The cited testimony, however, does not refer to the survey in any way. Yet not only does the Department misrepresent the trial testimony to support its argument, it also misconstrues the survey. As testified at trial and depicted in photos, the “top of the bank” in the Reddy survey is not the escarpment. Instead, it is where the artificial turf was pulled back several feet into the yard and stapled to protect the escarpment. (Jt. Exs. 50 and 53.) Accordingly, there is no evidence to support the Department’s claim that the July 2023 survey informed its determination of the Beaches critical area in this case.

Overall, the Department fails to convincingly show that it relied on any data other than the September 1, 2023 assessment to determine the Beaches critical area. Moreover, there was ample evidence to support the Court’s conclusion that the Department’s “isolated observations” on one

day after a tropical storm struck the Isle of Palms were insufficient to establish the Department's jurisdiction in this case. The Department's motion for reconsideration should be denied as a result.

CONCLUSION

For the foregoing reasons, Reddy requests that this Court deny the Department's Motion for Reconsideration and Clarification.

Respectfully submitted,



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January 20, 2026

Charleston, South Carolina

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

South Carolina Department of
Environmental Services and South Carolina
Coastal Conservation League

Petitioners,

v.

Rom Reddy,

Respondent.

Docket No.: 24-ALJ-07-0232-CC

DES' RETURN IN OPPOSITION TO
RESPONDENT'S MOTION TO STAY
AND FOR SUPERSEDEAS

TO: THE COURT AND ALL PARTIES

PLEASE TAKE NOTICE that the Petitioner, South Carolina Department of Environmental Services ("DES" or the "Department"), respectfully submits this Return In Opposition to Respondent's Motion to Stay and for Supersedeas, as follows:

PROCEDURAL BACKGROUND

The Department issued an Administrative Order on July 1, 2024, wherein the Department found that the Respondent had repeatedly violated the South Carolina Coastal Zone Management Act and its implementing regulations. The Department also assessed an administrative penalty of \$289,000 against the Respondent. The Court conducted a hearing on the merits in Columbia, South Carolina from May 6-8 and 19-20, 2025. On October 23, 2025, the Court issued its Final Order in the case. On November 10, 2025, the Court rescinded its Final Order to further consider the parties' Motions for Reconsideration. On December 30, 2025, the Court issued an Amended Final Order. The Court ordered that the Respondent submit a Corrective Action Plan for the

removal of the hard structure including all unauthorized materials that were used for its construction, and the restoration of that affected area once excavation/removal is complete. On January 15, 2026, the Respondent filed a Motion to Stay and For Supersedeas of the Court's Amended Final Order.

STANDARD OF REVIEW

"A final decision issued by the Administrative Law Court in a contested case may not be stayed except by order of the Administrative Law Court or the Court of Appeals." S.C. Code Ann. § 1-23-600(H)(5) (Supp. 2017). Rule 29(E) of the Rules of Procedure for the South Carolina Administrative Law Court (SCALC Rules) provides:

At any time prior to the filing of a petition for judicial review, and upon the motion of any party, with notice to all parties, the administrative law judge may stay the final order upon appropriate terms. The filing of a motion for a stay does not alter the time for filing a petition for judicial review.

SCALC Rule 29(E). "A 'stay' is not a matter of right, even if irreparable injury might otherwise result; it is instead an exercise of judicial discretion, and the propriety of its issue is dependent upon the circumstances of the particular case." 5 Am Jr. 2d *Appellate Review* § 370 (West 2018); *Also see* 1A C.J.S. Actions § 309. "A supersedeas or stay will not be granted unless it appears to be necessary to prevent irreparable injury or a miscarriage of justice, nor will it be granted where it would permit such a change of status of the subject matter as to render further proceedings ineffectual or destroy the subject matter of the litigation." 5 Am. Jr. 2d *Appellate Review* § 377. When a case presents an issue of significant public importance, a court must consider the public

interest in addition to the traditional factors for determining whether a stay pending appeal is warranted. 5 Am. Jr. 2d *Appellate Review* § 377.

The Administrative Law Court may apply the South Carolina Appellate Court Rules of Procedure to resolve questions not addressed by the Rules of Procedures for the Administrative Law Court. SCALC Rule 68. This Court has looked to Rule 241(c)(2), SCACR, in determining whether a stay of the Administrative Law Court's order should be granted. *See e.g., South Carolina Coastal Conservation League v. S.C. Dep't of Health & Envtl. Control*, Docket No. 15-ALJ-07-0369-CC (SCALC Dec. 14, 2018). South Carolina Rules of Appellate Procedures, Rule 241(c)(2) provides a court "should consider whether [imposition of a supersedeas] is necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot."

ARGUMENT

I. DENYING A STAY OF THE ALC'S DECISION WILL NOT RENDER THE CONTROVERSY BETWEEN THE PARTIES MOOT.

Respondent argues that the Court should grant a stay of the Court's Order because removal of the walls will render the controversy between the parties moot. The South Carolina Supreme Court in addressing mootness has explained:

Generally, this Court only considers cases presenting a justiciable controversy. *Byrd v. Irmo High School*, 321 S.C. 426, 430, 468 S.E.2d 861, 864 (1996). A justiciable controversy exists when there is a real and substantial controversy which is appropriate for judicial determination, as distinguished from a dispute that is contingent, hypothetical, or abstract. *Id.* at 431, 468 S.E.2d at 864. A moot case exists where a judgment rendered by the court will have no practical legal effect upon an existing controversy because an intervening event renders any grant of effectual relief impossible for the reviewing court. *Mathis v. South Carolina State Highway Dep't*, 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973). If there is no actual controversy, this Court will not decide moot or academic questions. *Id.* (citing *Jones v.*

Dillon–Marion Human Res. Dev. Comm'n., 277 S.C. 533, 535, 291 S.E.2d 195, 196 (1982)); see also *Wallace v. City of York*, 276 S.C. 693, 694, 281 S.E.2d 487, 488 (1981).

Sloan v. Friends of Hunley, Inc., 369 S.C. 20, 25-26, 630 S.E.2d 474, 477 (2006). “[Q]uestions of public interest originally encompassed in an action should be decided for future guidance, however abstract or moot they may have become in the immediate contest.” *Sloan v. Greenville County*, 361 S.C. at 573, 606 S.E.2d at 467 (citation omitted).¹

If this Court denies the Respondent’s Motion to Stay, the actual controversy between the Department and the Respondent regarding several of the issues set forth in the Department’s enforcement action are not “contingent, hypothetical, or abstract.” *Id.* They remain unresolved and present a justiciable controversy notwithstanding this Court’s decision on the Motion to Stay. The removal or non-removal of the walls is not an “intervening event [that] renders any grant of effectual relief *impossible* for the reviewing court” regarding whether the Department had authority landward of the Beach/dune System in the area statutorily defined as “beaches” and whether the Respondent had the right to alter this area to protect his property. Friends of Hunley, 369 S.C. at 25-26, 630 S.E.2d at 477. (Emphasis added.) This necessarily includes other violations that the Department alleged in addition to constructing the walls such as the installation of the clay and other non-beach-compatible materials not associated with the construction of the wall and whether those materials should be removed. Removal of the walls also will not render moot

¹ *Curtis v. State*, 345 S.C. 557, 568, 549 S.E.2d 591, 596 (2001), sets forth two to other exceptions to the mootness doctrine: (1) if the issue raised is capable of repetition but generally will evade review, the appellate court can take jurisdiction; and (2) “if a decision by the trial court may affect future events, or have collateral consequences for the parties, an appeal from that decision is not moot, even though the appellate court cannot give effective relief in the present case.

whether violations of the Coastal Tidelands and Wetlands Act occurred that supported the Department's penalties.

If the Motion to Stay is denied and the Respondent removes the wall, Respondent would be in the same position as if Respondent had applied for a permit to install the erosion control structures and appealed the denial of the permit. Respondent also would be in the same position as if he had brought a declaratory judgment action. Even though there would not be a wall on the beach, the controversy over the Department's authority in the Beaches Critical Area landward of the Beach/dune System and the Respondent's rights to protect his property including the installation of a hard erosion control structure remain justiciable regardless of whether the walls are removed.

Respondent also argues that the Department does not have jurisdiction seaward of the Beach/dune system pursuant to South Carolina Code Section 48-39-120(C) to order the removal of the wall. The issue of the Department's authority pursuant to Section 48-39-120(C) also will not be resolved with the removal of the walls. This case presents a very different situation than other cases in which the courts have found mootness where the controversy has completely ceased to exist. *See e.g. Sloan v. Greenville County*, 361 S.C. 568, 606 S.E.2d 464 (where Supreme Court held that declaratory judgment action alleging county had violated procurement ordinances in connection with two projects were moot after completion of the projects and the amendment of the ordinance); *Sloan v. Friends of Hunley, Inc.*, 369 S.C. 20, 25-26, 630 S.E.2d 474, 477 (2006) (the Supreme Court found that the issue of whether the defendant was a "public body" covered by FOIA was moot where the defendant produced the documents that were at issue and conceded it

was a public body for purposes of the appeal.) *Berry v. Zahler*, 220 S.C. 86, 66 S.E.2d 459 (1951) (where a magistrate court issued an order of ejectment against a tenant and the tenant voluntarily vacated the premises, the right to possession of the premises had become moot.) In this case, tidal and wave action will continue to affect the Respondent's property so the Department's authority and the Respondent's rights pursuant to the South Carolina Coastal Zone Management Act will still be very much at issue. Moreover, the extent of the Department's authority in the coastal zone is one of great importance to the public and remains justiciable pursuant to the public interest exception.

The Respondent cites to the case of *Graham v. Graham*, 301 S.C. 128, 130, 390 S.E.2d 469, 470 (Ct. App. 1990), for the proposition that the purpose of a motion to stay is to preserve the status quo pending the determination of the appeal. (Resp't's Motion to Stay, p. 2.) In order to maintain the status quo while the appeal is pending, the walls should be removed so the shoreline will not continue to be detrimentally affected by scour around the erosion control structures and the public's access will not continue to be detrimentally impacted and diminished further due to the presence of the walls and the worsening erosion of the dry sand beach. As explained by the Department's expert, Christopher Jones, in the hearing of this case and cited to by the Court in its Amended Final Order,

hard erosion control structures like Respondent's restrict the natural flow of sediment and induce scour onto adjacent properties, a fact which Respondent did not dispute. Naturally, this accelerated erosion contributes to increased deterioration of the adjacent beach; a loss, which adversely affects public access laterally along the beach adjacent to the structure.

(Amended Final Order p. 19.) Allowing these structures to remain on the beach through the pendency of Respondent's appeals would undermine the very basis for the Department's enforcement efforts – to prevent the ongoing harm from Respondent's construction and other alterations in this vulnerable area, and to protect the beach and the public access.² Allowing the significant and continuous disruption of the natural beach's tide's ebb and flow by the hard erosion control structures runs contrary to the concept of maintaining the status quo of the condition of the beach. Using Respondent's overly-narrow interpretation that keeping the walls on the beach is the only option for maintaining status quo is contrary to sound public policy. This narrow view would result in the continuing significant adverse impacts to public interest when this valuable coastal resource and public access has already been impacted for over two years now.

II. Respondent's Motion to Stay should be denied as he has failed to establish that he will suffer irreparable harm absent a stay.

Respondent claims that he will suffer irreparable harm if the walls are removed due to the erosion to his backyard. At the outset, it is important to note that the Respondent sets forth opinions regarding coastal processes, erosion and the effect of removing the wall that he is not qualified to render. Respondent failed to present any support for his Motion to Stay from a qualified expert that could render opinions regarding the erosional processes and the effect that removing the wall will have on both his property and the adjacent properties. SCRE Rule 701 states that "[i]f the witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences

² Furthermore, allowing these structures to remain on the beach through the pendency of the Respondent's appeal rewards the Respondent for proceeding with alterations that the Department advised him were unlawful. *See* III(F) *infra*.

is limited to those opinions or inferences which (a) are rationally based on the perception of the witness, (b) are helpful to a clear understanding of the witness' testimony or the determination of a fact in issue, and (c) *do not require special knowledge, skill, experience or training.*" (Emphasis added).

Respondent's argument also is fatally flawed in that it fails to take into account that (1) Respondent assumed the risk of loss from erosion when he purchased oceanfront property; (2) erosion is not threatening his house, but his large backyard; (3) the Department will allow him to install sandbags to protect his property the same as his neighbors have done; (4) sandbags can be installed in conjunction with removing the wall to shore up his yard during the removal process; and (5) the City is, and has been, actively working with the Department to protect this stretch of the beach to mitigate and reduce the erosional impacts to these properties. Once the wall is removed and sandbags are installed, he will be similarly situated to his neighbors.

A. The "irreparable harm" Respondent claims will occur from removing his recently installed walls, is the very harm that he assumed the risk for when he purchased the property and should not be the basis of his obtaining a Stay of this Court's Order.

"Coastal lands are notoriously subject to the volatility of changing tides, erosion, and accretion." *Est. of Tenney v. S.C. Dep't of Health & Env't Control*, 393 S.C. 100, 108, 712 S.E.2d 395, 399 (2011). Just like other oceanfront property owners, the Respondent took the risk that comes with purchasing property on the oceanfront, a highly dynamic area with both erosional and accretional cycles, that some of his yard may be lost due to erosion during erosional cycles. As the South Carolina Court of Appeals explained in *Horry Cnty. v. Woodward*:

South Carolina recognizes the general common law rule that accretions by natural alluvial action to riparian or littoral lands become the property of the riparian or littoral owner whose lands are added to. *See Spigener v. Cooner*, 42 S.C.L. (8 Rich.) 301, 370 64 Am.Dec. 755 (1855) (dictum); *State of South Carolina v. Beach Co.*, 271 S.C. 425, 248 S.E.2d 115 (1978) (dictum). Conversely, lands gradually encroached upon by water cease to belong to the former riparian or littoral owner. *See Spigener v. Cooner, supra* (dictum). The rule rests on the impossibility of identifying at any given moment the imperceptible additions to or subtractions from riparian land caused by the constant natural action of water. It ensures that riparian land will remain riparian, whatever changes may take place in the adjacent watercourse or shoreline by accretion or reliction. The law gives the riparian proprietor the benefit of additions to his land caused by accretion or reliction. However, it also requires him to bear the corresponding risk that land will be lost by gradual erosion or submergence. The rule is said to rest on the principle of natural justice that one who sustains the burden of losses imposed by the contiguity of waters shall be entitled also to whatever benefits they bring. *Ocean City Association v. Shriver*, 64 N.J.L. 550, 46 A. 690, 51 L.R.A. 425 (1900); J. Angell, *A Treatise On The Right Of Property In Tide Waters*, 69 (1826).

Horry Cnty. v. Woodward, 282 S.C. 366, 369-370, 318 S.E.2d 584, 586 (Ct. App. 1984). A property owner who takes title to this especially volatile land does so with the knowledge that their land is at risk of loss by natural forces. *Est. of Tenney*, 393 S.C. at 108, 712 S.E.2d at 399. Respondent should not now be able to claim that he has been irreparably harmed if the walls he recently installed that continue to negatively impact the public, are removed exposing his property to erosion from the tides which is a risk he assumed.³

B. Erosion is not threatening Respondent's habitable structure but is located some eighty feet away from the current scarp line according to Respondent's Affidavit.

³ At the time Respondent purchased the property without the walls, he had notice of the Coastal Tidelands and Wetlands Act's findings and prohibitions against hard erosion control structures as well as the City's restriction stating that the City "strongly opposed the future issuance of any permit for any kind of beach erosion control structure..." (Joint Ex. 048, Note No. 3.)

As Respondent explained in his affidavit, his back yard would have to erode sixty feet before it would come within twenty feet of his habitable structure. (Reddy Aff. ¶ 6.) Therefore, according to the Respondent there is approximately eighty feet landward of the wall that would have to be eroded prior to the erosion reaching his house. In May 20, 2023, when the Respondent complained that the water was getting up to his property and sought an emergency order, the Department documented that the erosional scarp was sixty feet away from his house. (Joint Ex. 012, BCM Reddy 016936; Tr. 102:12-24.) The Department respectfully requests that the Respondent's Motion For Stay be denied as the potential loss of a portion of Respondent's back yard is not "irreparable harm" that should outweigh the walls' detrimental impacts to the public as set forth in Issue III below.

C. Although Respondent claims that his property will be irreparably harmed because the Department will not allow him to place sandbags, this is simply not true.

Respondent asserts that he would not be able to install sandbags on his property until erosion reaches within 20 feet of his home. (Reddy Aff. ¶ 6.) He goes on to state that "[u]nder this scenario and the applicable regulation, up to 60 feet of [Respondent's] backyard landward of the structure, including shrubs, artificial turf, propylene pad, fabric, gravel, and other non-beach compatible materials, would be washed into the ocean or onto the beach before [Respondent] could install sandbags to protect his home." (Reddy Aff. ¶ 6.) However, these assertions are contrary to the terms of the Emergency Orders pertaining to his property issued by the Department. Isle of Palms property owners were authorized to install sandbags in the Beaches Critical Area to protect their property pursuant to Emergency Order 25-EO-008. This Emergency Order provides:

A structure is determined to be in imminent danger when the erosion comes within 20 feet of the structure or if the Department determines that extenuating circumstances related to site conditions exist. In this case, most of the threatened structures or infrastructure are within 20 feet of erosion. For those structures or infrastructure that are currently greater than 20 feet from erosion but located within the project footprint, the Department has determined that extenuating circumstances related to site conditions exist, and sandbags can therefore be placed greater than 20 feet from the threatened habitable structure or critical infrastructure to allow for continuity and greater effectiveness of the deployed sandbags.

This extenuating circumstance language is consistent with Regulation R.30-15(H) which provides “[i]f the Department determines that extenuating circumstances related to site conditions exist, the Department, at its discretion, may allow the use of emergency orders when erosion is beyond twenty (20) feet of the structure.” As Mr. Blair Williams, Department’s Director of the Critical Area Permitting Division, explains in his Affidavit, Respondent would be eligible for emergency protections for the installation of sandbags in line with those of the adjacent neighbors as authorized under EO 25-EO-008. (Ex. 1, Williams Aff. ¶ 5.) The Department will work with the Respondent so that he will be able to protect his backyard in the same manner that the other property owners are protecting their structures. (Ex. 1, Williams Aff. ¶¶ 5 & 7.) As for the irreparable harm Respondent claims would occur to his neighboring properties because he will not be allowed sandbags, this assertion is also unfounded since he will be able to place sandbags at his property to “allow for continuity and greater effectiveness of the deployed sandbags” as allowed by the terms of the EO. (Ex. 1, Williams Aff. ¶¶ 6-7.)

D. Contrary to Respondent’s assertions, the walls can be safely removed without causing irreparable damage to Respondent’s back yard.

Mr. David (“Davey”) Richardson, a marine contractor with forty-six years of experience, has provided an Affidavit explaining how the Respondent’s walls can be removed “with minimal

risk to the public and contractors and of damage to the Respondent's property and the adjacent properties." (Ex. 2, Richardson Aff. ¶¶ 1-3, 6 & 11.) As the Department will allow placement of sandbags at Respondent's property in conjunction with removal of the walls, it is Mr. Richardson's opinion that the Respondent's property can be stabilized with the sandbags prior to extracting the walls. Any harm to the adjacent properties will also be minimized by using the sequencing of methodology that Mr. Richardson sets forth in his Affidavit. (Ex. 2, Richardson Aff. ¶¶ 6, 9 & 11.)

E. The Respondent's contention that his yard will suffer irreparable harm is speculative in that it fails to consider that his property also will receive protection from the City's efforts and that he will be able to take other steps to protect his yard pursuant to the emergency orders.

As shown by the testimony and photographs at the hearing in this case, and as explained by Mr. Williams in his Affidavit, the City of Isle of Palms has been working and continues to work to protect the properties along the stretch of the beach where the Respondent lives. The City's efforts have included minor renourishment, sandscraping and the placement of sandbags. Respondent's assertions about irreparable harm discounts the City's diligent efforts to protect these homes on this stretch of the beach. More recently, the City has obtained emergency orders to place sandbags along the beach, has received a permit from the Department to transfer sand to protect these properties in conjunction with the ongoing USACE dredging project and is in the process of applying for a large-scale renourishment project to take place periodically to address the erosion along this stretch of the beach. The permit for large-scale renourishment is anticipated to be issued between May and July of 2026 and the stretch of beach where Respondent's property is located will receive up to 800,000 cubic yards of sand. (Ex. 1, Williams Aff. ¶ 16 & Exhibits A & B.)

In conjunction with the wall removal, the Respondent can protect his yard by sandbags as previously explained. In addition, he can avail himself of the additional measures set forth in the EO's provisions and allowed by the regulations to protect his yard including sandscraping and minor renourishment behind the sandbags. (Ex. 1, Williams Aff. ¶ 5.) Notably, Respondent asserts that "the Court's Amended Final Order purports to advance the public interest of preventing accelerated erosion of adjacent properties, those properties are currently protected by emergency sandbags, which means that removal of the structure will only accelerate erosion on Reddy's property and likely into the neighbor's side yards." (Resp't's Motion to Stay, p. 8.) Since Respondent will be allowed to place sandbags in front of his property, then it stands to reason that these sandbags will prevent erosion to his property as well.

The Respondent's claims of irreparable harm fail to account for either the protections to his property that he can take pursuant to the EO or any of the City's other efforts. As this Court has explained, "the determination of irreparable harm must be based upon a finding that the harm is actual and imminent." *South Carolina Coastal Conservation League v. S.C. Dep't of Health & Envtl. Control*, Docket No. 15-ALJ-07-0369-CC at 7, citing *Direx Israel, Ltd. v. Breakthrough Med. Corp.*, 952 F.2d 802, 812 (4th Cir. 1991) ("holding that for harm 'to be irreparable, the harm must be neither remote nor speculative, but actual and imminent'"). Department respectfully requests that the Motion for Stay be denied as Respondent has failed to establish that he will be irreparably harmed.

- F. Respondent assumed the risk of sustaining "financial and personal injury" when he proceeded to construct the wall after notice by the Department on several occasions that the construction was prohibited and should not be able**

to use this harm as a basis for having the Court grant him a stay to keep the walls in longer.

Respondent asserts that he “would also sustain the financial and personal injury of spending invaluable time and resources to remove the structure in compliance with the Amended Final Order. If he prevailed on his appeal, he would also lose the money he initially spent on the structure.” (Resp’t’s Motion to Stay at 7, FN 22.) Respondent assumed this risk of loss when he proceeded to construct the walls and place other non-beach-compatible materials on the beach contrary to the Department’s repeated instructions that he should not alter these areas. Respondent could have pursued the routes available to him to appeal the Department’s determination, yet he chose to expend his money and time on building the walls knowing that the Department believed his activities to be unlawful alterations of critical area over which the Department had jurisdiction. It is disingenuous and unjust for Respondent now to claim he should be allowed to keep the walls because he would suffer the harm that he knowingly put himself in the position of sustaining.

III. The Respondent’s Motion to Stay should be denied because Respondent’s walls are adversely affecting the public interest and causing harm to the beach including to the adjacent properties.

When a case presents an issue of significant public importance, a court should consider the public interest in addition to the traditional factors for determining whether a stay pending appeal is warranted. 5 Am. Jr. 2d *Appellate Review* § 377. *West Virginia v. United States Environmental Protection Agency*, 90 F.4th 323 (4th Cir. 2024). In this case the Court should deny the stay to protect the public’s right of access and use and enjoyment of the beach; to prevent further erosional impacts due to scour caused by the walls; to prevent on-going detrimental effects to the flora and

fauna; to eliminate the risk of the non-beach-compatible materials used in the construction of the wall becoming marine debris; to provide a measure of deterrence so that others do not construct unlawful erosion control structures on the beach; and to put Respondent in an equal position as his neighbors.

A. Respondent's Stay should be denied as the Respondent's walls are continuing to negatively impact public access to these resources.

As the Court recognized in its Amended Final Order in this case, hard erosion control structures detrimentally affect the beach, and the Respondent's structures are no exception. The Court made the following findings after hearing the evidence in this case:

- Indeed, the photographic evidence shows that the footprint of Respondent's hard structure extends farther seaward into the adjacent beach than any neighboring structure and, as stated by Mr. Slagel, in cases such as here, where a beach continues to erode, hard structures like Respondent's cause a loss of dry sand in adjacent areas—a consequence which will result in further loss of public access laterally along the beach adjacent to Respondent's hard structure. (Amended Final Order, p. 19.)
- It is undisputed that the beach adjacent to Respondent's hard structure is a well-used destination for public recreation. Moreover, based on the uncontroverted testimony, during future erosive cycles, the public's access to the adjacent beach will continue to deteriorate because of a loss of dry sand laterally along the beach past the structure. (Amended Final Order 33.)
- Thus, taking into consideration the findings codified by the General Assembly and evidence regarding the adverse effect of Respondent's hard structure on the public interest—specifically, the threat of accelerated erosion, intrusion on the natural erosive cycle, and the reduction in public access to the beaches, I conclude that the preponderance of the evidence establishes that the public interests protected by the Act override Respondent's interest to retain the hard structure. S.C. Code Ann. §§ 48-39-30 & -260. As such, I conclude that the hard structure must be removed. S.C. Code Ann. § 48-39-120(C). (Amended Final Order pp. 34-35.)

If Respondent's walls are allowed to remain on the beach, they will continue to block access from the beach and interfere with the public's use and enjoyment of the beach along this stretch. Erosion has worsened in this stretch of the beach and the public continues to be deprived of access to this part of the beach at certain tides given the location of the structures. (Ex. 1, Williams Aff. ¶11.) The tourists who visit the Isle of Palms to walk and recreate on the beach will seek other beaches where they have full use and enjoyment and will not have their activities impacted by these walls. As Mr. Doug Truslow (a resident of Isle of Palms) testified at trial, because of the wall blocking the beach, people who were riding their bikes or walking would have to turn around. (Tr. 470:13-471:1.) Mr. Truslow further explained that people who wanted to park at Breach Inlet and walk in a northerly direction were unable to do so. He and his wife were forced to wade out into the water to get around the property while walking on the beach. He testified that this was the most dangerous area of the island, and there are signs that indicate it is illegal to wade or swim in the water due to the currents going in and out of Breach Inlet. (Tr. 469:5 to 470:1.) As the General Assembly points out in Section 48-39-250(8) of the South Carolina Code "[i]t is in the state's best interest to protect and to promote increased public access to South Carolina's beaches for out-of-state tourists and South Carolina residents alike." S.C. Code Ann. § 48-39-250(8).⁴

B. Respondent's Motion to Stay should be denied because his walls are causing erosion at the adjacent properties as evidenced by the emergency order that has been issued by the Department for these properties.

⁴ Respondent asserts that the sandbags are blocking access and not his wall. To the extent that the sandbags are impacting public access, these are temporary emergency measures. Unlike Respondent's permanent hard erosion control structures, the sandbags can be quickly moved, removed and/or cut open to add sand to the beach. (Ex. 1, Williams Aff. ¶ 12.)

Although Reddy claims that his erosion control structures are not harming the adjacent properties, those properties have had to seek an emergency order for protection pursuant to S.C. Regulations 30-15.H because the erosion has moved landward within twenty feet of their structures. (Ex. 1, Williams Aff. Ex. A.) Respondent's assertion is also contrary to the Court's finding that the likelihood that the wall was restricting natural processes, impeding sediment flow and producing scour, "was demonstrated by the photographic evidence which shows that the tidal and wave action reaching Respondent's hard structure has induced erosion and scouring on the adjacent beach." (Amended Final Order at 32.)

Respondent attaches a letter to his Motion for Stay from his neighbor to the north who owns 120 Ocean Boulevard. Ms. McCann sent the letter to Isle of Palms Council stating that Respondent's wall "has not been detrimental to her property" and that "there's been some benefit to having it present." (Respondent's Aff. Ex. 4.) This assertion has little to no probative value in that (1) it is hearsay; (2) it is dated prior to the emergency orders issued for this property which undercuts this claim; (3) it is opinion testimony from a witness that has no expertise to be able to render the opinion; and (4) it contains no explanation of or basis for these conclusions. Moreover, Ms. McCann has installed sandbags without the Department's authorization and in violation of EO 25-EO-008(Amended) (EO) by placing them too far seaward and by staking them down with rebar. (Ex. 1, Williams Aff. ¶ 13 & FN 2, p. 2.) Ms. McCann used the same contractor, CNT Foundations, LLC (CNT) that installed the unauthorized walls for the Respondent against the Department's directives. The Department's Compliance and Enforcement Division is taking steps to attempt to have the property owner come into compliance with the EO by removing the rebar stakes that CNT

has affixed the sandbags with and to relocate the sandbags landward in accordance with the terms of the EO and consistent with the placement of the sandbags on the adjacent properties covered by the EO. Ms. McCann's representation that her property is not harmed by Respondent's walls should be examined in light of her own unauthorized activities.

As the Court found after hearing the probative and reliable evidence at the hearing of this case "[t]he repeated interaction of tidal and wave action with Respondent's hard structure is significant because, it caused a 'significant amount of erosion or scour' on the adjacent public beach. As a result, Respondent's hard structure has accelerated erosion of the adjacent beach and, in doing so, adversely affected the public." (Amended Final Order, p. 19.) With each day the wall remains on the beach, it is continuing to threaten the beach by accelerating erosion and adversely affecting the public. As the Court noted, "[m]oreover when a storm hits, Respondent's hard structure will have a further detrimental impact because it will cause scour and additional erosion to occur." (Amended Final Order, p. 19.) The protection of Respondent's back yard should not outweigh the adverse impacts to the public.

C. Respondent's Motion to Stay should be denied because the walls will detrimentally impact the protected Loggerhead sea turtles.

Loggerhead sea turtles are the primary turtle species in South Carolina, and they are protected as a threatened species under the Endangered Species Act. (Tr. 113:1-4.) Mr. Slagel explained at trial how non-beach-compatible materials on the beach create issues for sea turtle

nesting. (Tr. 118:23-119:9)⁵ Sea turtles are detrimentally impacted when they are unable to dig through the non-beach-compatible materials to lay nests. As Mr. Slagel advised the Reddys prior to installing the hard erosion control structures, sea turtles cannot dig through the non-beach-compatible materials and need sand to dig through to lay their eggs. (Tr. 112:20-113:1; Joint Ex. 72, 24:39-24:50.) The sea turtles that encounter the Respondent's walls will be unsuccessful in getting to the beach to lay their eggs and will result in false crawls, detrimentally affecting the protected Loggerheads. (Ex. 1, Williams Aff. ¶ 17.) Leaving the hard erosion control structures on the beach until the litigation goes through judicial review to the highest courts will leave these walls to detrimentally impact the protected sea turtles for several years and therefore, through many turtle nesting seasons.

D. Respondent's wall is located on active beach and is subject to tidal and wave action which creates a danger of the walls becoming unstable, creating marine debris and causing public safety issues.

Storms are a natural part of the coastal environment and will subject the hard erosion control structures to increased tidal and wave action. These structures, if allowed to stay on the beach, will endure several hurricane seasons prior to this litigation coming to a final end. The walls which are already located on active beach increase the likelihood that tidal wave action from seasonal storms will cause them to become unstable, and that non-beach compatible material will become marine debris during these storms. (Ex. 1, Williams Aff. ¶ 9.) Marine debris can create

⁵ Mr. Slagel explained that the placement of rip rap in the critical area is also of concern in that it is not beach compatible, and is an issue for sea turtle nesting, public access and public safety. He further explained that riprap is also defined as an erosion control structure within the Beachfront Management Act. (Tr. 133:1-12.)

public safety issues, threaten protected species and further detrimentally impact public access. (Ex. 1, Williams Aff. ¶ 9.)

E. Respondent's contention that removal of the wall will likely advance the public interest is without merit and does not support the Court issuing a stay in this case.

Respondent argues that “the public interest will be better served by granting a stay.” (Resp’t’s Motion to Stay, pp. 7-8.) Respondent contends that the wall is providing a benefit by supporting the public access between 118 and 120 Ocean Boulevard which allegedly will be washed away should the wall be removed. He also contends that the walls somehow protect the neighboring property from erosion. These assertions have little to no probative value in that there has been no competent evidence provided that these effects are likely to occur⁶; they fail to account for the sandbags that are already protecting this area and that can be added to form a continuous line of protection in front of all these properties; that the City intends to temporarily close this beach access (as well as other access points with sandbags) as the sandbags present a safety hazard to the public as demonstrated by Respondent’s photographs of the stacked sandbags across this beach access (Resp’t’s Aff. Ex. 1); and that even if the wall does have some benefit to the

⁶ Respondent claims that: “[n]ot only would erosion imminently endanger Reddy’s property, it would also imminently endanger the property of his neighbors. Because there would be no protection to Reddy’s property, erosion could wash out highland along both neighboring property boundaries and into the neighbor’s back yards, thereby undermining the protection that the neighbors obtained by installing sandbags in their back yard.” (Reddy Aff. ¶¶ 8-9.) Respondent, however, is not qualified to give this opinion as he does not have any expertise in coastal processes or coastal management of erosion that would make him qualified to opine as to the effects on the adjacent properties or his own property if the walls are removed.

perpendicular access beside his house, this is of minimal benefit given that there are other beach access points in close proximity that the public can use to get down to the beach and given that there is no public parking near this beach access. More importantly, even if the Respondent's walls somehow serve the public interest, which the Department disputes, what little public interest they may serve is greatly outweighed by the walls' adverse impacts to the public.

Respondent also asserts that he believes "that removal of the structure poses potential threats to the safety of the public and the contractors who will be involved in the removal of the wall based on existing elevations." (Resp't's Aff. ¶ 12; Resp't's Motion For Stay, p. 9.) Respondent's assertion has limited value as he is not a marine contractor and does not have the expertise to render an opinion as to whether the walls can be safely removed. Furthermore, the walls were constructed when there was a difference in elevation and an experienced marine contractor sees no reason the walls cannot be safely removed now. (Ex. 2, Richardson Aff. ¶¶ 4, 6, 9 & 11.) As explained by Mr. Richardson, the walls can safely be removed by first removing the dirt and then shoring up the Respondent's yards with sandbags prior to removing the wall. (Ex.2, Richardson Aff. ¶¶ 6, 9 & 11.) Other measures can be taken to ensure the contractor's and public's safety such as blocking off the area, working at lower tides, posting construction personnel to make sure that the public does not enter the construction area and using other Best Management Practices to minimize any risks. (Ex. 2, Richardson Aff. ¶ 8; Ex. 1, Willaims Aff. ¶ 10.)

F. It is in the public interest that the walls be timely removed now that there is a final order as this will provide some measure of deterrence from others constructing in active beach and blocking the public's access.

Allowing these structures to remain on the beach through the pendency of the Respondent's

appeal rewards the Respondent for disregarding the Department's multiple notifications that he should not install non-beach-compatible materials on active beach and/or in Beaches Critical Area and that "any unauthorized work within the State's critical areas, which include the beach/dune system and beaches, will be considered a violation of the S.C. Coastal Tidelands and Wetlands Act and may result in an enforcement action being initiated by the Department which can include the assessment of civil penalties." Allowing the walls to remain on the beach for years while the appellate process is ongoing may encourage other members who are suffering from erosion to disregard the law in exchange for the years of protection that they will receive from their unlawful structure and conduct at the expense of the public's interest.

CONCLUSION

As recognized by the General Assembly, hard erosion control structures have created a "false sense of security to beachfront property owners" and "have increased the vulnerability of beachfront property to damage from wind and waves while contributing to the deterioration of the beach which is so important to the tourism industry." S.C. Code Ann. § 48-39-250(5). While the Department has been charged with exercising its full authority over the valuable and irreplaceable critical areas and management of the Coastal Zone in our State, the Department must continually balance protecting the beach system held in trust for the public with private individual rights. The Department respectfully submits that the public interest in having the walls removed immediately, to eliminate the continuing detrimental effects by these hard erosion control structures to the valuable coastal resources and to the public access, outweighs the Respondent's

speculative harm that may occur to a portion of his back yard, turf and landscaping. For the reasons stated herein, the Department respectfully requests that the Court deny Respondent's Motion for Stay and For Supersedeas.

Respectfully submitted,

A handwritten signature in blue ink that reads "Sallie P. Phelan". The signature is written in a cursive style with a horizontal line underneath.

Sallie P. Phelan, SC Bar No. 14150
Bradley D. Churdar, SC Bar No. 12829
South Carolina Department of
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January 26, 2026

Charleston, South Carolina

Exhibit 1

STATE OF SOUTH CAROLINA ADMINISTRATIVE LAW COURT

South Carolina Department of Environmental
Services and South Carolina Coastal
Conservation League,

Petitioners,

v.

Rom Reddy,

Respondent.

Docket No.: 24-ALJ-07-0232-CC

AFFIDAVIT OF BLAIR N. WILLIAMS

PERSONALLY appeared before me, Blair N. Williams, Director of the Critical Area Permitting Division in the Bureau of Coastal Management at the South Carolina Department of Environmental Services ("Department"), being duly sworn, avers and states that:

1. My name is Blair N. Williams, and I am submitting this affidavit in support of the Department's Response to Respondent's Motion For Stay and For Supersedeas.

2. I hold a Bachelor of Science and a Masters of Forest Resources from Clemson University.

3. I first started working for the Department's predecessor, South Carolina Department of Health and Environmental Control, in August 2005 and began working with the Office of Ocean and Coastal Resource Management (now known as the Bureau of Coastal Management) in 2006. I worked as a stormwater project manager from 2006 to 2008. In September 2008, I became manager of the Wetland Permitting and Certification Section which is now known as the Critical Area Permitting Section. As manager of this section my duties included beachfront management and beachfront permitting. More recently I became the Director of the

Critical Area Permitting Division in September 2025. In summary, I have been involved with beachfront management and beachfront permitting issues for the past eighteen years.

4. In my capacity as the Director of the Critical Area Permitting Division which includes overseeing the Beachfront Management Section, I am familiar with the laws, regulations, and policies governing beachfront permitting reviews including, but not limited to, the Coastal Tidelands and Wetlands Act (S.C. Code Ann. §§ 48-39-10 et seq.), the Coastal Division Regulations (S.C. Code Ann. Regs. 30-1 et seq.), and the Coastal Zone Management Program (CZMP) Document.

5. Respondent asserts in paragraph six of his Affidavit that he would not be permitted to install sandbags pursuant to Regulation 30-15 and would therefore suffer harm if the Court's Order is not stayed. Respondent's regulatory interpretation is incorrect and not consistent with the plain terms of the emergency orders that have been issued for this area of the Isle of Palms, South Carolina. Pursuant to Regulation 30-15.H Respondent would be eligible for emergency protections for the installation of sandbags in line with those of the adjacent neighbors as authorized under Emergency Order (EO) 25-EO-008 (Amended).¹ Regulation 30-15.H provides that "if the Department determines that extenuating circumstances related to site conditions exist, the Department, at its discretion, may allow the use of emergency orders when erosion is beyond twenty (20) feet of the structure." The Department has determined that extenuating circumstances exist for properties such as the Respondent's property and has set forth the following provision in the emergency order:

A structure is determined to be in imminent danger when the erosion comes within 20 feet of the structure or if the Department determines that extenuating

¹ Currently, the adjacent property to the north at 120 Ocean Boulevard has installed sandbags in violation of Emergency Order (EO) 25-EO-008(Amended) (EO) by staking the sandbags down with rebar and by locating them too far seaward. The Department's Compliance and Enforcement Division is taking steps to attempt to have the property owner come into compliance with the EO by removing the rebar stakes that the property owner's contractor has affixed the sandbags with and to relocate the sandbags landward in accordance with the terms of the EO and consistent with the placement of the other sandbags on the other properties covered by the EO.

circumstances related to site conditions exist. In this case, most of the threatened structures or infrastructure are within 20 feet of erosion. For those structures or infrastructure that are currently greater than 20 feet from erosion but located within the project footprint, the Department has determined that extenuating circumstances related to site conditions exist, and sandbags can therefore be placed greater than 20 feet from the threatened habitable structure or critical infrastructure to allow for continuity and greater effectiveness of the deployed sandbags.

The Emergency Order 25-EO-008 (Amended) is attached as Exhibit A.² Therefore, contrary to Respondent's assertion, the Department would allow the Respondent the options found in Regulation 30-15.H in coordination with removal of the wall. Once the wall is removed, the Respondent will be able to avail himself of the additional measures set forth in EO provisions and allowed by the regulations including sandscraping and minor renourishment behind the sandbags.

6. Respondent also claims that "[b]ecause there would be no protection to his property, erosion could wash out highland along both neighboring property boundaries and into the neighbor's back yards, thereby undermining the protection that the neighbors obtained by installing sandbags in their back yard." (Motion For Stay, p. 6.) However, as stated above, the express terms of the emergency orders address this issue and will allow the sandbags to be placed at the Respondent's property "to allow for continuity and greater effectiveness of the deployed sandbags." Therefore, the concerns Respondent expresses for his neighbors are unfounded.

7. Upon removal of the wall, the Department will work with all the property owners including the Respondent to build in the continuity of the emergency measures so that they will all have the same level of protection and so that the Respondent is afforded the same protections available pursuant to the regulations and applicable emergency orders that have been issued to his neighbors from 122 to 132 Ocean Boulevard who are also being impacted by the erosional

² The Emergency Order 25-EO-008 was originally issued on August 29, 2025, for properties including 116 to 132 Ocean Boulevard in the Isle of Palms. This emergency order was amended on October 17, 2025, to include additional properties located immediately south of the Respondent's property and wall to include 112 and 114 Ocean Boulevard as well.

conditions at the south end of the Isle of Palms. This is part of having a Corrective Action Plan in place to address any concerns of detrimental impacts at either his or the neighbors' properties.

8. Respondent also incorrectly asserts in paragraph 6 of his Affidavit that “[u]nder this scenario and the applicable regulation, up to 60 feet of [Respondent’s] backyard landward of the structure, including shrubs, artificial turf, polypropylene pad, fabric, gravel, and other non-beach compatible materials, would be washed into the ocean or onto the beach before [Respondent] could install sandbags to protect [his] home if the structure is removed.” Given that the Respondent would be allowed to install sandbags prior to his house becoming in “imminent danger,” his concerns that the 60 feet of non-beach-compatible materials would have to be washed into the ocean or onto the beach before he could protect his property is without merit. However, Respondent’s concerns illustrate one of the very reasons that the Department regulates materials being placed on active beach and in the Beaches Critical Area. Any non-beach materials and/or structures on the beach have the potential to become marine debris when they are subjected to tidal and wave action.

9. If allowed to remain on active beach and/or in the Beaches Critical Area, the Respondent’s wall has the potential of becoming marine debris by natural events. This wall, if allowed to stay on the beach until the termination of litigation, will sustain the increased tidal and wave action during multiple Nor’easters, tropical storms and throughout multiple hurricane seasons. The photographs of when the original wall was uncovered by the December 2023 Nor’easter demonstrate this very issue. Marine debris became exposed and non-beach compatible material dispersed across the beach. Marine debris can cause safety concerns for the recreational users on the beach as well as detrimentally impact the flora and fauna. For example, sea turtles can become entangled in the astroturf, plastic liners and/or wire mesh.

10. There are construction methodologies that can be used to remove the hard erosion control structures to ensure that the non-beach-compatible materials used to construct them do not become marine debris and/or leach into the ocean. For example, other demolition plans that have been submitted to the Department require the work to take place during lower tides to avoid the debris from washing away. Some plans also have provisions requiring workers to be onsite who are tasked with immediately removing loose materials to ensure that the sites stay clean and there is no disruption to the beach. Additionally, construction methodologies, such as temporary barriers or cofferdams and Best Management Practices (“BMPs”) can be implemented to ensure safe demolition of the wall protecting contractors, neighbors and the public and to ensure no marine debris is released in the environment.

11. Although the Respondent addresses in his affidavit the issue of access down to the beach, lateral/parallel access across the beach remains impeded by his wall. As shown in the photographs and through the testimony presented at the hearing of the case, at times the public was unable to get around the wall without getting into the water and could not use the dry sand beach in this area. Erosion has worsened in this stretch of the beach as evidenced by the necessity to issue a number of emergency orders where the erosion is now within twenty feet of the beachfront property owners’ structures. The public continues to be deprived of access to this part of the beach at certain tides given the position of the Respondent’s wall. Notably, the wall extends substantially farther seaward than the sandbags on the adjacent property to the south of Respondent’s property. As for the north side, the sandbags have been located too far seaward by the adjacent property owner and the Department is working with that property owner to relocate the sandbags landward to where they are authorized to be located pursuant to the emergency order. Once the sandbags are relocated, the wall will extend at least 25 feet farther seaward from the sandbags. Given that the wall juts significantly farther seaward on the beach than where the sandbags are temporarily

located, even while the sandbags are in place, the wall significantly impacts the public's access and use of the beach.

12. It is important to note that to the extent the sandbags block access or cause other detrimental impacts, the sandbags are temporary emergency measures provided to the homeowners. Pursuant to the terms of the Emergency Order, they are to be removed in conjunction with a shoreline restoration project or if the extenuating circumstances no longer exist. Unlike Respondent's permanent hard erosion control structures, the sandbags can be quickly removed, relocated and/or even emptied out to renourish the beach as they are filled with beach compatible sand. This is in contrast to the walls, if they are allowed to remain on the beach for years through the appeals process, which will continue to detrimentally impact the public's access and the beach even after the emergency conditions are no longer present.

13. The Respondent's position that his wall is in the public's interest by ensuring that there is public access along his property and 120 Ocean Boulevard is not accurate. Whatever support the wall is presently providing for the access path is substantially outweighed by questionable safety of the access path itself and the wall's impact to the lateral access across the beach. The public's access has already been impacted by the use of the temporary sandbags as they are located across the public access point. It is my understanding that the property owner at 120 Ocean Boulevard and CNT, Foundations, LLC (the contractor for 120 Ocean Boulevard and who also installed the Respondent's wall) coordinated to place 260 additional sandbags in an unauthorized location seaward of the City's sandbags at 120 Ocean Boulevard. This includes the beach access stacked sandbags depicted in the photograph attached as page 2 to Exhibit 1 of the Respondent's Affidavit. As the Respondent's photograph shows, these stacked sandbags create a hazardous condition to the public as they may shift or become unstable while being used as steps and result in a fall or injury. It is my understanding that the City is taking action to close off the

access points where the emergency sandbags are located due to safety concerns of the public trying to walk over and down the sandbags.

14. The public, however, still has access from Ocean Boulevard down to the beach from multiple other points of public access, including an access point approximately six doors north of the property. Furthermore, there is no public parking around the access next to the Respondent's property. The first public parking spots are several blocks down from this access and nearer to other public access paths. Therefore, access down to the beach will be minimally impacted and will be temporary while the sandbags are allowed. What access remains substantially impacted, however, is the public's ability to walk along the beach either from Breach Inlet walking north, or for the public trying to walk south to Breach Inlet due to the presence of the wall.

15. Part of the corrective action plan submitted for demolition and restoration should address methodologies of demolition, to include safety measures and best management practices to minimize any risk to the public and contractors. It is standard protocol when forming a Corrective Action Plan to consider and address any concerns for safety that may be identified.

16. There are two efforts to restore the shoreline in the Breach Inlet area which includes Respondent's property at 118 Ocean Boulevard. First, the Department issued a permit to the City of Isle of Palms that authorized a sand transfer project to be completed in conjunction with the U.S. Army Corps of Engineers beneficial use of Dredged Material project. This permit is attached as Exhibit B. The purpose of the project is to restore losses to the dune and dry sand beach and improve public beach access and storm protection. The USACE is actively conducting work under this effort. The second effort is a large-scale renourishment project actively being pursued by the City of Isle of Palms and being evaluated by the Department under a critical area permit application. The project will include the placement of 2,500,000 cubic yards of beach-quality sediment along 19,200 linear feet of shoreline that includes three reaches. One reach is the

area from Breach Inlet (Station 0+00) to 14th Avenue (Station 86+00) which includes Respondent's property. In this particular reach, nourishment will be placed in the area extending from the south end of the island at Breach Inlet approximately 8,600 feet north to 14th Avenue. This area will receive up to 800,000 cubic yards of sand. Additionally, as part of the project, periodic large-scale nourishment is planned to mitigate chronic volume losses to the shoreline in this reach. Three of the seven overall project purposes are to restore the area along the southwest end of the island that has experienced erosion over the past several years, place nourishment volumes of variable section densities to reduce the variability of beach width caused by inlet sand bypassing processes and eliminate the need for emergency erosion control devices such as sandbags. The project is currently being evaluated by the Department and the USACE which involves coordination with state and federal resource agencies. The permit issuance by the Department is anticipated to be between May and July of 2026 dependent upon the formal consultation with the United States Fish and Wildlife Service.

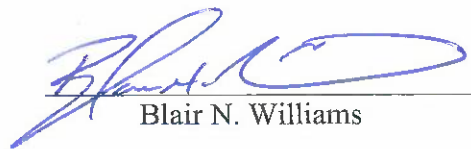
17. If the wall is allowed to stay on the beach, the wall will also detrimentally impact sea turtles. As part of my responsibilities as Director of Critical Area Permitting, I regularly coordinate with the South Carolina Department of Natural Resources on sea turtle concerns and with this coordination, conditions are placed on permits to minimize the impacts on the threatened Loggerhead sea turtle. Sea turtle nesting season is from May 1 to October 31. The presence of hard erosion control structures on the beach can impact sea turtles and their ability to nest. Sea turtles that encounter hard erosion control structures while attempting to nest will be unsuccessful affecting the animals' behavior resulting in a false crawl. This detrimental impact of the wall to the threatened sea turtles is against the public interest and contrary to the statutory mandates to protect these species.

18. Based on my experience, observations of seawalls, and the emergency orders issued in this area, the wall will likely continue to lower the beach profile in this portion of the Isle of Palms which is already suffering from erosion along this stretch of the beach. The scour and dissipation of wave energy will likely detrimentally affect neighboring properties located downdrift of the wall. The harmful effects of hard erosion control structures have been recognized by the General Assembly who found “[i]n reality, these hard structures, in many instances, have increased the vulnerability of beachfront property to damage from wind and waves while contributing to the deterioration and loss of the dry sand beach which is so important to the tourism industry.” S.C. Code Ann. § 48-39-250(5).

19. The Department is charged with the protection of the oceanfront which is a recognized valuable resource to be enjoyed by all the citizens of South Carolina. Leaving the wall on the beach throughout this litigation which I understand could last several years is contrary to the public’s interests and to those protections that the Department is charged with providing.

20. I certify that the forgoing statements made by me are true.

Further the deponent sayeth not.


Blair N. Williams

SWORN TO BEFORE me this
26 day of January, 2026.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: 10-04-28



Exhibit A

**STATE OF SOUTH CAROLINA
DEPARTMENT OF ENVIRONMENTAL SERVICES
BUREAU OF COASTAL MANAGEMENT**

**City of Isle of Palms: 112 to 132 Ocean Boulevard
11 to 19 Beachwood East and 9000 to 9002 Palmetto Drive**

**EMERGENCY ORDER
PLACEMENT OF SANDBAGS
25-EO-008 (AMENDED)**

The South Carolina Department of Environmental Services, Bureau of Coastal Management (SCDES BCM or the Department), an agency of the State of South Carolina, organized and existing under the authority of the South Carolina Coastal Zone Management Act, S.C. Code Ann. §48-39-10 *et seq.*, finds that emergency conditions have occurred along the oceanfront of Isle of Palms at the following locations: from 112 to 132 Ocean Boulevard, 11 to 19 Beachwood East and at 9000 to 9002 Palmetto Drive associated with a series of above average high tide events that have occurred following Hurricane Erin, Hurricane Imelda and the king tides occurring from October 6-10, 2025. These conditions may expose and create an imminent threat to the existing structures or critical infrastructure.

The Department finds that this threat constitutes emergency conditions that may endanger the health, safety, welfare, and resources of residents of the coastal zone as well as the general population of the State of South Carolina. Accordingly, the Department, pursuant to the authority of S.C. Code Ann. §48-39-130(D)(1) and the discretion granted to it by S.C. Code Ann. Regs. 30-15.H, hereby issues an amended Emergency Order to allow the City of Isle of Palms to extend the sandbag placement area to additional properties listed above and place sandbags immediately adjacent to an erosional escarpment, structure, or critical infrastructure if the structure or critical infrastructure is in imminent danger. A structure is determined to be in imminent danger when the erosion comes within 20 feet of the structure or if the Department determines that extenuating circumstances related to site conditions exist. In this case, most of the threatened structures or infrastructure are

within 20 feet of erosion. For those structures or infrastructure that are currently greater than 20 feet from erosion but located within the project footprint, the Department has determined that extenuating circumstances related to site conditions exist, and sandbags can therefore be placed greater than 20 feet from the threatened habitable structure or critical infrastructure to allow for continuity and greater effectiveness of the deployed sandbags.

This Emergency Order, 25-EO-008, will expire on December 27, 2025 (120 days from the date of this Order, per S.C. Code Ann. Regs. 30-15.H(2)). Please see Attachments 1 and 2 for timelines associated with the placement and removal of sandbags. Pursuant to S.C. Code Ann. §48-39-130(D)(1), the City of Isle of Palms may request to extend this Emergency Order if an emergency persists. The sandbags must be removed in their entirety in conjunction with a shoreline restoration project or if the extenuating circumstances no longer exist. Additionally, the City has already taken steps to find a long-term solution to the erosion issues and has submitted a permit application for the Department's review to complete a large-scale beach renourishment.

Specifically, all work must conform to the following requirements:

1. To ensure sandbags are not abandoned, recipients of emergency orders for the installation of sandbags are required to provide a bond to reasonably estimate and cover the cost of removal, subject to S.C. Code Ann. §48-39-130(D)(1)(a). Within 15 days of an issued emergency order, the City of Isle of Palms must provide the Department with three written quotes that reasonably estimate the cost of the removal of all sandbags under the order. Please send these written quotes for sandbag removal to Matthew Oswald, at Matthew.Oswald@des.sc.gov. Based on these quotes, the Department will determine the amount of the required bond and notify the City of the amount of the bond to be secured. The city must obtain the bond and provide a copy to the Department within 30 days of the notification.

2. The bags shall be commercially manufactured for the purpose of holding sand.
3. The bags, when filled, shall be a maximum size of approximately one (1) cubic yard.
4. All sandbags are to be placed parallel to the shoreline. Excavation shall not be allowed below existing beach grade. The toe of the sandbags shall not be buried during installation. At no time shall the sandbags be buried or covered with sand from non-natural processes, including sand scraping or renourishment.
5. Sandbags shall generally be limited to a maximum height of six (6) feet above the beach. The sandbags shall be stacked at an angle no steeper than forty-five (45) degrees.
6. The Department may consider site specific engineering reports which will improve the effectiveness of sandbag placement for site specific situations.
7. Sandbag fill material must be from an upland source and compatible in grain size and color with the native beach sand and should contain no more than a minimal amount of organic material. Only clean sand may be placed in the bags. You must specify the proposed source of sand to fill the bags and provide a small sample of the material to the Department to ensure beach-compatibility prior to filling the bags. The review of the proposed fill material should be coordinated with Matthew Oswald, at Matthew.Oswald@des.sc.gov.
8. Sandbags cannot cover or bury any portion of an erosion control structure.
9. The City is responsible for the day-to-day maintenance of the sandbags to ensure that they remain in the location authorized by the Emergency Order, above grade and in good repair. The Department may allow sandbags which become buried or partially buried through natural processes to remain in place for the duration of the emergency order process as outlined in S.C. Code Ann.

Regs. 30-15.H, provided that survey coordinates of the placement areas and documentation of the number of bags has been provided to the Department. Failure to maintain the sandbags may result in the Department requiring the removal of the sandbags at the City's expense. Documentation of the sandbag placement project, including the number of bags, survey coordinates of the placement areas, and ongoing efforts to maintain the sandbags must be submitted in the form of emails to Matthew Oswald, at Matthew.Oswald@des.sc.gov.

10. For work conducted during the sea turtle nesting season (May 1st – October 31st), the City must monitor daily sea turtle activity each morning prior to work being performed on the beach. The City may be able to utilize volunteers from the SCDNR Marine Turtle Conservation Program to fulfill this requirement. If not, they must hire an environmental practitioner/consultant to do so. Regardless, a permit for monitoring for the purposes of avoiding and minimizing impacts to sea turtles associated with the proposed project must be acquired from SCDNR. Please visit the following link and choose Monitoring Permit: <https://www.dnr.sc.gov/seaturtle/permit.htm>. All nesting activity (evidence of successful nesting and false crawls) must be documented daily with GPS coordinates and photos. Any successful nests will need to be marked and all construction activities must avoid impacts to the nest and future hatchlings (e.g., do not place any obstacles, construction equipment, etc. in their pathway to access the ocean upon hatching). Should a nest be built within the construction footprint, please contact the SCDNR Marine Turtle Conservation Program Coordinator, Michelle Pate 843-384-0605 (cell) or 843-953-9052 (office) and notify Matthew Oswald, at Matthew.Oswald@des.sc.gov. Construction should start no earlier than 10:00 am daily during the sea turtle nesting and hatching season. In the event a nest is disturbed during construction and/or an adult sea turtle or hatchling is encountered, all work must cease and the SCDNR Marine Turtle Conservation Program Coordinator should be contacted immediately.
11. A copy of the issued Emergency Order shall be in possession of anyone performing the placement of sandbags on the beach.

Page Five
25-EO-008
October 17, 2025

This Emergency Order shall not become effective until it is signed by an authorized City of Isle of Palms representative, and it can be revoked by the Department at any time for non-compliance with the terms of the order.

<u>Matthew Oswald</u>	<u>10/17/2025</u>
Matthew Oswald	Date
Project Manager, Beachfront Management Section	
Bureau of Coastal Management	
SC Department of Environmental Services	

In exchange for the relief authorized by this Emergency Order and as evidenced by my signature below, I agree and consent to be bound by the terms of this Emergency Order. Additionally, my signature below provides my consent for Department staff to visit oceanfront properties to periodically assess site conditions.

<u>T. Davis</u>	<u>10-17-2025</u>
City of Isle of Palms	Date

ROA 001624

Attachment 1

S.C. Code of Laws §48-39-130(D)(1)

The accomplishment of emergency orders of an appointed official of a county or municipality or of the State, acting to protect the public health and safety, upon notification to the department. However, with regard to the beach and dune critical area, the following techniques or a combination thereof, shall be used in accordance with guidelines provided by the department are allowed pursuant to this item:

- (a) sandbags, provided that a bond is supplied to reasonably estimate and cover the cost of removal;
- (b) sandscraping;
- (c) renourishment;
- (d) any other technology, methodology, or structure pursuant to Section 48-39-320(C), provided that:
 - (i) the emergency order for use is only issued by the department; and
 - (ii) a bond is supplied to reasonably estimate and cover the cost of removal; or
- (e) a combination of these techniques.

S.C. Code of Regulations Chapter 30

R.30-1.D(21) definition of Emergency Orders:

(21) Emergency Orders - orders issued in response to an emergency as defined in S.C. Code Section 48-39-10(U), by the Department, or upon written notification to the Department by an appointed official of a county or municipality or of the state acting to protect the public health and safety. With regard to the beach/dune critical area, only the use of sandbags, sand scraping, renourishment, or a combination of them, in accordance with R.30-5 and R.30-15.H, is allowed pursuant to emergency orders.

R.30-5.A(1):

(1) The accomplishment of emergency orders issued by the Department or by an appointed official of a county or municipality or of the state acting to protect the public health and safety. With regard to the beach/dune critical area, only the use of sandbags, sand scraping, renourishment, or a combination of them is allowed, in accordance with R.30-5.B and R.30-15.H.

R.30-5.B:

B. Notification of Emergency Orders to the Department:

(1) As required in R.30-5.A(1) and R.30-15.H, emergency orders for sandbags, sand scraping or renourishment may be issued by an appointed official of a county or municipality or of the state provided:

- (a) the emergency conditions conform with the definition of emergency in Section 48-39-10(U);
- (b) the order is issued to protect health, safety or resources of the residents of the State as provided in Section 48-39-10(U); and
- (c) the order is issued in accordance with R.30-15.H.

(2) The Department must be notified of the issuance of an emergency order by an appointed official of a county or municipality or of the state. Notification to the Department must be made in writing prior to commencement of the activity, if possible, and must state the following:

- (a) the nature of the emergency;
- (b) the substance of the emergency order;
- (c) the time the order will be issued, or if circumstances preclude prior notice, when the order was issued;
- (d) the name of the local official executing the order and the authority under which that person is acting;
- (e) the location of the activity ordered;
- (f) the estimate of when such order shall be withdrawn.

(3) The Department shall be notified within seventy-two hours of the issuance of the emergency order. If the Department is not notified the official issuing such order or ordering such emergency action shall

Attachment 1

be in violation of the Act and these rules and regulations. Within seventy-two hours after the issuance of the emergency order, the official ordering the emergency action shall put the elements under R.30-5.B(2)(a)-(f) in writing and file them with the Department.

(4) The official issuing the emergency order shall be deemed in violation of the Act if the emergency conditions do not conform with the definition of emergency in Section 48-39-10(U).

R.30-13.Q(1):

(1) Golf Courses are allowed seaward of the baseline because they can adjust to a changing shoreline more readily than other types of land uses. The use of sandbags is allowed as temporary protection for golf courses located seaward of the baseline if the golf course existed prior to May 24, 1991 and if the emergency condition conforms with the definition of emergency in S.C. Code Section 48-39-10(U), and in accordance with R.30-15.H(1). Sand scraping or renourishment may be used as temporary protection for golf courses in accordance with R.30-15.H(4) and (5).

R.30-15.H:

H. Emergency Orders: Emergency situations before or after a storm event may prompt the Department, or an appointed official of a county or municipality or of the state to issue emergency orders under R.30-5, allowing property owners to construct temporary barriers against wave uprush. A structure is determined to be in imminent danger when the erosion comes within twenty (20) feet of that structure. If the Department determines that extenuating circumstances related to site conditions exist, the Department, at its discretion, may allow the use of emergency orders when erosion is beyond twenty (20) feet of the structure. In an effort to protect Loggerhead turtle nesting sites, emergency orders issued between April 15th and November 1st must be reviewed by the Department prior to actual performance of the activity authorized by the emergency order. The U.S. Army Corps of Engineers must be notified within seventy-two (72) hours of the issuance of an emergency order by the Department if the Department issued the emergency order. If the emergency order is issued by an appointed official such notification must be accomplished by the issuing official. The property owner or other recipient of the emergency order must obtain any additional permit(s) and agency review(s) that may be required by other local, state or federal agencies. All required permits and reviews must be obtained prior to the commencement of work pursuant to the issued emergency order. Unless otherwise approved by the Department, emergency sandbagging, sand scraping and renourishment shall be performed using the criteria established in this section. The Department may apply any requirements under this section to any Department-approved technology that is authorized under an emergency order.

(1) Emergency orders for sandbags may be issued by the Department, or upon written notification to the Department by an appointed official of a county or municipality or of the state acting to protect public health and safety. Sandbags shall only be used to construct temporary protection for existing habitable structures and critical infrastructure if the Department or appointed official determines a structure to be in imminent danger and emergency conditions conform with the definition of emergency in S.C. Code Section 48-39-10(U), or as allowed in R.30-13.Q(1). In this section, "critical infrastructure" shall mean utilities, roadways and associated infrastructure necessary to provide for public health and safety, communication, and transportation.

(2) Emergency orders for sandbags shall be subject to the following process:

(a) The Department or an appointed official of a county or municipality or of the state may issue emergency orders for areas specifically included under a state emergency declaration or at the request of a local government or property owner.

(b) Within one hundred twenty (120) days of the issuance of an emergency order for sandbags, the property owner may provide the Department with evidence that their community has a feasible and financially viable renourishment plan for the affected area that is consistent with their approved Local Comprehensive Beachfront Management Plan.

(c) If the property owner has not provided the Department with an acceptable plan for renourishment within one hundred twenty (120) days of the issuance of an emergency order for sandbags, then the

Attachment 1

emergency order shall expire at the end of the one hundred twentieth (120th) day, and the sandbags shall be removed at the property owner's expense.

(d) If the property owner's plan is acceptable and calls for renourishment, then a renourishment permit application shall be submitted to the Department within eighteen (18) months of the issuance of the emergency order.

(i) If the Department approves the renourishment permit, sandbags shall be allowed to remain in place for up to twelve (12) months after the permit is issued to allow sufficient time for the project to be completed, but must be removed at the property owner's expense prior to the placement of renourishment sand at the property, or at the end of the twelve (12)-month period, whichever occurs first.

(ii) If the Department denies the renourishment permit application, the sandbags shall be removed within ninety (90) days of the final agency decision, including all appeals, at the property owner's expense.

(iii) If a renourishment permit application is not submitted to the Department within eighteen (18) months of the issuance of the emergency order, the emergency order shall expire at the end of the eighteenth (18th) month, and the sandbags shall be removed at the property owner's expense.

(3) To maintain the temporary nature that is intended for the use of sandbags, the following criteria shall be used when issuing emergency orders for sandbags:

(a) The bags shall be commercially manufactured for the purpose of holding sand. One year from the effective date of these regulations, applicants must provide information demonstrating that all bags are specifically manufactured for use in a coastal environment, considering factors such as resistance to saltwater corrosion, UV degradation, and durability in erosive conditions, among other appropriate factors as determined by the Department. Biodegradable bags may be required if deemed appropriate by the Department.

(b) The bags, when filled, shall be a maximum size of approximately one (1) cubic yard.

(c) The bags may be placed no farther seaward than is necessary to protect the existing habitable structure, critical infrastructure or golf course qualified under R.30-13.Q(1). In no case may sandbags be used to protect a dune. Sandbags may not retard normal shoreline movement unless used to protect an existing habitable structure, critical infrastructure or golf course qualified under R.30-13.Q(1).

(d) All sandbags are to be placed parallel to the shoreline. Excavation shall not be allowed below existing beach grade. The toe of the sandbags shall not be buried during installation. At no time shall the sandbags be buried or covered with sand from non-natural processes, including sand scraping or renourishment.

(e) Sandbags shall generally be limited to a maximum height of six (6) feet above the beach. The sandbags shall be stacked at an angle no steeper than forty-five (45) degrees.

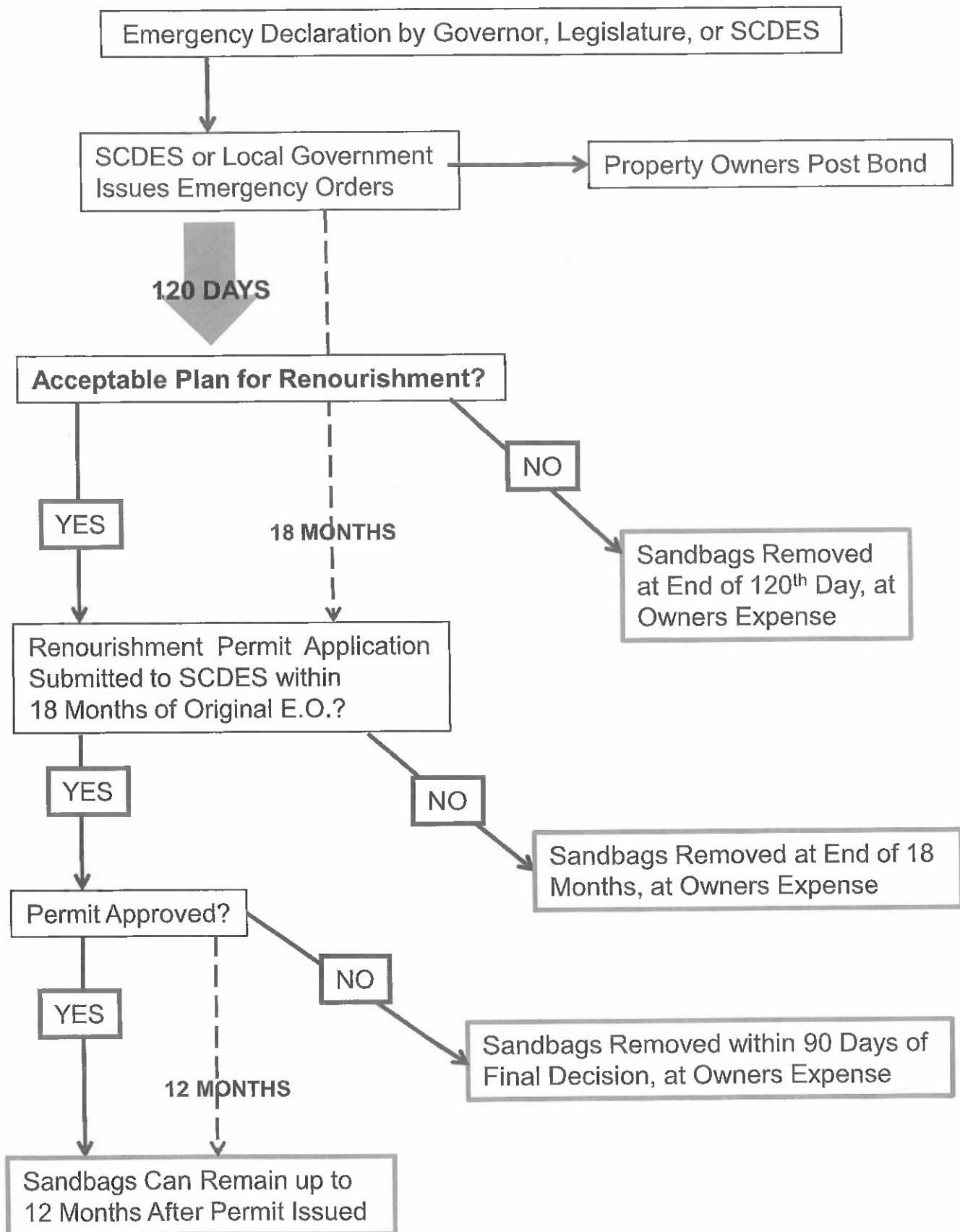
(f) The Department may consider site specific engineering reports which will improve the effectiveness of sandbag placement for site specific situations.

(g) Sandbag fill material must be from an upland source and compatible in grain size and color with the native beach sand and should contain no more than a minimal amount of organic material. Only clean sand may be placed in the bags.

(h) The property owner is responsible for the day-to-day maintenance of the sandbags to ensure that they remain in the location authorized by the emergency order, above grade and in good repair. The Department may allow sandbags which become buried or partially buried through natural processes to remain in place for the duration of the emergency order process as outlined in R.30-15.H, provided that the coordinates and number of bags have been surveyed, and written documentation has been provided to the Department. Failure to maintain the sandbags may result in the Department requiring the removal of the sandbags at the property owner's expense.

(i) A copy of the issued emergency order shall be in the possession of anyone performing the placement of sandbags.

Attachment 2
Administrative Process for
Issuance of Emergency Orders for Sandbags





SC DEPARTMENT of
**ENVIRONMENTAL
SERVICES**

Exhibit B

November 18, 2024

City of Isle of Palms
Attn: Ms. Desiree Fragoso, City Administrator
1207 Palm Blvd.
Isle of Palms, SC 29451

**SEE SPECIAL
CONDITION(S)**

Re: 2024-00400: Isle of Palms Sand Transfers following USACE BUDM Project

Dear Ms. Fragoso:

The Bureau of Coastal Management (the Department) has reviewed your application to excavate and transfer sand following the U.S. Army Corps of Engineers (USACE) Beneficial Use of Dredged Material (BUDM) project adjacent to Breach Inlet, Isle of Palms, Charleston County, South Carolina and has issued a permit for this work. You should carefully read the description of the authorized project and special conditions that have been placed on the permit, as these conditions may modify the permitted activity. In addition, there are a series of general conditions that should be reviewed. The original and one photocopy of the permit, as issued, are enclosed. After carefully reading the permit, if you wish to accept the permit as issued, sign and date in the signature block entitled "PERMITTEE" on the original version of the permit and **return it to this Department. Keep the photocopy for your records.**

PLEASE READ CAREFULLY: You are required to sign and return the original version of your permit to this Department **within thirty (30) days.** S.C. Code Ann. § 48-6-30(D)(2) provides, "Within thirty calendar days after the mailing of a decision [pursuant to S.C. Code Ann. § 48-6-30(D)(1)], an applicant, permittee, licensee, certificate holder, or affected person desiring to contest the department decision may request a contested case hearing before the Administrative Law Court, in accordance with the Administrative Procedures Act."

In order to request a construction placard, please submit a critical area placard request through ePermitting. You must send in this request before the time you wish to start construction. At that time a construction placard will be sent to you to post at the construction site.

PLEASE NOTE: You are not authorized to commence work under the permit until we have received the original version of the entire permit signed and accepted by you, and a construction placard has been issued and posted at the construction site. The receipt of this permit does not relieve you of the responsibility of acquiring any other federal, state, or local permits that may be required. Please return the signed permit to the following address:

Bureau of Coastal Management
1362 McMillan Ave., Suite 400
Charleston, SC 29405

Sincerely,

Matthew J. Slagel
Manager, Beachfront Management Section
Bureau of Coastal Management

info@des.sc.gov | des.sc.gov | 803.898.3432

ROA 001629

Enclosure

cc: Steven Traynum, Coastal Science and Engineering, Agent
Megan Jackson, U.S. Army Corps of Engineers
Melissa Chaplin, U.S. Fish & Wildlife Service
Stacie Crowe, S.C. Department of Natural Resources
Michelle Pate, S.C. Department of Natural Resources

**SEE SPECIAL
CONDITION(S)**

ROA 001630

SOUTH CAROLINA DEPARTMENT OF ENVIRONMENTAL SERVICES
BUREAU OF COASTAL MANAGEMENT

CRITICAL AREA PERMIT & COASTAL ZONE CONSISTENCY CERTIFICATION

Permittee: City of Isle of Palms

Permit Number: 2024-00400

Date of Issuance: November 18, 2024

Expiration Date: November 18, 2029

Location: On and adjacent to the Atlantic Ocean and Breach Inlet from the Breach Inlet Bridge to 10th Avenue, Isle of Palms, Charleston County, South Carolina. TMS#: Various.

**SEE SPECIAL
CONDITION(S)**

This permit is issued under the provisions of S.C. Code Ann. Section 48-39-10, et seq., and 23A S.C. Code Ann. Regs. 30-1 through 30-18, *as amended*. **Please carefully read the project description and special conditions that appear on this permit/certification as they will affect the work that is allowed and may modify the work from that shown on the submitted plans. All special conditions attached to the permit will take precedence over submitted plans.** The general conditions are also a part of this permit/certification and should be read in their entirety. The S. C. Contractor's Licensing Act of 1999, enacted as S.C. Code Ann. Section 40-11-5 through 430, requires that all construction with a total cost of \$5,000 or more be performed by a licensed contractor with a valid contractor's license for marine class construction, except for construction performed by a private landowner for strictly private purposes. Your signature on and acceptance of this permit denotes your understanding of the stated law regarding use of licensed contractors. **All listed special and general conditions will remain in effect for the life of the permit. This applies to permittee, future property owners, or permit assignees.**

DESCRIPTION OF THE PROJECT, AS AUTHORIZED

The authorized work consists of a sand transfer project to be completed in conjunction with a U.S. Army Corps of Engineers (USACE) Beneficial Use of Dredged Material (BUDM) project. Placed sand will be transferred from the intertidal beach zone to the dune and dry sand beach by land-based equipment working between low water and high water along the intertidal beach. The sand will be transferred either by bulldozer as it is placed or via trucks several days to weeks after placement. Alongshore transfers of sand will be limited to the maximum extent practicable, with the goal of transferring sand locally for dune restoration. Dune restoration will occur along up to 5,700 feet of shoreline, and dunes will be constructed to an elevation of approximately +14 feet NAVD88 with a crest width of approximately 15 feet. The seaward slope of the dune will be built to 1 on 4. South of 2nd Avenue, up to 15,000 cubic yards of sand will be placed to construct a dune and dry sand beach up to 50 feet wide. North of 2nd Avenue, harvested sand volumes will be limited to that necessary to provide a healthy primary dune profile (not to exceed 5 cy/ft) along portions of the beach that have an active escarpment, or have not sufficiently recovered sand volume along the primary dune. If a healthy dune is in place naturally, or via prior restoration efforts, no additional work will be completed. South of 2nd Avenue, the permittee will attempt to reduce the amount of material moved by monitoring spreading of the USACE placed sand. Should significant quantities of sand shift south and move up the profile quickly, the restoration volume will be reduced. Sand fencing and dune vegetation will also be installed within the project area. Concurrent construction will allow the dune to be restored without requiring a separate mobilization and beach closure, which will minimize impacts to the public's use of the beach. Heavy equipment will use the same staging and access points as the USACE project: at the public parking area near Breach Inlet and/or the 9th Avenue beach access. The purpose of the project is to restore losses to the dune and dry sand beach and improve public access and storm protection. The project is also intended to accelerate natural adjustment of the post-USACE project beach profile and aid in retaining placed sand within the project area.

SEE SPECIAL CONDITION(S)

Permit Number: 2024-00400

SPECIAL CONDITIONS

1. The Reasonable and Prudent Measures, Terms and Conditions, and Monitoring and Reporting Requirements identified by the U.S. Fish and Wildlife Service (USFWS) in its Biological and Conference Opinion must be adhered to, as shown in Attachment A.
2. Placed sand cannot cover or bury any portion of an unauthorized erosion control structure.
3. All sandbags must be removed in their entirety in conjunction with this permitted project.
4. Work on the beach must occur outside of sea turtle nesting season (May 1st – October 31st) to the maximum extent practicable. If work must occur during sea turtle nesting season, the following recommendations from the SC Department of Natural Resources (SCDNR) are incorporated as Special Conditions of this permit:
 - a) Construction should start no earlier than 10:00 am daily during the sea turtle nesting and hatching season.
 - b) Additionally, the applicant must monitor daily sea turtle activity each morning prior to work being performed on the beach. The applicant may be able to utilize volunteers from the SCDNR Marine Turtle Conservation Program to fulfill this requirement. If not, they must hire an environmental practitioner/consultant to do so. Regardless, a permit for monitoring for the purposes of avoiding and minimizing impacts to sea turtles associated with the proposed project must be acquired from SCDNR. Please visit the following link and choose Consent Permit: <https://www.dnr.sc.gov/seaturtle/permit.htm>. All nesting activity (evidence of successful nesting and false crawls) must be documented daily with GPS coordinates and photos. Any successful nests will need to be marked and all construction activities must avoid impacts to the nest and future hatchlings (e.g., do not place any obstacles, construction equipment, etc. in their pathway to access the ocean upon hatching). Should a nest be built within the construction footprint, please contact the SCDNR Marine Turtle Conservation Program Coordinator, Michelle Pate 843-384-0605 (cell) or 843-953-9052 (office).
 - c) In the event a nest is disturbed during construction and/or an adult sea turtle or hatchling is encountered, all work must cease and the SCDNR Marine Turtle Conservation Program Coordinator should be contacted immediately.
5. During sea turtle nesting season, construction equipment and materials for project construction must be stored in a manner that will minimize impacts to sea turtles to the maximum extent practicable. All construction equipment and materials must be confined to the designated staging area when not in use.
6. Appropriate measures must be taken to protect the integrity of roosting, feeding, and beach-nesting birds, with particular emphasis, but not limited to Piping Plovers and Red Knots during the course of the project and while conducting post-construction practices regarding compaction testing and tilling, escarpment remediation, sand fencing, and vegetation installation. Questions about minimizing disturbance to these species should be directed to the USFWS South Carolina Field Office at 843-727-4707.
7. Work on the beach is limited to daylight hours.
8. Sand used for beach or dune building purposes must consist of appropriate grain sizes, quality, and color to be compatible for beach renourishment. If muddy sediments or excessively coarse sediments (rocks, large shell fragments, etc.) are observed while dredged material is being placed on the beach, that material must not be excavated or transferred higher on the beach profile.

Permit Number: 2024-00400

SEE SPECIAL CONDITION(S)

9. Within the excavation area, the contractor must begin excavation operations at the outer edges of higher elevation mounds of suitable material and proceed inwards rather than dig pits in the center of the excavation area. The maximum authorized excavation depth is 2 feet below the surface.
10. Any sand fencing or dune vegetation must be installed consistent with the South Carolina Critical Area Permitting Regulations in R.30-13(L) and according to the attached diagram, as shown in Attachment B.
11. Annual orthophotography of the project area pre- and post-project and for three (3) years following the project must be collected. Orthophotography must include coverage of all of the shoreline between the Breach Inlet Bridge and the Sea Cabins Pier. Orthophotography must be of sufficient quality to document the beach and dune condition and to assess vegetative growth of the dunes over time. Digital files of the orthophotography must be provided to regulatory and resource agencies upon request.
12. Annual topographic and bathymetric surveys of the project area pre- and post-project and for three (3) years following the project must be completed to document beach volumes, shoreline positions, and changes in the dune volume over time. Profile spacing must not exceed 400 feet south of 6th Avenue and 1,000 feet north of 6th Avenue. Monitoring data must also be used to provide annual summaries of the distance between the structure line and the normal high-tide swash line to evaluate the performance of the dune in maintaining a buffer between structures and the ocean. Pre- and post-project and annual monitoring reports for three (3) years post-project must be provided to regulatory and resource agencies within 90 days of data collection.
13. The permittee is responsible for restoring adjacent or downdrift properties or critical areas if documented negative impacts are proven to the satisfaction of the Department and supported by substantial evidence to be a direct result of the sand excavation and transfer project.
14. All necessary measures must be taken to prevent oil, tar, trash, debris, and other pollutants from entering the adjacent waters or beach environment during construction.
15. Once the project is initiated, it must be carried to completion in an expeditious manner in order to minimize the period of disturbance to the environment.
16. In the event that any historic or cultural resources and/or archaeological materials are found during the course of work, the applicant must notify the State Historic Preservation Office, the South Carolina Institute of Archaeology and Anthropology, and the Catawba Indian Nation (Caitlin.Rogers@catawba.com). Historic or cultural resources consist of those sites listed in the National Register of Historic Places and those sites that are eligible for the National Register. Archaeological materials consist of any items, fifty years old or older, which were made or used by man. These items include, but are not limited to, stone projectile points (arrowheads), ceramic sherds, bricks, worked wood, bone and stone, metal and glass objects, and human skeletal materials.

**SEE SPECIAL
CONDITION(S)**

PERMITTEE'S ATTENTION IS DIRECTED TO GENERAL CONDITIONS NUMBERS FOUR (4) AND FIVE (5). BY ACCEPTANCE OF THIS PERMIT, PERMITTEE IS PLACED ON NOTICE THAT THE STATE OF SOUTH CAROLINA, BY ISSUING THIS PERMIT, DOES NOT WAIVE ITS RIGHTS TO REQUIRE PAYMENT OF A REASONABLE FEE FOR USE OF STATE LANDS AT A FUTURE DATE IF SO DIRECTED BY STATUTE.

THE PERMITTEE, BY ACCEPTANCE OF THIS PERMIT AGREES TO ABIDE BY THE TERMS AND CONDITIONS CONTAINED HEREIN AND TO PERFORM THE WORK IN STRICT ACCORDANCE WITH THE PLANS AND SPECIFICATIONS ATTACHED HERETO AND MADE A PART HEREOF. ANY DEVIATION FROM THESE CONDITIONS, TERMS, PLANS AND SPECIFICATIONS SHALL BE GROUNDS FOR REVOCATION, SUSPENSION OR MODIFICATION OF THIS PERMIT AND THE INSTITUTION OF SUCH LEGAL PROCEEDINGS AS THE DEPARTMENT MAY CONSIDER APPROPRIATE.

Permit Number: **2024-00400**

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

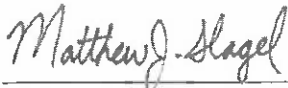


11/18/2024

PERMITTEE
City of Isle of Palms

DATE

This permit becomes effective when the State official, designated to act for the Bureau of Coastal Management, has signed below.



11/18/2024

MANAGER, BEACHFRONT MANAGEMENT SECTION
Matthew J. Slagel
Or Other Authorized State Official

DATE

SEE SPECIAL CONDITION(S)

GENERAL CONDITIONS:

This construction and use permit is expressly contingent upon the following conditions which are binding on the permittee:

1. The permittee, in accepting this permit, covenants and agrees to comply with and abide by the provisions and conditions herein and assumes all responsibility and liability and agrees to save the Department and the State of South Carolina, its employees or representatives, harmless from all claims of damage arising out of operations conducted pursuant to this permit.
2. If the activity authorized herein is not constructed or completed within five years of the date of issuance, this permit shall automatically expire. A request, in writing, for an extension of time shall be made not less than thirty days prior to the expiration date.
3. All authorized work shall be conducted in a manner that minimizes any adverse impact on fish, wildlife and water quality.
4. This permit does not relieve the permittee from the requirements of obtaining a permit from the U. S. Army Corps of Engineers or any other applicable federal agency, nor from the necessity of complying with all applicable local laws, ordinances, and zoning regulations. This permit is granted subject to the rights of the State of South Carolina in the navigable waters and shall be subject, further, to all rights held by the State of South Carolina under the public trust doctrine as well as any other right the State may have in the waters and submerged lands of the coast.
5. This permit does not convey, expressly or impliedly, any property rights in real estate or material nor any exclusive privileges; nor does it authorize the permittee to alienate, diminish, infringe upon or otherwise restrict the property rights of any other person or the public; nor shall this permit be interpreted as appropriating public properties for private use.
6. The permittee shall permit the Department or its authorized agents or representatives to make periodic inspections at any time deemed necessary to ensure that the activity being performed is in accordance with the terms and conditions of this permit.
7. Any abandonment of the permitted activity will require restoration of the area to a satisfactory condition as determined by the Department
8. This permit may not be transferred to a third party without prior written notice to the Department, either by the transferee's written agreement to comply with all terms and conditions of this permit or by the transferee subscribing to this permit and thereby agreeing to comply.
9. If the display of lights and signals on any structure or work authorized herein is not otherwise provided for by law, such lights and special signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.
10. The permit construction placard or a copy of the placard shall be posted in a conspicuous place at the project site during the entire period of work.
11. The structure or work authorized herein shall be in accordance with the permit, as issued, and shall be maintained in good condition. Failure to build in accordance with the permit, as issued, or failure to maintain the structure in good condition, shall result in the revocation of this permit.

SEE SPECIAL CONDITION(S)

12. The authorization for activities or structures herein constitutes a revocable license. The Department may require the permittee to modify activities or remove structures authorized herein if it is determined by the Department that such activity or structures violates the public's health, safety, or welfare, or if any activity is inconsistent with the public trust doctrine. Modification or removal under this condition shall be ordered only after reasonable notice stating the reasons therefore and provision to the permittee of the opportunity to respond in writing. When the Permittee is notified that the Department intends to revoke the permit, Permittee agrees to immediately stop work pending resolution of the revocation.
13. The Department shall have the right to revoke, suspend, or modify this permit in the event it is determined the permitted structure (1) significantly impacts the public health, safety and welfare, and/or is violation of Section 48-39-150, (2) adversely impacts public rights, (3) that the information and data which the permittee or any other agencies have provided in connection with the permit application is either false, incomplete or inaccurate, or (4) that the activity is in violation of the terms and/or conditions, including any special conditions of the permit. That the permittee, upon receipt of the Department's written intent to revoke, suspend, or modify the permit has the right to a hearing. Prior to revocation, suspension, or modification of this permit, the Department shall provide written notification of intent to revoke to the permittee, and permittee can respond with a written explanation to the Department.(South Carolina Code Section 1-23-370 shall govern the procedure for revocation, suspension or modification herein described).
14. Any modification, suspension or revocation of this permit shall not be the basis of any claim for damages against the Department or the State of South Carolina or any employee, agent, or representative of the Department or the State of South Carolina.
15. All activities authorized herein shall be, if they involve a discharge or deposit into navigable waters or ocean waters, at all times consistent with all applicable water quality standards, effluent limitations, and standards of performance, prohibitions, and pretreatment standards established pursuant to applicable federal, state and local laws.
16. Extreme care shall be exercised to prevent any adverse or undesirable effects from this work on the property of others. This permit authorizes no invasion of adjacent private property, and the Department assumes no responsibility or liability from any claims of damage arising out of any operations conducted by the permittee pursuant to this permit.

SEE SPECIAL
CONDITION(S)

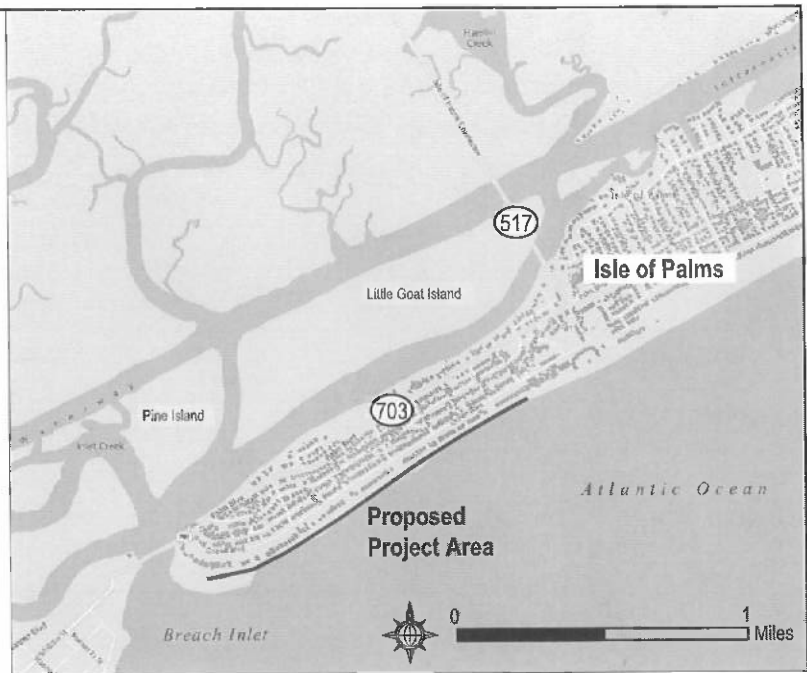


ISLE OF PALMS,
CHARLESTON
COUNTY

PROJECT LOCATION:

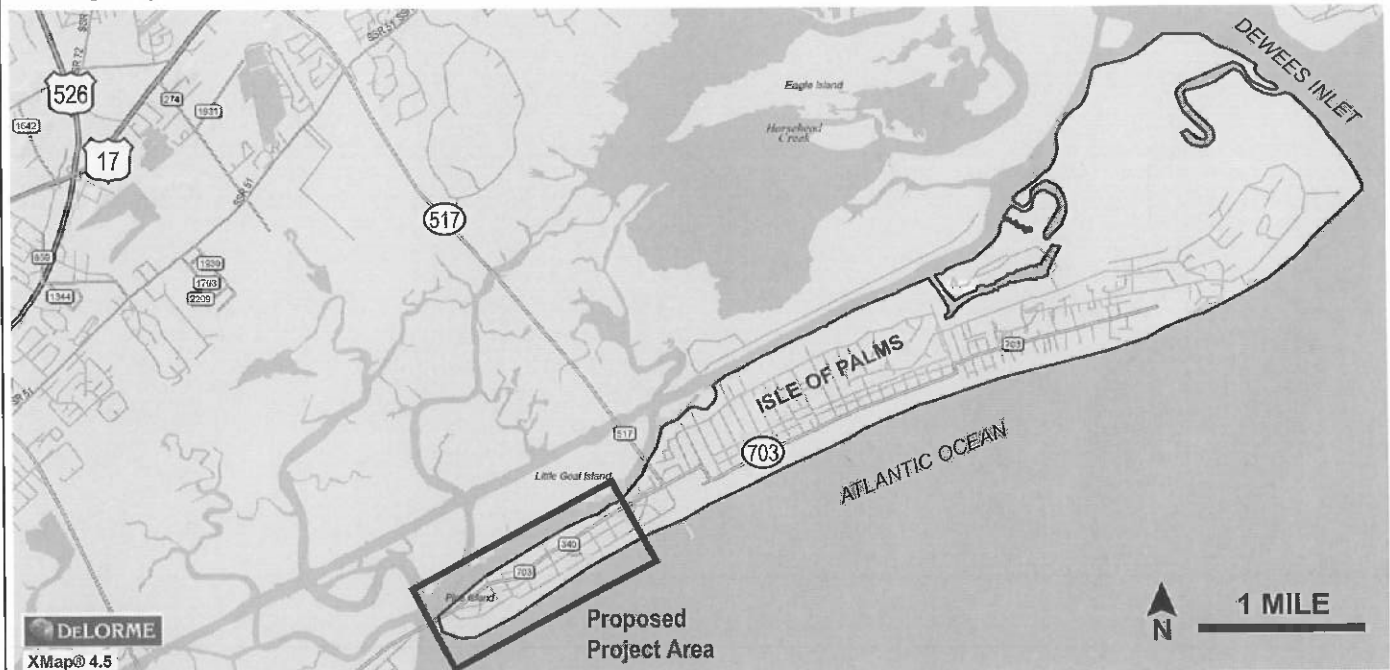
Latitude: 32° 46' 34" N

Longitude: W79° 48' 16"



Directions:

From Charleston, take US-17 North. Turn right onto SC 517 (Isle of Palms connector). Turn right onto Palm Blvd. Site is Southwest of 10th Ave extending along to the beach in the vicinity of Breach inlet on the Southwest end of Isle of Palms.



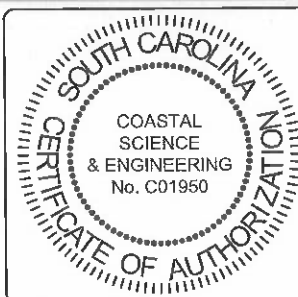
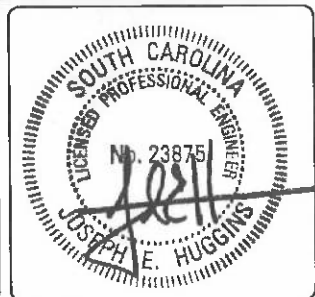
APPLICANT:
CITY OF ISLE OF PALMS
1207 PALM BLVD
ISLE OF PALMS SC 29451

DRAWING TITLE:
City of Isle of Palms
Shoal Management
VICINITY MAP

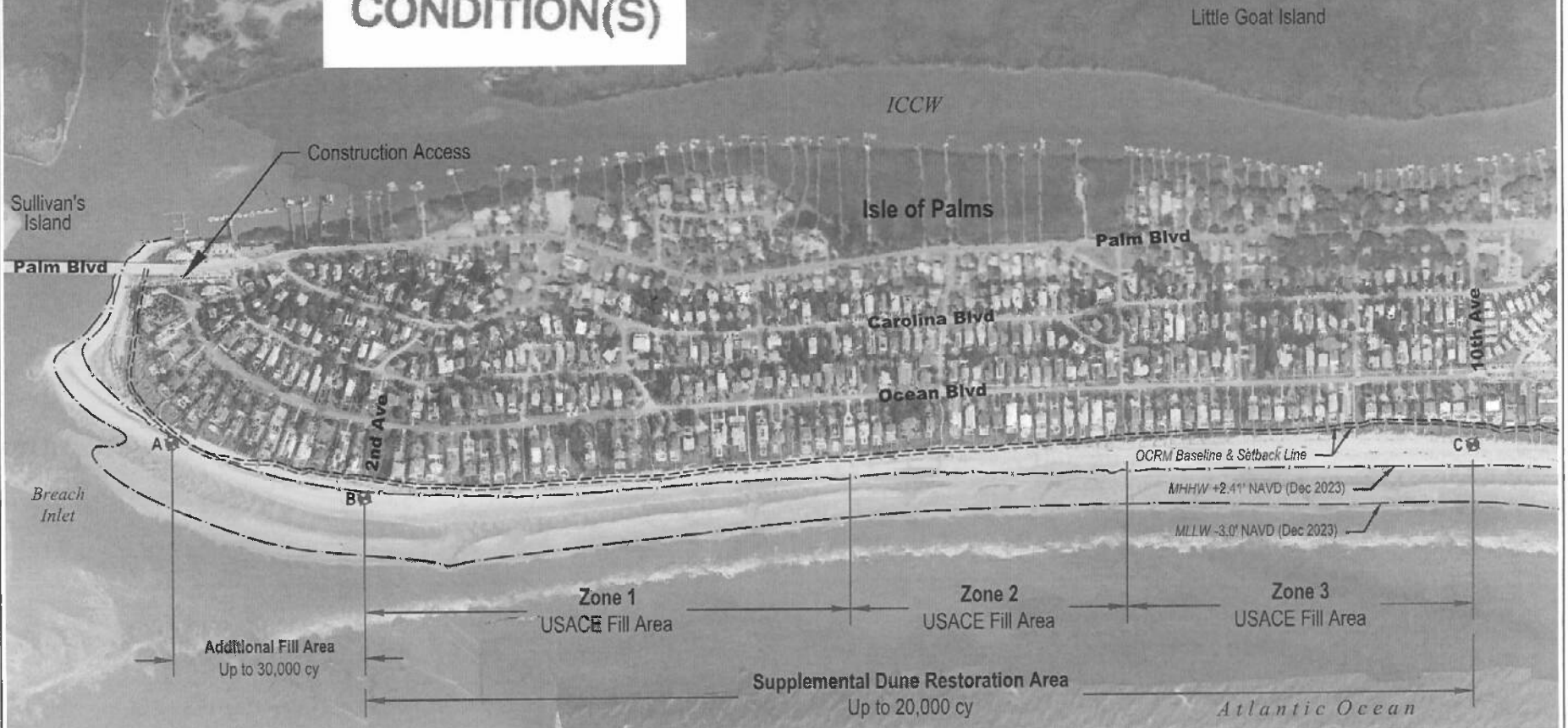
AGENT: P/N 2007-02631-2IG-P (REVISED)
COASTAL SCIENCE & ENGINEERING
PO BOX 8056
COLUMBIA, SC 29202

SCALE: AS SHOWN
DATE: 12 Mar 2024
REVISED:
PROJECT #: 2589

01



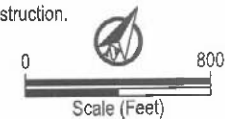
**SEE SPECIAL
CONDITION(S)**



Fill Limit Coordinate Chart		
Point	Easting	Northing
A	2,365,978.8	344,690.2
B	2,366,973.2	344,936.4
C	2,371,772.3	347,966.6

Note:

Typical dune fill will require ~4 cy of sand per linear feet of beach.
Sand fencing and dune vegetation will be installed following dune construction.
All work will be completed in conjunction with the USACE beneficial use project.



DATUM:

Horizontal: NSRS 2011 SC SPCS, Intl Foot
Vertical: NAVD '88 (Feet)
Photo: 12 June 2023 CSE

APPLICANT:

City of Isle of Palms
1207 Palm Blvd.
Isle of Palms, SC 29451

AGENT:

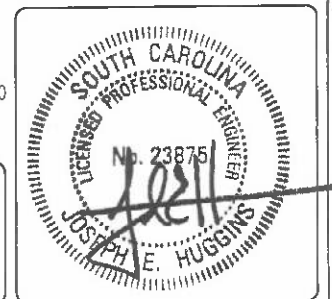
Coastal Science & Engineering, Inc.
160 Gills Creek Parkway
Columbia, SC 29209

DRAWING TITLE: Isle of Palms Supplemental Project
USACE Fill Zone Map

SCALE: AS SHOWN
DATE: 12 Mar 2024
REVISED:
PROJECT #: 2589

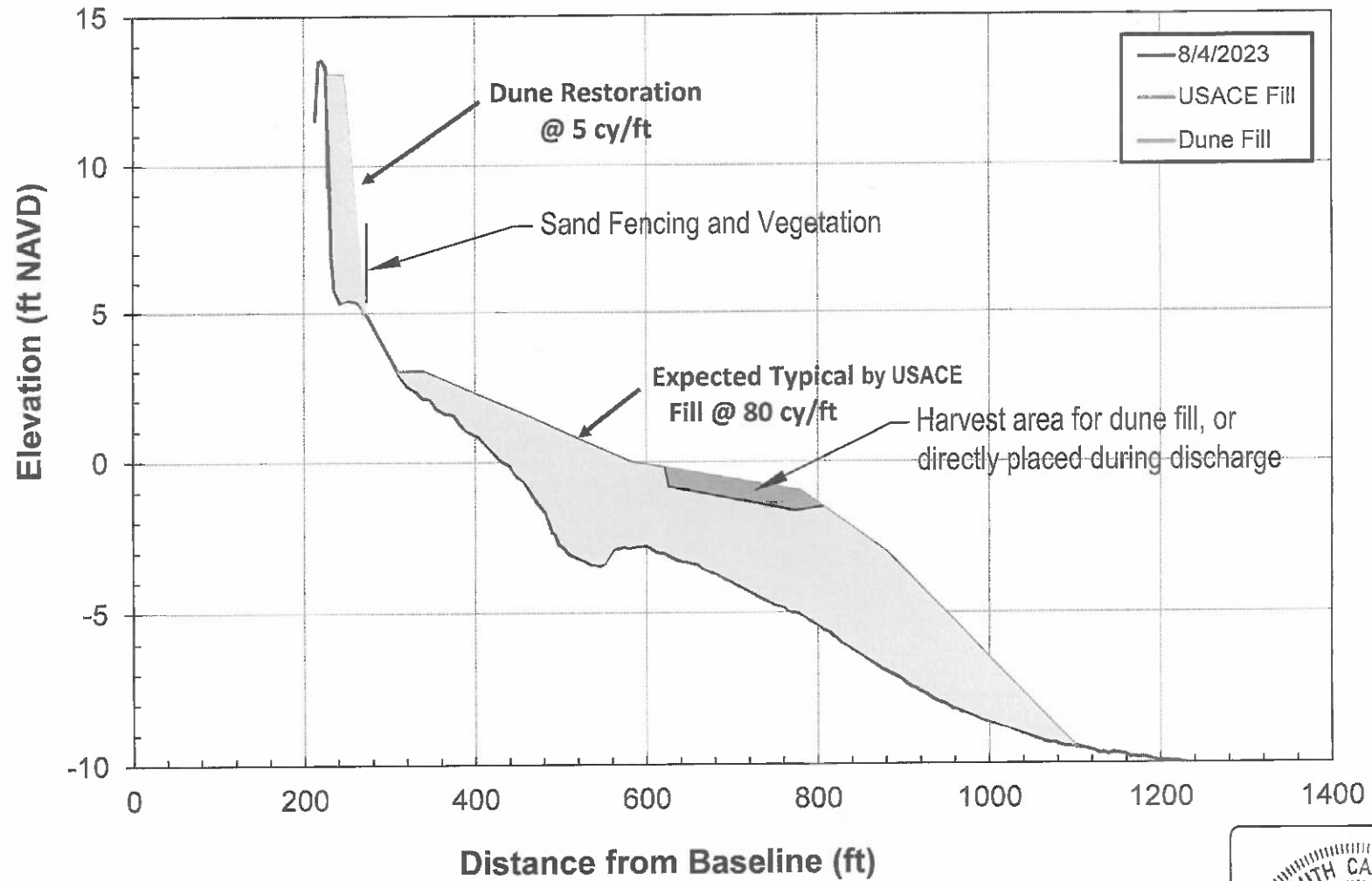
SHEET:

02



SEE SPECIAL
CONDITION(S)

Typical Fill Section



ROA 001639

APPLICANT:
City of Isle of Palms
1207 Palm Blvd.
Isle of Palms, SC 29451

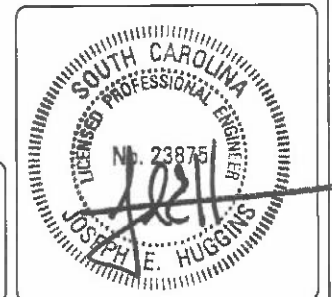
AGENT:
Coastal Science & Engineering, Inc.
160 Gills Creek Parkway
Columbia, SC 29209

DRAWING TITLE: Isle of Palms Supplemental Project
Typical Fill Section

SCALE: AS SHOWN
DATE: 12 Mar 2024
REVISED
PROJECT #: 2689

SHEET:

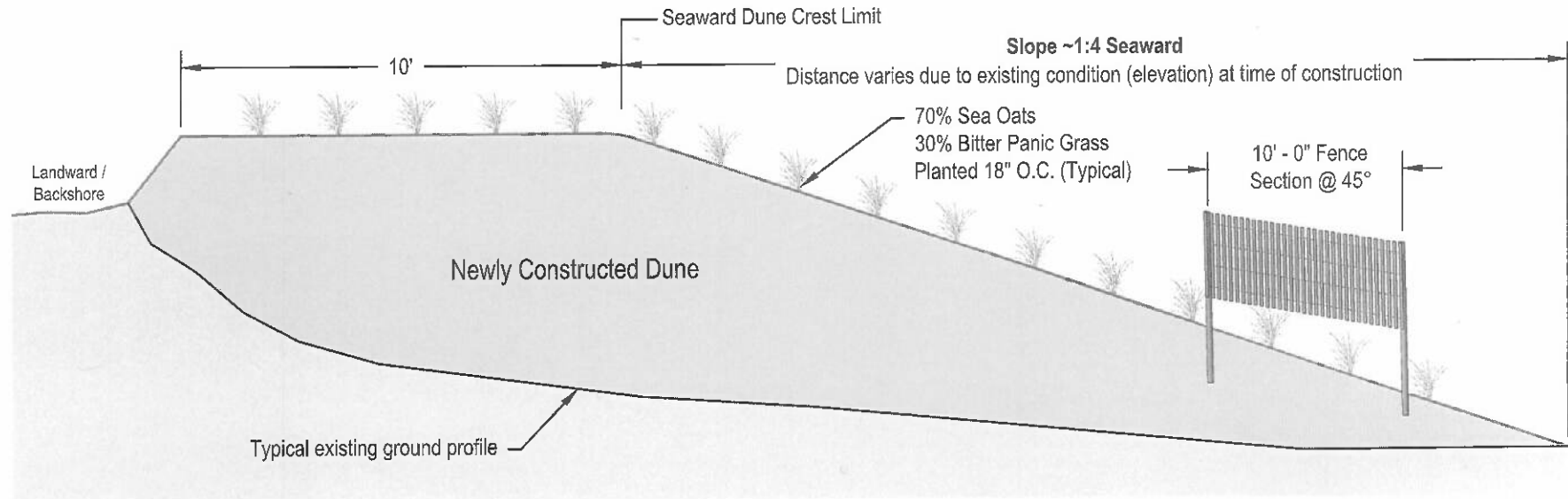
03



**SEE SPECIAL
CONDITION(S)**

Dune Section View

(Typical Newly Constructed Dune not to exceed 6 ft Above existing elevation)



Note:

Typical dune fill will require ~4 cy of sand per linear feet of beach.
Sand fencing and dune vegetation will be installed following dune construction.

All work will be completed in conjunction with the USACE beneficial use project.

ROA 001640

APPLICANT:
City of Isle of Palms
1207 Palm Blvd.
Isle of Palms, SC 29451

AGENT:
Coastal Science & Engineering, Inc.
160 Gills Creek Parkway
Columbia, SC 29209

DRAWING TITLE: Isle of Palms Supplemental Project
Typical Dune Fill Section

SCALE: AS SHOWN
DATE: 12 Mar 2024
REVISIONS:
PROJECT #: 2589

SHEET:

04



We have identified surrogate measures in our analyses of effects that satisfy these criteria for monitoring take of the species named above during Action implementation. Table 7-1 lists the species, stage of the annual cycle, surrogate measure, and the section of the BO that explains the causal link between the surrogate and the anticipated taking. We describe procedures for this monitoring in section 7.4.

Table 7-1. Surrogate measures for monitoring take of listed wildlife species caused by the Action, based on the cited BO effects analyses.

Common Name	Stage of Annual Cycle	Surrogate (units)	Quantity	BO Effects Analysis Section
Piping plover	Nonbreeding	Foraging habitat acres (ac)	55 ac	3.3
Red knot	Nonbreeding	Foraging habitat acres (ac)	55 ac	4.3
Loggerhead sea turtle	Breeding	Nesting habitat (lf of shoreline)	8,700 lf	6.3

This equates to the potential harassment of at least 5 wintering piping plovers and an uncertain number of migrating piping plovers (Section 3.2.1). For red knots, this equates to the potential harassment of 130 wintering birds and 2000 migrating birds (Section 4.2.1). Surveys conducted immediately prior to project construction will determine the actual number of piping plovers and red knots present in the Action Area. For sea turtles, this equates to the potential harassment of 8-23 (0.7% of NRU) nesting females and harm of 1.4-5.0% of nests laid within the project area that are missed.

7.2. Reasonable and Prudent Measures

The Service believes the reasonable and prudent measures (RPMs) we describe in this section for the piping plover, rufa red knot, and loggerhead sea turtle are necessary or appropriate to minimize the impact, *i.e.*, the amount or extent, of incidental take caused by the Action.

- RPM#1. Conservation Measures included in the permit application/project plans (Section 2 of this BO) must be implemented (unless revised below in the Terms and Conditions) in the proposed project.
- RPM#2. A meeting/conference call between representatives of the Corps, Corps' contractor, SCESFO, SCDNR, HBSP staff, shorebird surveyor(s) and the permitted sea turtle surveyor(s) must be held prior to the commencement of work on this Action.
- RPM#3. The Corps will use beach compatible sand for sand placement.

Sea Turtles

- RPM#4. The Corps will hire sea turtle monitors to survey the project area daily during the sea turtle nesting season (May 1 – October 31) or until the last nest relocated out of the

project area is inventoried. Surveys for nesting sea turtles must be conducted within the project area if work will occur during a portion of the nesting season. If nests are laid within the sand placement footprint, the eggs must be relocated to minimize sea turtle nest burial, crushing of eggs, or nest excavation. Nest relocation will be on a selected area of beach that is not expected to experience daily inundation by high tides or known to routinely experience severe erosion and egg loss, predation, or subject to artificial lighting.

- RPM#5. The Corps' contractor(s) will store construction equipment and materials for project construction in a manner that will minimize impacts to sea turtles to the maximum extent practicable. For example, the Corps will limit vehicle and equipment usage to intertidal areas below the most recent high tide line to minimize impacts to dune vegetation and sand compaction.
- RPM#6. The Corps' contractor will install and maintain predator-proof trash receptacles during project construction at all beach access points used for project construction to minimize the potential for attracting predators of sea turtles.
- RPM#7. The Corps must hire nighttime monitors with sea turtle experience to patrol the beach at night in the project area if nighttime construction activities and equipment occur during the nesting season.
- RPM#8. During the sea turtle nesting season, the Corps' contractor must not extend the beach fill more than 500 feet along the shoreline and must confine work activities within this area between dusk and the following day's nesting survey unless nighttime monitors patrol the beach to reduce the impacts to emerging sea turtles and burial of new nests.
- RPM#9. The Corps will monitor sand compaction and conduct tilling (non-vegetated areas) if needed immediately after completion of the sand placement work and prior to the next three nesting seasons to reduce the likelihood of impacting sea turtle nesting and hatching activities.
- RPM#10. The Corps will monitor escarpment formation and conduct leveling if needed immediately after completion of the sand placement project and prior to the next three nesting seasons to reduce the likelihood of impacting sea turtles.

Shorebirds

- RPM#11. The placement areas must be surveyed for piping plovers and red knots by qualified individuals before project construction to document presence/absence of each species.

7.3. Terms and Conditions

For the exemption from the take prohibitions of §9(a)(1) and of regulations issued under §4(d) of the ESA to apply to the Action, the Corps' Applicant must comply with the terms and conditions (T&Cs) of this statement, provided below, which carry out the RPMs described in the previous section. These T&Cs are mandatory. As necessary and appropriate to fulfill this responsibility, the Corps must require any permittee, contractor, or grantee to implement these T&Cs through enforceable terms that are added to the permit, contract, or grant document.

T&C#1. The above RPMs should be included in the permit application/project plans and must be implemented in the proposed project.

T&C#2. A conference call between representatives of the Corps, Corps' contractor, SCESFO, SCDNR, shorebird surveyor(s), and the permitted sea turtle surveyors must be held prior to project construction. At least ten business days advance notice will be provided prior to conducting this meeting/call. The meeting/conference call will provide an opportunity for explanation and/or clarification of the protection measures.

T&C#3. Beach compatible fill must be placed on the beach or in any associated dune system. Beach compatible fill is material that maintains the general character and functionality of the material occurring on the beach and in the adjacent dune and coastal system. Such material must be predominately of carbonate, quartz or similar material with a particle size distribution ranging between 0.062mm and 4.76mm (classified as sand by either the Unified Soils or the Wentworth classification), must be similar in color and grain size distribution (sand grain frequency, mean and median grain size and sorting coefficient) to the material in the historic beach sediment at the disposal site, and must not contain:

- a. Greater than five percent, by weight, silt, clay or colloids passing the #230 sieve;
- b. Greater than five percent, by weight, fine gravel retained on the #4 sieve (- 2.25φ);
- c. Coarse gravel, cobbles or material retained on the 3/4 inch sieve in a percentage or size greater than found on the native beach;
- d. Construction debris, toxic material or other foreign matter; and
- e. Material that will result in cementation of the beach.

If rocks or other non-specified materials appear on the surface of the filled beach in excess of 50% of background in any 10,000 square foot area, then surface rock should be removed from those areas. These areas must also be tested for subsurface rock percentage and remediated as required. If the natural beach exceeds any of the limiting parameters listed above, then the fill material must not exceed the naturally occurring level for that parameter on nearby native beaches.

These standards must not be exceeded in any 10,000 square foot section extending through the depth of the nourished beach. If the native beach exceeds any of the limiting parameters listed above, then the fill material must not exceed the naturally occurring level for that parameter on nearby native beaches.

T&C#4. Daily early morning surveys for sea turtle nests will be required if construction overlaps with the sea turtle nesting season (May 1 – October 31). Nesting surveys must be conducted until the last nest relocated out of the project area is inventoried if work will begin before October 31. If nests are constructed in areas where they may be affected by construction activities, the nests must be relocated per the following requirements.

- a. Nesting surveys and nest relocation will only be conducted by personnel with prior experience and training in nesting survey and nest marking procedures. Surveyors must have a valid SCDNR permit. Nesting surveys must be conducted daily between sunrise and 9:00 AM.
- b. Only those nests that may be affected by sand placement activities will be relocated. Nests requiring relocation will be moved no later than 9:00 AM the morning following deposition to a nearby self-release beach site in a secure setting where artificial lighting will not interfere with hatchling orientation. Relocated nests will not be placed in organized groupings. Relocated nests will be randomly staggered along the length and width of the beach in settings that are not expected to experience daily inundation by high tides or known to routinely experience severe erosion and egg loss, or subject to artificial lighting. Nest relocations in association with construction activities must cease when construction activities no longer threaten nests.
- c. Nests deposited within areas where construction activities have ceased or will not occur for 75 days or nests laid in the nourished berm prior to tilling must be marked and left in situ unless other factors threaten the success of the nest. The turtle permit holder will install an on-beach marker at the nest site. No activity will occur within this area nor will any activities occur which could result in impacts to the nest. Nest sites will be inspected daily to assure nest markers remain in place and the nest has not been disturbed by the project activity.

T&C#5. During the sea turtle nesting season, nighttime storage of construction equipment not in use must be off the beach to minimize disturbance to sea turtles. Staging areas for construction equipment must be located off the beach. Nighttime storage of construction equipment not in use must be off the beach to minimize disturbance to sea turtle nesting and hatching activities. In addition, all construction pipes placed on the beach must be located as far landward as possible without compromising the integrity of the dune system. Pipes placed parallel to the dune must be 5 to 10 feet away from the toe of the dune if the width of the beach allows. Temporary storage of pipes must be off the beach to the maximum extent possible. If the pipes are stored on the beach, they must be placed in a manner that will minimize the impact to nesting habitat and must not compromise the integrity of the dune systems.

T&C#6. Predator-proof trash receptacles must be installed and maintained during construction at all beach access points used for the project construction to minimize the potential

for attracting sea turtle nest predators. The contractors conducting the work must provide predator-proof trash receptacles for the construction workers. All contractors and their employees must be briefed on the importance of not littering and keeping the project area trash and debris free.

- T&C#7. The Corps must hire nighttime monitors to patrol the beach at night in the project area if nighttime construction activities and equipment occur during the nesting season. Monitors must patrol the length of the pipeline within the active nighttime construction area for nesting females May 1 – August 31. Beginning July 1, sea turtle monitors must check all nests on a nightly basis after 9 pm within 1,000 feet of the active nighttime project area that have been incubating for 45 days until three nights after the first sign of emergence or the inventory of the nest contents.
- T&C#8. Direct lighting of the beach and nearshore waters must be limited to the immediate construction area during nesting season and must comply with safety requirements. Lighting on all equipment must be minimized through reduction, shielding, lowering, and appropriate placement to avoid excessive illumination of the water's surface and nesting beach while meeting all Coast Guard, Corps EM 385-1-1, and OSHA requirements. Light intensity of lighting equipment must be reduced to the minimum standard required by OSHA for General Construction areas, in order not to misdirect sea turtles. Shields must be affixed to the light housing and be large enough to block light from all on-beach lamps from being transmitted outside the construction area or to the adjacent sea turtle nesting beach (Figure 7-1).

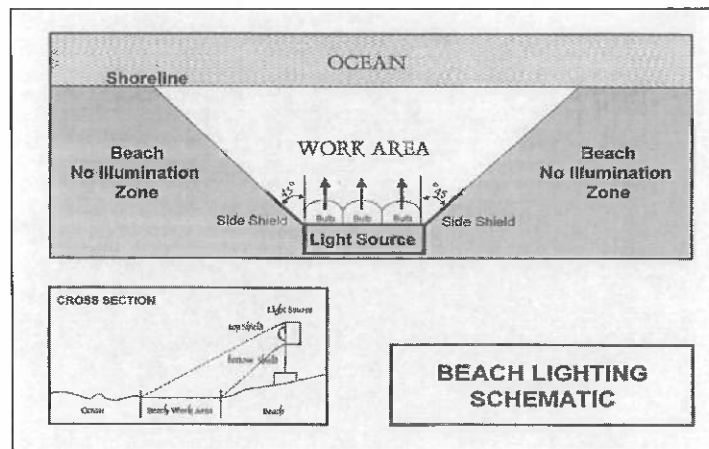


Figure 7-1. Beach lighting schematic.

- T&C#9. During the sea turtle nesting season, the contractor must not extend the beach fill more than 500 feet (or other agreed upon length) along the shoreline between dusk and dawn and the following day until the daily nesting survey has been completed and the beach cleared for fill advancement. An exception to this may occur if there is permitted sea turtle surveyor present on-site to ensure no nesting and hatching sea turtles are present within the extended work area. If the 500 feet is not feasible for the project, an agreed upon distance will be decided on during the preconstruction meeting. Once the beach has been cleared and the necessary nest relocations have

been completed, the contractor will be allowed to proceed with the placement of fill and work activities during daylight hours until dusk at which time the 500-foot length (or other agreed upon length) limitation must apply. If any nesting turtles are sighted on the beach within the immediate construction area, activities must cease immediately until the turtle has returned to the water and the sea turtle permit holder responsible for nest monitoring has relocated the nest.

T&C#10. Sand compaction must be monitored in the area of sand placement immediately after completion of the project and prior to May 1 for three subsequent years unless compaction results are within the native beach range after the first subsequent year. If tilling is needed, the area must be tilled to a depth of 24 inches. Each pass of the tilling equipment must be overlapped to allow more thorough and even tilling. All tilling activity must be completed at least once prior to nesting season. An electronic copy of the results of the compaction monitoring must be submitted to the SCESFO prior to any tilling actions being taken or if a request not to till is made based on compaction results. The requirement for compaction monitoring can be eliminated if the decision is made to till regardless of post construction compaction levels. Additionally, out-year compaction monitoring and remediation are not required if placed material no longer remains on the dry beach.

- a. Compaction sampling stations must be located at 500-foot intervals along the sand placement template. One station must be at the seaward edge of the dune/bulkhead line (when material is placed in this area), and one station must be midway between the dune line and the high water line (normal wrack line).
- b. At each station, the cone penetrometer must be pushed to a depth of 6, 12, and 18 inches three times (three replicates). Material may be removed from the hole if necessary to ensure accurate readings of successive levels of sediment. The penetrometer may need to be reset between pushes, especially if sediment layering exists. Layers of highly compact material may lie over less compact layers. Replicates must be located as close to each other as possible, without interacting with the previous hole or disturbed sediments. The three replicate compaction values for each depth must be averaged to produce final values for each depth at each station. Reports will include all 18 values for each transect line, and the final six averaged compaction values.
- c. If the average value for any depth exceeds 500 pounds per square inch (psi) for any two or more adjacent stations, then that area must be tilled immediately prior to May 1.
- d. If values exceeding 500 psi are distributed throughout the project area but in no case do those values exist at two adjacent stations at the same depth, then consultation with the SCESFO will be required to determine if tilling is required. If a few values exceeding 500 psi are present randomly within the project area, tilling will not be required.

SEE SPECIAL CONDITION(S)

- e. Tilling must occur landward of the wrack line and avoid all vegetated areas three square feet or greater with a three square foot buffer around the vegetated areas.

T&C#11. Visual surveys for escarpments along the project area must be made immediately after completion of the sand placement and within 30 days prior to May 1 for three subsequent years if sand in the project area still remains on the dry beach. Escarpments that interfere with sea turtle nesting or that exceed 18 inches in height for a distance of 100 feet must be leveled and the beach profile must be reconfigured to minimize scarp formation by the dates listed above. Any escarpment removal must be reported by location. If the project is completed during the early part of the sea turtle nesting and hatching season, escarpments may be required to be leveled immediately, while protecting nests that have been relocated or left in place. The SCESFO must be contacted immediately if subsequent reformation of escarpments that interfere with sea turtle nesting or that exceed 18 inches in height for a distance of 100 feet occurs during the nesting and hatching season to determine the appropriate action to be taken. If it is determined that escarpment leveling is required during the nesting or hatching season, the SCESFO will provide a brief written authorization within 30 days that describes methods to be used to reduce the likelihood of impacting existing nests. An annual summary of escarpment surveys and actions taken must be submitted to the SCESFO.

Shorebirds

T&C#12. The placement area must be surveyed for piping plovers and red knots by qualified individuals before project construction to document presence/absence of each species. Three surveys should be spaced at least 3 days apart so surveys must start at least 10 days before project construction activities begin. Surveys should be scheduled to start two hours after high tide. Piping plovers and red knots will be counted and band combinations (flags, flag color, flag code, band color, and band code) on any banded birds will be recorded. Band combinations must be confirmed through a 20-60x spotting scope and/or a digital camera (DSLR camera with 150-600 mm lens). Coordinates will be recorded in decimal degrees for each bird or flock of birds. Survey data must be entered into an Excel spreadsheet provided by the Service's SCESFO.

7.4. Monitoring and Reporting Requirements

In order to monitor the impacts of incidental take, the Corps must report the progress of the Action and its impact on the species to the Service as specified in the ITS (50 CFR §402.14(i)(3)). This section provides the specific instructions for such monitoring and reporting (M&R). These M&R requirements are mandatory.

As necessary and appropriate to fulfill this responsibility, the Corps must require any permittee, contractor, or grantee to accomplish the M&R through enforceable terms that the Corps includes in the permit, contract, or grant document. Such enforceable terms must include a requirement to immediately notify the Corps and the Service if the amount or extent of incidental take specified in this ITS is exceeded during Action implementation.

M&R#1. Upon locating a dead or injured sea turtle adult, hatchling, or egg that may have been harmed or destroyed as a direct or indirect result of the project, the Corps, permittee, and/or local sponsor will be responsible for notifying the SCDNR Hotline (1-800-922-5431) and the SCESFO (843-727-4707). Care must be taken in handling injured sea turtles or eggs to ensure effective treatment or disposition, and in handling dead specimens to preserve biological materials in the best possible state for later analysis.

M&R #2. The Corps must provide the results of the shorebird surveys and sea turtle nest monitoring to the SCESFO and SCDNR.

8. CONSERVATION RECOMMENDATIONS

§7(a)(1) of the ESA directs Federal agencies to use their authorities to further the purposes of the ESA by conducting conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary activities that an action agency may undertake to avoid or minimize the adverse effects of a proposed action, implement recovery plans, or develop information that is useful for the conservation of listed species. The Service offers the following recommendations that are relevant to the listed species addressed in this BO and that we believe are consistent with the authorities of the Corps.

CR#1. Schedule sand placement outside of the sea turtle nesting season.

CR #2. Establish and support an International Shorebird Survey (ISS) route on Sullivan's Island and the Isle of Palms for the next 5 years.

9. REINITIATION NOTICE

Formal consultation for the Action considered in this BO and CO for proposed critical habitat for the rufa red knot is concluded. Reinitiating consultation is required if the Corps retains discretionary involvement or control over the Action (or is authorized by law) when:

- a. The amount or extent of incidental take is exceeded;
- b. New information reveals that the Action may affect listed species or designated critical habitat in a manner or to an extent not considered in this BO;
- c. The Action is modified in a manner that causes effects to listed species or designated critical habitat not considered in this BO; or
- d. A new species is listed, or critical habitat designated that the Action may affect.

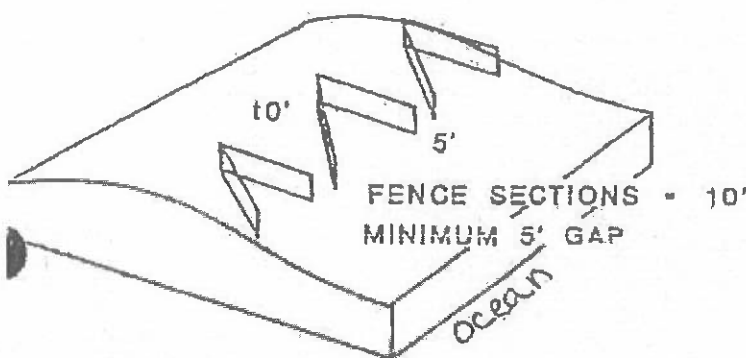
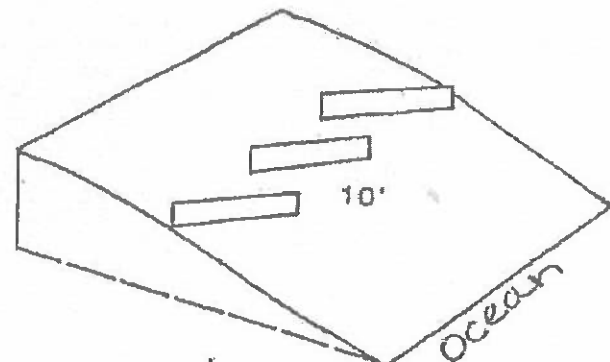
In instances where the amount or extent of incidental take is exceeded, the Corps is required to immediately request a reinitiation of formal consultation.

ATTACHMENT B

SAND FENCING

PERMITTED CONFIGURATIONS OF FENCE
TO TRAP WIND-BLOWN SAND

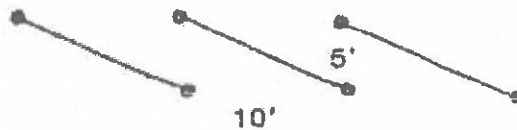
NORMAL DUNE



SECTION ANGLE MAY VARY
90 TO 140 DEGREES



PERMITTED VARIATION



**SEE SPECIAL
CONDITION(S)**



SC DEPARTMENT of
**ENVIRONMENTAL
SERVICES**

Bureau of Coastal Management

REQUEST FOR SCDES-BCM CONSTRUCTION PLACARD

PERMITTEE/PROPERTY OWNER: _____ PERMIT # _____

ADDRESS: _____

Please indicate below the date on which you will begin actual work on your project as authorized by the enclosed permit. Then simply drop this card in the mail to our office. You will receive a construction placard, good for six months, that must be posted at the work site. If the work is not finished by that time, please contact our office to obtain an additional placard. **However, do not request a placard if you are not ready to begin construction.**

DATE OF INITIATION OF CONSTRUCTION: _____

PERMIT HOLDER/PROPERTY OWNER OR AGENT SIGNATURE: _____

CONTRACTOR: _____ LICENSE NUMBER: _____

**If a licensed contractor is not listed in the blank space above, then the Permittee/Property Owner is required to list himself/herself as contractor with no license number. In any event, unlicensed contractors serving as Agent for the Permittee/Property Owner will not receive the construction placard since this would be in violation of the S. C. Contractor's Licensing Act of 1999. The S. C. Contractors Licensing Act of 1999 requires that all construction with a total cost of \$5000 or more must be performed by a licensed contractor with a valid contractor's license for marine class construction, except for construction performed by a private landowner for strictly private purposes.*

MAILING ADDRESS TO SEND PLACARD:

_____ WATERWAY: _____
CITY: _____
COUNTY: _____

Please mail completed request form to the SCDES-BCM office in your area:

Charleston:

**SCDES-BCM
1362 McMillan Ave.
Suite 400
Charleston, SC 29405**

Myrtle Beach:

**SCDES-BCM
927 Shine Ave.
Myrtle Beach, SC 29577**

Beaufort:

**SCDES-BCM
104 Parker Drive
Beaufort, SC 29906**

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

South Carolina Department of Environmental
Services and South Carolina Coastal
Conservation League,

Petitioners,

v.

Rom Reddy,

Respondent.

Docket No.: 24-ALJ-07-0232-CC

AFFIDAVIT OF DAVID RICHARDSON

PERSONALLY appeared before me, David ("Davey") Richardson of Dockmasters Construction, LLC ("Dockmasters"), being duly sworn, avers and states that:

1. My name is Davey Richardson, and I am submitting this affidavit in order to give my professional opinion as to whether the wall at 118 Ocean Boulevard in the Isle of Palms, South Carolina can be safely removed.

2. I am a licensed general contractor with a specialty in marine contracting. I am the owner of Dockmasters Construction in Ravenel, South Carolina which I started in 2000. Prior to 2000, I worked for Whit Boykin of Sea Island Construction in Hollywood, South Carolina. I began working for Sea Island Construction beginning in 1976 and worked there until 2000, except for a four-year stint in the Navy. I have approximately forty-six years of experience in marine construction.

3. Dockmasters is a company experienced with marine construction which involves designing and building structures in or near water, such as docks, piers, seawalls, bulkheads, and

boat ramps. Dockmasters also has constructed and removed over fifty hard erosion control structures in the tidelands and on the oceanfront.

4. One of the most recent projects involving a seawall is the removal and then rebuild of a seawall in James Island on Elliot Cut located off of the Stono River. In that project there was a big difference in elevation between the upland yard and the channelward toe of the seawall, greater than the difference in elevation that exists at 118 Ocean Boulevard. We first removed the dirt from the inland side landward of the wall, pulled the wall out, broke up the concrete and moved it out of the way before we could put the wall back in. This is similar to the methodology that could be used to remove the wall at 118 Ocean Boulevard. Despite the elevation differences that existed at the site for this project, we were able to safely remove the seawall and rebuild it.

5. I have reviewed select documents related to the construction of the original wall, its reinforcement and the construction of the second wall at 118 Ocean Boulevard. I also visited the site on January 22, 2026 to observe the current site conditions and the wall.

6. In my opinion the structure can be removed with minimal risk to the public and contractors and of damage to the Respondent's property and the adjacent properties. By removing the fill dirt inside the existing sea wall and then shoring the yard with sandbags to prevent erosion, the site will be stabilized so that the work can safely occur to remove the wall.

7. Next, the concrete can be removed with minimal impact to the environment and the helical piles can be pulled out as they are exposed. The concrete can be removed by breaking it up into smaller pieces and depositing the smaller pieces in a dumpster for disposal. The wingwalls will be the last part of removal and can be removed in the same manner as the front side of the wall.

8. Additional safety measures should be put in place to rope off or otherwise block off the area to make sure that risks to the public are minimized. Construction activities should occur at lower tides to ensure that no impacts will happen to the marine environment and to minimize risks to the workers so that they are not performing their work when the water is up to the wall. Posting construction personnel to make sure that the public does not enter the area of construction will also minimize the risk to the public.

9. The risk to the neighboring yards will also be minimized by the sequencing of construction (in other words shoring up the yard with the sandbags prior to the removal of the wall) and placing the sandbags in front of this site consistent with the placement of sandbags along the adjacent properties so there is a continuous line of protection. Further, any excavated material that is beach compatible may be placed landward of the sandbags.

10. Marine debris from removing the wall and other materials associated with its construction will not be an issue. As the non-beach materials are removed, they can be immediately placed in a dumpster or moved to a location off the beach for repurposing. Performing the work at lower tides also will prevent the materials from being washed away before they can be removed.

11. In summary, based on my extensive experience in marine construction, it is my opinion that using the construction methodology and sequencing I have described will allow for the wall's safe removal with minimal impacts to the environment and to the adjacent properties. Furthermore, by placing the sandbags first to shore up the backyard, the owner will have the same protections against erosion as the adjacent owners.

12. I certify that the forgoing statements made by me are true.

Further the deponent sayeth not.

David Richards
David ("Davey") Richardson

SWORN TO BEFORE me this
23RD day of JANUARY, 2026.

Shannon C Woodard (L.S.)
Notary Public for South Carolina
My Commission Expires: 12/02/2032



**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Environmental
Services and South Carolina Coastal
Conservation League,

Petitioner(s),

vs.

Rom Reddy,

Respondent.

Docket No.: 24-ALJ-07-0232-CC

**SOUTH CAROLINA COASTAL
CONSERVATION LEAGUE'S
RESPONSE IN OPPOSITION TO
RESPONDENT'S MOTION TO STAY
AND FOR SUPERSEDEAS**

Petitioner South Carolina Coastal Conservation League ("CCL") opposes Respondent's Motion to Stay and for Supersedeas. Respondent asks this Court to suspend the effectiveness of its detailed, final order concluding Respondent's unlawful hard erosion control structure causes ongoing harm to the public beach and coastal processes, following a full contested case hearing on the merits. Order, pp. 19, 24, 31–32. Rule 29(E), SCALC, and Rule 241, SCACR permit a stay only where necessary to preserve appellate jurisdiction or prevent mootness. Rule 241(c)(2), SCACR. Because neither circumstance exists and because a stay would result in continued public harm, the motion must be denied.

I. ARGUMENT

Respondent's motion fails to satisfy the threshold requirements for a stay because he cannot demonstrate that compliance with the Final Order would render his appeal moot or cause irreparable harm. Respondent identifies no legal error, no misapplication of statute, and no clearly erroneous factual finding.

The authorities cited in the Motion describe holdings in cases with stays but do not convincingly establish why Respondent should be granted one. Respondent identifies no compelling harm or need and, instead, advances only a desire to avoid the logistical and financial consequences of a lawful remedial order. Instead of establishing that a stay is required to preserve appellate jurisdiction or prevent mootness, Respondent uses the motion to advance nothing more than his disagreement with the Court's Final Order. Respondent's "emergency sandbags" narrative is internally inconsistent and improperly uses temporary emergency measures as a rationale to preserve a permanent unlawful structure. Respondent's attempt to equate his adjudicated violation with the lawful, temporary emergency measures of his neighbors is a false equivalence.

While Respondent claims a risk of financial loss, South Carolina law establishes that self-created economic hardship does not outweigh the adjudicated, ongoing injury to public trust resources caused by his unlawful structure. The Record confirms that the structure is actively scouring the public beach, damage that supersedes Respondent's preference to delay removal until a speculative future renourishment project. Furthermore, the mandated Corrective Action Plan

resolves any safety concerns regarding demolition. Because the equities favor the immediate restoration of the natural shoreline over the preservation of an unauthorized wall, and because appellate review remains available post-compliance, the Motion to Stay must be denied.

A. RESPONDENT FAILS TO MEET THE THRESHOLD FOR A STAY PENDING APPEAL

Respondent's motion fails under the threshold elements governing a stay pending appeal. Respondent seeks to relitigate the merits through new, unsworn factual submissions and unsubstantiated scientific opinions. Respondent's motion advances only disagreement with the Court's conclusions, which is insufficient to justify the extraordinary relief of imposing a stay or granting supersedeas. *Compare* Order, pp. 17–19, 24, 30–32 (finding the structure has “accelerated erosion of the adjacent beach,” “contributes to increased deterioration,” has “adversely affected the public,” and “adversely affects public access laterally along the beach adjacent to the structure”) with Respondent's Motion, p. 8 (claiming the structure is a “benefit” and that, if it is removed in accordance with this Court's Order, “public access to the beach is threatened” and removal would be “adverse to the public interest”). Disagreement with the Court's conclusions is insufficient to justify extraordinary relief.

The power to grant a stay is an extraordinary exercise of judicial discretion that must be exercised sparingly and with caution. Supersedeas is warranted only where the applicant shows a “just reason to apprehend” that, without a stay, he will be deprived of the benefit of a favorable appeal. *Porter v. Lesesne*, 85 S.C. 399, 67 S.E. 453, 453 (1910). That standard is not met where compliance merely restores the property to a lawful baseline while appellate review proceeds. Respondent bears a heavy burden to justify the extraordinary remedy of a stay and has failed to carry it.

B. COMPLIANCE DOES NOT RENDER THE APPEAL MOOT OR CAUSE IRREPARABLE HARM

An appeal is moot only when a reviewing court can no longer grant meaningful relief. Compliance with a lawfully entered order does not divest an appellate court of jurisdiction so long as vacatur, modification, or remand remain available. *Collins Music Co., Inc. v. IGT*, 365 S.C. 544 (Ct. App. 2005). Because Respondent may apply for a permit to build a beach-compatible version of a structure should he prevail on appeal, the removal of the current prohibited version does not render the controversy moot.

If Respondent were to prevail on appeal, the reviewing court would retain full authority to vacate, modify, or remand the Final Order or to grant other appropriate relief. Respondent identifies no circumstance in which appellate review would be impossible but asserts only resistance to compliance pending appeal. That resistance does not establish mootness. Compliance would simply restore the property to a lawful condition while appellate review proceeds.

Furthermore, in the civil context, there are three general exceptions to the mootness doctrine: (1) an appellate court can take jurisdiction, despite mootness, if the issue raised is capable of repetition but evading review; (2) an appellate court may decide questions of imperative and manifest urgency to establish a rule for future conduct in matters of important public interest; and (3) if a decision by the trial court may affect future events, or have collateral consequences for the parties, an appeal from that decision is not moot, even though the appellate court cannot give

effective relief in the present case. *Wachesaw Plantation E. Cmty. Servs. Ass'n, Inc. v. Alexander*, 414 S.C. 355, 778 S.E.2d 898 (2015).

Compliance with a lawful enforcement order does not constitute irreparable harm under South Carolina law. Irreversibility is relevant only where compliance would defeat the appellate court's ability to grant meaningful relief, not where it merely defeats a party's preference to delay compliance with a lawful judgment. Respondent has not shown that denial of a stay will cause irreparable harm. His asserted injury is simply the obligation to comply with a final remedial order requiring removal of an unlawful structure. Supersedeas doctrine does not treat the cost or inconvenience of compliance with the law as irreparable harm, particularly where the harm asserted is entirely self-created and the underlying violation has already been adjudicated.

Further, Respondent's argument of irreparable harm ignores the fact the Final Order provides an extensive amount of time and opportunity for Respondent to develop, submit and implement a Corrective Action Plan (CAP) that can allow for the removal of the offending structure while preserving the beach and allowing the implementation of legal measures to protect any perceived or actual threat to Respondent's home or, more realistically, his backyard. In fact, this Court specifically requires the agency to provide Respondent with a liaison to facilitate the development of a carefully considered Corrective Action Plan. The Order imposes conditions that undercut any allegation of irreparable harm to Respondent.

C. THE BALANCE OF EQUITIES AND PUBLIC INTEREST DEMAND ENFORCEMENT

Respondent frames the equities as though the primary risk is to him, but the record reflects the opposite. The Court has already found that Respondent's structure interferes with coastal processes and causes ongoing scour and erosion of the public beach. Each additional day the structure remains in place further degrades natural shoreline functions that cannot be readily restored. *See* Affidavit of Robert S. Young, attached hereto as **Exhibit A** to this memorandum. By contrast, the structure itself is inherently replaceable. If Respondent ultimately prevails on appeal, he retains the ability to reconstruct a lawful erosion control measure through proper regulatory channels and, in the meanwhile, can utilize legal erosion control techniques to prevent undue erosion. The public, however, cannot reconstruct a naturally functioning coastal system once it has been altered or degraded. Equity therefore weighs decisively in favor of immediate enforcement.

Respondent's characterization of the unlawful structure as the "status quo" is legally incorrect. The status quo is not the illegal condition a party wishes to maintain, but rather the last, actual, non-contested condition which preceded the pending controversy. In this case, the non-contested condition is the natural beach as it existed before Respondent's unlawful construction. Because preserving the status quo is the effect of granting a supersedeas, it cannot be invoked here to authorize the continued existence of an unpermitted structure that adversely affects the public interest. The Court found that Respondent constructed a hard structure without a permit and used non-beach-compatible materials (Order, p. 22). The structure's location on the active beach renders it ineligible for even the most flexible permitting exceptions. Order, pp. 33–34. Supersedeas exists to preserve *lawful* conditions, not to authorize ongoing violations. *Midlands Utility, Inc. v. South Carolina Department of Health & Environmental Control*, 287 S.C. 483, 339 S.E.2d 862 (1986).

The structure at issue has already been adjudicated as unlawful and environmentally harmful. Leaving it in place pending appeal does not preserve the status quo; it perpetuates ongoing injury to public trust resources. As Dr. Young states, “seawalls narrow the beach in front of them through active and passive erosion. ... [n]arrowing of the beach reduces or eliminates public egress along the beach.” Exhibit A para. 8. A stay would authorize continued degradation of the beach for the sole purpose of maintaining a condition the Court has found impermissible.

The Court relied on S.C. Code Ann. §§ 48-39-30 and 48-39-260 in concluding that the public interest overrides Respondent’s interest in retaining the structure. A stay cannot be justified by reasserting the same policy arguments the Court rejected after hearing the evidence and determining that removal is required under S.C. Code Ann. § 48-39-120(C). Respondent asserts that the structure protects access and benefits neighbors, yet the Court found that it degrades the beach and impairs lateral access. *Compare* Order, pp. 17–19, 24, 30–32, *with* Respondent’s Motion at 8. Exhibit 4 to Respondent’s Motion is an unsworn advocacy letter and not competent evidence. Respondent’s preference to avoid potential erosion of a man-made backyard consisting of artificial turf and gravel does not outweigh the adjudicated ongoing harm to the public beach.

D. RESPONDENT’S ARGUMENT REGARDING SUNK COSTS IS FORECLOSED BY PRECEDENT

Respondent places substantial emphasis on the time, effort, and expense invested in constructing the structure. Those considerations cannot justify a stay. The fact that a party has expended resources on unlawful activity does not create entitlement to preserve that activity. Otherwise, the more extensively a violation altered public resources, the more insulated it would become from correction. Granting a stay on the basis of sunk costs would invert the regulatory system by rewarding noncompliance and penalizing enforcement. The Court’s role is to restore lawful conditions, not to protect private investments made in defiance of statutory standards.

Respondent relies on *South Carolina Coastal Conservation League (CCL) v. South Carolina Department of Health & Environmental Control* for general stay principles. However, the controlling appellate holding from that same case forecloses his attempt to justify continued enforcement relief based on sunk costs or financial hardship. On appeal, the South Carolina Supreme Court held that “evidence of purely economic benefit is insufficient as a matter of law to establish an overriding public interest.” *S.C. Coastal Conservation League v. S.C. Dep’t of Health & Envtl. Control*, 434 S.C. 1, 16, 862 S.E.2d 72, 80 (2021).

Respondent’s claimed harm is, at bottom, nothing more than the financial and logistical burden of complying with a lawful enforcement order. Such harm is speculative and does not constitute irreparable harm as a matter of law, particularly where supersedeas is an exercise of judicial discretion rather than a matter of right. Even assuming, *arguendo*, that Respondent expended significant resources constructing the structure and that its removal will entail additional expense, those considerations do not alter the legal analysis. When a party’s asserted injury is purely economic and runs directly contrary to the public interest in protecting natural coastal processes, the balance of equities weighs decisively against a stay.

Our General Assembly was explicit in the CZMA that coastal regulation does not permit a “build first, litigate later” approach. Section 48-39-120(C) does not create an entitlement to maintain an unlawful erosion control structure based on cost, difficulty, or inconvenience. It

authorizes removal where a structure adversely affects the public interest. Financial investment in an illegal structure does not transform a statutory violation into irreparable harm. Nor does compliance with a lawful enforcement order constitute irreparable harm under South Carolina law. Economic burden and construction impacts are insufficient to justify suspending environmental enforcement, and irreversibility is relevant only where compliance would defeat the appellate court's ability to grant meaningful relief, not where it merely defeats a party's preference to delay compliance with a lawful judgment.

E. RESPONDENT'S RELIANCE ON SPECULATIVE RENOURISHMENT IS UNAVAILING

Respondent suggests "it would be in the public's interest for the removal to be delayed at least until the City of Isle of Palms can increase the elevation of the beach adjacent to Reddy's property in its planned beach renourishment, which is scheduled to begin in 2026." Respondent's Motion, p. 9. This is a request for an indefinite stay based on a speculative future event.

Respondent's reliance on the 2026 Beach Renourishment project is not only speculative but contrary to the public interest. The Court has already found that Respondent's hard erosion control structure causes scour and accelerates the loss of sand. To allow this structure to remain during beach renourishment would be to invite the premature erosion of that new sand, as the reflected wave energy from Respondent's unpermitted wall would actively undermine the stability of the renourishment project. Wave energy collisions with a vertical seawall are not absorbed but instead reflected downward and outward, scouring the sand away from the base of the wall and accelerating erosion.

The public interest is best served by removing this impediment now, ensuring the shoreline is in its natural, absorbent state before the project begins. The Court's mandate is to enforce the law based on the current violation, not to provide a safe harbor for illegal structures until renourishment makes enforcement more convenient for the violator.

F. RESPONDENT'S CLAIMED SAFETY RISKS ARE CONTRADICTED BY THE RECORD

Respondent seeks to use the same alleged harm as both a shield and a sword. He invokes the threat of "irreparable damage" to block enforcement of the Court's order, while simultaneously relying on that same alleged harm to justify preservation of the unlawful structure.

Respondent argues that the removal of the structure presents a dangerous hazard that justifies a stay. This claim is directly contradicted by Respondent's own trial testimony regarding his extensive construction and engineering expertise. Respondent testified, "I ran construction companies in 50 states, so, maybe I have a little bit more [knowledge] than others." (Trial Tr. 462). He further asserted he has "construction crews all across the country" (Trial Tr. 970) and claimed specialized expertise in heavy equipment (Trial Tr. 372). A sophisticated party with nationwide construction experience is uniquely qualified to safely manage a standard demolition and restoration project. These alleged safety risks are routine construction challenges that Respondent and his licensed agents possess the exact expertise to manage through the professional Corrective Action Plan (CAP) already mandated by this Court.

The purpose of the CAP is to ensure that removal occurs in a controlled, safe, and environmentally responsible manner. The alleged safety risks of demolition do not constitute a legal basis for a stay; rather, they underscore the necessity of the CAP, which the Court has already ordered.

Further, Respondent cannot credibly claim that the structure is too dangerous to remove when he had no difficulty designing and constructing it in the first instance. The very fact that Respondent undertook to build a hard erosion control structure on an active beach without authorization undermines any claim that professional removal now presents an extraordinary hazard.

G. RESPONDENT'S CITED AUTHORITIES ARE DISTINGUISHABLE AND INAPPOSITE

Respondent's reliance on *Friends of Coastal S.C. v. S.C. Dep't of Environmental Services* is misplaced. That memorandum order carries no precedential value under Rule 268(d)(2), SCACR, and arose in a pre-merit hearing posture. *Friends* is a pending contested case hearing challenging a permitting decision, not an enforcement action. In *Friends*, the stay was lifted to allow the permanent and irreversible filling of wetlands. Following the filing of *Friends'* Petition for Extraordinary Relief, the Supreme Court vacated the ALC order lifting the stay.

The underlying activity in *Friends* did not involve a man-made structure that can be deconstructed and removed. It also did not involve suspension of an enforcement order following a full hearing on the merits. This case presents the opposite posture: a final order entered after trial directing removal of an unlawful structure. Similarly, Respondent cites *Graham v. Graham* and *Skydive Myrtle Beach, Inc. v. Horry County*, which address situations where compliance would extinguish the appellate court's ability to grant meaningful relief. *Graham v. Graham*, 301 S.C. 128, 390 S.E.2d 469 (Ct. App. 1990); *Skydive Myrtle Beach, Inc. v. Horry Cnty.*, 424 S.C. 298, 818 S.E.2d 224 (Ct. App. 2018). No such risk exists here. Compliance with the Final Order will not moot this appeal or impair appellate jurisdiction.

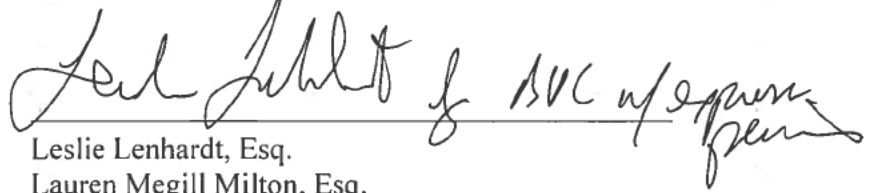
Similarly, Respondent cites *Richland County School District One Board of Commissioners v. Clear Dot Charter School*. See Respondent's Motion to Stay and for Supersedeas, at 2 (citing *Richland Cnty. Sch. Dist. One Bd. of Comm'rs v. Clear Dot Charter Sch.*, Docket No. 19-ALJ-30-0036-AP, 2019 SC ALJ LEXIS 178, at *3 (S.C. Admin. Law Ct. July 17, 2019)). However, *Clear Dot* concluded at the Administrative Law Court level and resulted in no appellate merits decision. The Court of Appeals dismissed the appeal for lack of jurisdiction and expressly took no action on supersedeas. See *Richland Cnty. Sch. Dist. One v. Charter Inst. at Erskine & Clear Dot Charter Sch. Columbia*, No. 2019-000947 (Ct. App. July 22, 2019). Accordingly, *Clear Dot* provides no appellate authority on stay doctrine.

II. CONCLUSION

For the foregoing reasons, CCL respectfully requests that the Court deny Respondent's Motion to Stay and for Supersedeas. Respondent has failed to carry the heavy burden required to justify this extraordinary remedy and offers only a desire to avoid the logistical and financial consequences of a lawful remedial order. Such purely economic interests cannot outweigh the adjudicated and ongoing injury to the public interest. Because compliance does not render appeal moot or cause irreparable harm, and because a stay would materially weaken enforcement of the governing statutory scheme, the Motion must be denied.

Respectfully submitted,

SOUTH CAROLINA ENVIRONMENTAL LAW PROJECT

A handwritten signature in black ink, appearing to read "Leslie Lenhardt", is written over a horizontal line. To the right of the signature, the text "BVC w/ Lauren" is written in a cursive script.

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January 26, 2026

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Environmental
Services and South Carolina Coastal
Conservation League,

Petitioner(s),

vs.

Rom Reddy,

Respondent.

Docket No.: 24-ALJ-07-0232-CC

**SOUTH CAROLINA COASTAL
CONSERVATION LEAGUE'S REPLY IN
SUPPORT OF ITS
MOTION FOR RECONSIDERATION**

Petitioner South Carolina Coastal Conservation League ("CCL"), pursuant to Rule 29 of the South Carolina Administrative Law Court Rules and Rule 59(e), SCRCP, respectfully submits this Reply in Support of its Motion for Reconsideration and Clarification.

I. ARGUMENT

CCL's motion does not request a new jurisdictional ruling. It seeks narrow clarification and, if necessary, conforming revision to prevent selective misuse of isolated language in a way that would strip the Court's operative merits decision of its legal effect and create avoidable ambiguity on appeal and in enforcement. The procedural posture matters. The Court formally rescinded the October 23, 2025 order. Rescission, p. 1; *see also Rescind*, Black's Law Dictionary (12th ed. 2024) (defining rescind as "to make void; to repeal or annul."). Thus, a rescinded order has no legal effect and the Order is the operative merits decision in this case. The Court has already confirmed that reconsideration is the proper vehicle to refine the articulation of its reasoning without changing the outcome. In its December 30, 2025 explanatory order accompanying the Order ("Reconsideration Order"), the Court explained that it issued the Rescission to better explain the application of the facts and the law in this case. *See Reconsideration Order*, p. 2. CCL simply asks the Court to do again what it has already done once: ensure the operative Order reads as a coherent legal instrument, with factual findings, statutory framework, and remedies that align and cannot be selectively distorted.

A. RECONSIDERATION IS PROPER UNDER RULE 29

Rule 29 allows reconsideration where a court is asked to decide an issue which has been raised but not ruled upon, while cautioning only that such motions may not be used to relitigate old matters. *Reconsideration Order*, p. 2. CCL is not asking the Court to retry jurisdiction. CCL is asking the Court to clarify how one isolated sentence in the Order should be read so it cannot be misused to suggest results the Order itself contradicts.

South Carolina courts have long held that, in construing an ambiguous order, "the determinative factor is to ascertain the intent of the judge who wrote the order... The determinative factor is the intention of the court, as gathered, not from an isolated part thereof, but from all parts

of the judgment itself.” *Eddins v. Eddins*, 304 S.C. 133, 135, 403 S.E.2d 164, 166 (Ct. App. 1991). Reconsideration and clarification are appropriate to correct ambiguity and errors of law or articulation. *Hill v. Eagle Motor Lines*, 304 S.C. 135, 140, 403 S.E.2d 363, 366 (1991); *Dunton v. S.C. Bd. of Examiners in Optometry*, 334 S.C. 502, 514, 514 S.E.2d 117, 123 (1999).

B. REDDY’S “RELITIGATION” ACCUSATION MISSTATES THE MOTION AND THE POSTURE

Reddy asserts that CCL’s motion improperly seeks to relitigate the jurisdictional issues already addressed. Respondent’s Jan. 20, 2026 Response in Opposition (“Opposition”) at 2. That is not what CCL seeks. CCL seeks clarification to prevent selective parsing of the Order in a manner that would imply unpermitted critical area construction is lawful, suggest statutory standards are displaced by isolated phrasing, or mischaracterize the basis for the Court’s remedies. The Court already confirmed reconsideration serves to refine analysis, not reopen adjudicated issues. The Court stated that while review of the parties’ motions caused it to reassess its reasoning on some issues, it ultimately arrived at the same conclusion. Reconsideration Order, p. 2.

C. THE ORDER’S FACTUAL FINDINGS ARE UNEQUIVOCAL

The Court found that in September 2023, the Department became aware that Respondent was intending to perform beachfront activities at his property without any Department review or authorization. Order at 3. The Court further found that there is no dispute between the parties that Respondent constructed a hard structure without first obtaining a permit from the Department nor that he used non-beach compatible materials. *Id.* at 22. The Court also found that Respondent installed non-beach compatible materials and excavated substantial amounts of substrate without a permit. *Id.* at 2. The Court ordered Respondent to submit a Corrective Action Plan for the removal of the hard structure, including all unauthorized materials. *Id.* at 40–41.

D. THE “NO DIRECT VIOLATION” SENTENCE CREATES INTERNAL LEGAL TENSION

The Order also states that the Court did not find Respondent in direct violation of any permit. *Id.* at 37. Standing alone, that sentence can be weaponized to imply lawful activity, even though the Order simultaneously finds no permit existed, unpermitted construction occurred, and removal of unauthorized materials is required. Courts routinely permit clarification where ambiguity creates enforcement problems. In *Altman v. Griffith*, the Court of Appeals approved clarification of a prior order because there was “some basis for misunderstanding between the parties due to the fact that the previous order was not explicit enough to be enforced.” *Altman v. Griffith*, No. 2007-UP-130, 2007 WL 8326763, at *1 (Ct. App. Mar. 23, 2007) quoting *Cannon v. Cannon*, 275 S.C. 424, 272 S.E.2d 179 (1980). Legal conclusions must align with factual findings. *Brown v. S.C. Dep’t of Health & Env’t Control*, 348 S.C. 507, 522, 560 S.E.2d 410, 418 (2002). Where isolated language conflicts with the operative reasoning of an order, South Carolina courts treat it as non-controlling. In *White’s Mill Colony Inc. v. Williams*, the Court held that orders must be construed based on judicial intent “not from an isolated part thereof, but from all the parts of the judgment itself.” and refused to give effect to contradictory language that was “an anomaly... rather than a finding necessary to the decision.” *White’s Mill Colony Inc. v. Williams*, 363 S.C. 117, 124, 609 S.E.2d 811, 815 (Ct. App. 2005).

A court order must be construed as a coherent whole, not by isolating a single sentence. “The determinative factor [in construing judgments] is the intent of the court, as gathered, not from an isolated part thereof, but from all the parts of the judgment itself.” *John Deere Constr. &*

Forestry Co. v. N. Edisto Logging, Inc., 443 S.C. 424, 437, 904 S.E.2d 889, 896 (Ct. App. 2024), *reh'g denied* (Aug. 12, 2024), *cert. denied* (Feb. 12, 2025). “Such construction should be given to a judgment as will give force and effect to every word of it, if possible, and make it as a whole consistent and reasonable.” *Id.* In applying this rule, “effect must be given to that which is unavoidably and necessarily implied in a judgment, as well as to that which is expressed in the most appropriate language.” *Id.* quoting 46 AM. JUR. 2D JUDGMENTS § 73.

E. STATUTORY FRAMEWORK CONFIRMS THE NEED FOR CLARIFICATION

Under the CZMA, beaches are lands subject to periodic inundation by tidal and wave action. S.C. Code Ann. § 48-39-10(H). Critical area includes coastal waters, tidelands, beaches, and the beach/dune system. § 48-39-10(J). No person may erect any structure on or alter any critical area without first obtaining a permit. § 48-39-130(C). The Department may require removal of any structure which it determines has an adverse effect on the public interest. § 48-39-120(C). Agency inaction cannot suspend statutory mandates. *Sloan v. Friends of Hunley*, 369 S.C. 20, 26, 630 S.E.2d 474 (2006); *Kiawah Dev. Partners II v. DHEC*, 411 S.C. 16, 32–33, 766 S.E.2d 707 (2014). Rule 29 is designed to prevent exactly what would otherwise occur here: a preventable appellate dispute over internal ambiguity. The Supreme Court has repeatedly rejected reliance on economic factors to justify impairment of public coastal rights. *S.C. Coastal Conservation League v. DHEC*, 434 S.C. 1, 862 S.E.2d 72 (2021).

F. REDDY’S “NO INUNDATION” OBJECTION OBFUSCATES THE RECORD

Respondent’s accusation that CCL “mischaracterizes” the Court’s findings rests on a hyper-technical objection that ignores the actual text of the Court’s Orders. Respondent claims that no finding of inundation exists and that page 7 of the Order contains “no such finding.” Opposition, p. 2. That assertion is flatly contradicted by the record. As stated in CCL’s Motion for Reconsideration, the Court expressly found that “photographic evidence showed that tidal and wave action swelled up to Respondent’s property depositing wrack and dead marsh grass onto Respondent’s yard.” Order, p. 7. The Court further found, on the same page, that “[i]n an effort to protect the newly exposed escarpment,” Respondent “removed most of the seaward line of vegetation on his property” and “draped artificial turf over the slope of the recently exposed escarpment.” Order, p. 7. These are Respondent’s alterations, found by the Court, not advocacy gloss. CCL’s summary of these findings was conservative. To the extent Respondent now attempts to call that summary into question, CCL welcomes the opportunity to further “state with particularity” how the record itself demonstrates how extensively Respondent’s own actions materially altered the site and affected the coastal physical conditions the Court evaluated. Rule 29(D), SCRCF.

The Court found that Respondent excavated substantial amounts of substrate with heavy machinery without authorization (Order, p. 2) and that there is no dispute Respondent constructed a hard structure using non-beach compatible materials without first obtaining a permit. *Id.* at 22. These findings establish that the site conditions at issue were not merely the product of passive natural processes, but of deliberate, unpermitted human alteration. The Court further found that Respondent’s yard was “heavily altered with artificial turf,” which was later “draped over the slope of the recently exposed escarpment” in an effort to stabilize the property. Order, pp. 7, 9. The Court expressly credited Respondent’s own explanation that after replacing the artificial turf over his yard, “the artificial turf began to wrinkle,” and that “in an effort to stabilize the turf,” he proceeded

with construction activity. Order, p. 9. These are not incidental details; they are the causal sequence the Court itself found.

Respondent's own trial testimony confirms that these alterations were intentional and extensive. Respondent testified that he used his backyard "as a lab to try to do various projects" with artificial turf and that his original structure was motivated by "wrinkles in my turf." Trial Tr. 59:2-9. In the same testimony, Respondent refers to the bulkhead as "my little structure" and acknowledged that "everyone knows an erosion control structure has to be water facing." *Id.*; see also Order, p. 9. Yet the Court found that these "experiments" resulted in the removal of protective vegetation, the creation of an exposed escarpment, and the placement of artificial turf and non-beach compatible materials in an area subject to tidal and wave action. Order, pp. 7, 9; see also Trial Tr. 1214:24-1215:9.

The Court further credited testimony that, in landscapes that have been heavily manipulated or where vegetation has been removed, the Department evaluates inundation using physical indicators including escarpment lines, accumulation of wrack, organic material, and dead marsh grass. Order, p. 11; *Id.* n.30. Those are precisely the physical indicators the Court found present on Respondent's property. The Court then confirmed, in its December 30, 2025 Reconsideration Order, that removal of the structure was "warranted based upon the adverse effects to the public beach due to inundation interacting with Respondent's hard structure." Reconsideration Order, p. 5. Read together, as South Carolina law requires, these findings establish the factual sequence CCL described: the site was subject to tidal and wave processes; Respondent materially altered the landscape; those alterations coincided with and exacerbated coastal interaction; and the interaction between inundation and Respondent's structure justified removal.

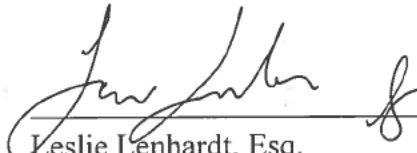
CCL does not ask the Court to make new jurisdictional findings. It asks the Court to clarify that its legal conclusions reflect the physical coastal processes and site conditions the Court itself credited in the record, including Respondent's own testimony. Respondent's fixation on the absence of a single synthesized phrase does not negate the Court's express findings or its stated reasoning. To the extent CCL's motion summarized these findings by describing the affected area as "more susceptible" following Respondent's alterations, that is a fair synthesis of what the Court actually found occurred; specifically, tidal and wave action reaching the yard, the removal of protective vegetation, and the draping of artificial turf on an exposed escarpment. This is not an attempt to attribute invented language to the Court, but an accurate description of the factual and legal nexus upon which the Court based its remedial mandate. Clarification is therefore necessary not to expand the Court's findings, but to ensure the Court's operative Order is read consistently with the record the Court itself created.

II. CONCLUSION

This is not relitigation. It is narrow and surgical clarification necessary to preserve the legal integrity of the Court's own operative Order and to prevent selective misuse of isolated language on appeal or in future enforcement proceedings. CCL respectfully requests that the Court clarify the December 30, 2025 Order to ensure that the Court's factual findings and statutory analysis are harmonized and internally consistent, that the Order is not misconstrued as holding that unpermitted construction in a critical area is lawful, and that the Court's discretionary non-imposition of civil penalties is not read to alter statutory liability standards or foreclose statutory enforcement authority.

Respectfully submitted,

SOUTH CAROLINA ENVIRONMENTAL LAW PROJECT

 *for DDC of 4/1/2026
permitted*

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Columbia, S.C.
January 26, 2026

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

The Honorable Ralph King Anderson, III, Administrative Law Judge

Docket No.: 24-ALJ-07-0232-CC

South Carolina Department of Environmental Services and
South Carolina Coastal Conservation League.....Respondents,

v.

Rom Reddy.....Appellant.

NOTICE OF APPEAL

Appellant Rom Reddy appeals the Amended Final Order of the Honorable Ralph King Anderson, III in the above-captioned matter, which was filed on December 30, 2025. Appellant received written notice of entry of this order on December 30, 2025. A copy of the Amended Final Order is attached hereto.



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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

The Honorable Ralph King Anderson, III, Chief Administrative Law Judge

Docket No.: 24-ALJ-07-0232-CC

South Carolina Department of Environmental Services Appellant,
and South Carolina Coastal Conservation League

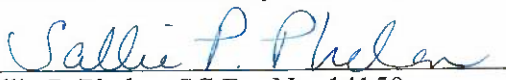
v.

Rom Reddy.....Respondent.

NOTICE OF APPEAL

The South Carolina Department of Environmental Services (“DES” or the
“Department”) hereby appeals the following decisions of the Honorable Ralph King Anderson,
III:

1. Amended Final Order of the ALC dated December 30, 2025;
2. Order on Motions for Reconsideration dated December 30, 2025; and
3. Order Denying Motions for Reconsideration dated January 27, 2026.


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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Ralph King Anderson, III, Administrative Law Judge

Docket No. 24-ALJ-07-0232-CC

South Carolina Department of Environmental Services and South Carolina Coastal
Conservation League,

Appellants,

v.

Rom Reddy,

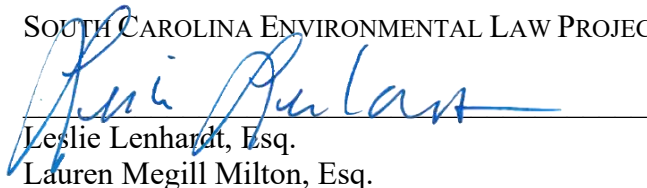
Respondent.

NOTICE OF APPEAL

South Carolina Coastal Conservation League (“Appellant”) appeals the Final Order of the Honorable Ralph King Anderson, III, Administrative Law Judge, entered in Docket No. 24-ALJ-07-0232-CC on December 30, 2025 and the January 27, 2026 Order denying its Motion for Reconsideration. Counsel received copies of each Order on the date that said Order was filed.

Respectfully submitted,

SOUTH CAROLINA ENVIRONMENTAL LAW PROJECT



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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT DIVISION

Docket No.: 24-ALJ-07-0232-CC

South Carolina Department of)
Environmental Services and South)
Carolina Coastal Conservation League,)
)
Petitioners,)
)
v.)
)
Rom Reddy and Renee Reddy,)
)
Respondents.)
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HEARING

Tuesday, May 6, 2025

10:06 a.m. - 6:12 p.m.

Wednesday, May 7, 2025

9:02 a.m. - 6:23 p.m.

Thursday, May 8, 2025

8:59 a.m. - 5:51 p.m.

Monday, May 19, 2025

9:02 a.m. - 5:07 p.m.

Tuesday, May 20, 2025

9:01 a.m. - 3:26 p.m.

The hearing before the Honorable Ralph K. Anderson, III was taken at the Edgar A. Brown Building, 1205 Pendleton Street, Suite 224, Columbia, South Carolina, on the 6th, 7th, 8th, 19th, and 20th days of May, 2025 before Amanda J. Creel Godfrey, Court Reporter and Notary Public in and for the State of South Carolina.



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(All Exhibits will be retained by the Court. The Court's Exhibit Inventory is attached and incorporated herein by reference.)

STIPULATIONS

It is stipulated and agreed that this hearing is being taken pursuant to the rules of the Administrative Law Court and the South Carolina Rules of Civil Procedure.



1 DAY ONE - TUESDAY, MAY 6, 2025

2 CALL TO ORDER:

3 **THE COURT:** This is a hearing in the matter of South
4 Carolina Department of Environmental Services
5 and South Carolina coastal Conservation League,
6 Petitioners, versus Rom Reddy and Renee Reddy,
7 Respondents. The docket number is 24-ALJ-07-
8 0232-CC.

9 PRELIMINARY MATTERS:

10 **THE COURT:** I want to address a couple of
11 preliminary matters. One is the respondent had
12 a motion for reconsideration. I will say that
13 one of the respondent's objection was the
14 Court's conclusions that the Department has
15 jurisdiction over the beaches critical area,
16 including the landward and the setback line.
17 That was set -- that statement was set forth in
18 my Order on motion for summary judgment. I
19 did, hopefully, clarify that -- in my email,
20 that since I didn't hold any response to that
21 motion, that that is generally jurisdiction
22 over the beaches. I want it to be clear that
23 the -- let's see, that was -- that in the
24 motion for summary judgment that respondents
25 adopted all the findings set forth by the



1 Department, one of which was that the
2 petitioners' property was in the beaches and in
3 the active area. So, you stipulated that for
4 purposes of the summary judgment motion. That
5 stipulation obviously does not apply for this
6 hearing, but that was a -- affected the
7 decision that I had, at least in considering
8 the facts. Also the respondent, you cited a
9 case that I was going to cite in your motion
10 for reconsideration. Made the motion
11 interesting is the case is, well, Skyways is
12 one of 'em. There's other ones. But it sets
13 forth that the denial of a summary judgment
14 does not establish the law of the case. The
15 whole purpose, it seemed like, of the motion
16 for summary judgment will be to issue a final
17 decision establishing the law of the case, and
18 that's not what summary judgment does. So, I
19 really thought the motion was a little odd for
20 that reason, but also the -- my Order clearly
21 explained that further inquiry into the facts
22 was needed to determine the application of the
23 law. So, that's why we're here. So, with that
24 said -- also, the other preliminary matter,
25 Rule 29 sets forth that in matters involving



1 assessment of penalties and the imposition of
2 sanctions and enforcement orders, I think y'all
3 got all -- all three covered here, that the
4 burden of proof is -- is upon the Department.
5 Any objection to the Department going first?
6 It just, to me, makes sense if you've got the
7 burden of proof that you go first, so ---

8 **MR. REDDY:** No, Your Honor.

9 **THE COURT:** And I need to clarify one thing. You
10 say, no, Your Honor. You're Mr. Reddy?

11 **MR. REDDY:** Yes.

12 **THE COURT:** All right. And sitting beside you is -
13 --

14 **MS. MAPLES:** Good morning, Your honor. I'm Allie
15 Maples. I'm just assisting from counsel's
16 table. My office wrote a letter to the Court
17 yesterday, but I'm not counsel of record.

18 **THE COURT:** Okay. I -- are you familiar with the
19 law on hybrid representation?

20 **MS. MAPLES:** Yes, Your Honor.

21 **THE COURT:** Okay. And you're familiar with the
22 fact that once you start moving into
23 representing Mr. Reddy, that you'll have to
24 make a motion of appearance?

25 **MS. MAPLES:** Yes, Your Honor. And I do not plan to



1 speak on the record other than this
2 conversation.

3 **THE COURT:** I mean, there's also another case, the
4 struggle I have. I am all in favor of you --
5 this is a complicated case, Mr. Reddy. I did
6 not want to continue it. You still got options
7 to make your arguments regarding that, but so,
8 I don't want -- as a judge, I don't want the
9 lines to get crossed. But on the other hand,
10 I'm all in favor of Mr. Reddy getting legal
11 advice in this area. So, if you could just
12 make sure -- I do not know what advice you're
13 gonna be giving or where you're gonna be
14 standing, so I want to comply with the law.

15 **MS. MAPLES:** Yes, Your Honor.

16 **THE COURT:** All right. Any objection to that which
17 we have just discussed?

18 **MS. PHELAN:** No objection, Your Honor.

19 **MS. LENHARDT:** No, Your Honor.

20 **THE COURT:** All right. Well, then I think we've
21 got -- did I miss anything? Let me check.

22 **MS. PHELAN:** Your Honor, we do have one issue we'd
23 like to address before starting.

24 **THE COURT:** Okay, then. Let me look at my outline
25 here to make sure I didn't ... All right.



1 Proceed away.

2 **MS. PHELAN:** Your Honor, prior to Mr. -- Mr. Reddy
3 firing his previous counsel, all the counsel
4 agreed to a joint exhibit list, and they agreed
5 -- the respondents' counsel agreed to admit all
6 of the Department's and the League's evidence
7 on the -- on the theory that you're an
8 Administrative Law Court, and you should be
9 able to see everything. We did have objections
10 to theirs, so there's an individual exhibit
11 list for -- for the respondents. I think I
12 said it backwards, we're petitioners in this
13 case. So, the agreement that we had was that
14 there was a joint exhibit list that is 1
15 through 272 that would be admitted without
16 objection. And there was -- there was no
17 foundation or authenticity objections either to
18 that.

19 **THE COURT:** Okay. Ms. Lenhardt, any position?

20 **MS. LENHARDT:** We would agree to the admissibility
21 of those 1 through 272.

22 **THE COURT:** Mr. Reddy?

23 **MR. REDDY:** Your Honor, sorry, I have a torn
24 meniscus, so I'm a little slow getting up and
25 down.



1 **THE COURT:** It's okay. Well, do you wish to -- I
2 can let you remain seated on some aspects.

3 **MR. REDDY:** No, okay.

4 **THE COURT:** Okay.

5 **MR. REDDY:** Thank you. Thank you.

6 **THE COURT:** Any objection to the admission of those
7 exhibits?

8 **MR. REDDY:** I don't have any opposition to the
9 admission of the joint exhibits. I would like
10 to -- Your Honor to allow us to, in the
11 interest of time, to admit our individual
12 exhibits.

13 **THE COURT:** Okay. What -- you need to tell me what
14 exhibits you're offering.

15 **MR. REDDY:** We -- it's -- it's on the -- it's all
16 in the record.

17 **THE COURT:** There's nothing in the record until you
18 offer them and they're admitted, Mr. Reddy.

19 **MR. REDDY:** Okay. So, we have ---

20 **THE COURT:** Can I stop you just a second? Have
21 they been marked?

22 **MR. REDDY:** Yes, for some.

23 **THE COURT:** No, they haven't.

24 **MR. REDDY:** Okay. So, here they are. This includes
25 all of the documents we intended to use, which



1 the petitioners, for some reason, would not
2 agree to. We have identified some of the more
3 important documents for purpose of this
4 jurisdiction by highlighting them on here.
5 Documents from this list to -- are identified
6 to represent, or if they are from the
7 respondents' separate exhibit list, so.

8 **THE COURT:** That doesn't tell me a lot, Mr. Reddy.
9 Can you get the exhibits you propose to have
10 admitted marked by my court reporter, and then
11 we can address them? How about that?

12 **MR. REDDY:** Okay. I can do that.

13 **THE COURT:** If you step up and present stuff to the
14 court reporter, you're not --

15 **MR. REDDY:** No, that's my -- that's my wife over
16 there.

17 **THE COURT:** Yeah, whoever, either one of you, if
18 y'all step -- y'all present things to the court
19 reporter, that would be fine with me since his
20 knee's injured. All right. Now, that's just
21 a list, right?

22 **MR. REDDY:** Yes.

23 **THE COURT:** I need the exhibits.

24 **MR. REDDY:** Yeah, we have them.

25 **THE COURT:** Okay. Wait a second. This is 108



1 exhibits? Have y'all looked at these exhibits?

2 **MS. PHELAN:** Your Honor, we looked at about I think
3 it's 1 through 86, and we responded that we
4 objected to all of those 86. We had an exhibit
5 conference with the other -- the former
6 counsel. Mr. Reddy did email us around 20
7 yesterday when we were traveling up and we
8 haven't really had a chance to look at those.
9 I don't know that he's provided copies of
10 those. We have them on digital copies, and we
11 do have some concerns with what we've seen.

12 **THE COURT:** Are there any exhibits that y'all can
13 stipulate to?

14 **MS. PHELAN:** Well, the ones that we could stipulate
15 to are in the joint exhibit list.

16 **THE COURT:** Oh, that's ---

17 **MS. PHELAN:** Joint exhibits consists of the ones
18 that they agreed that we were entering and the
19 ones that ---

20 **THE COURT:** Okay. Are there any overlapping
21 exhibits for which he -- Mr. Reddy's offering
22 and the joint exhibit list?

23 **MS. PHELAN:** There is, and we did our best to
24 eliminate all those duplicates when we did the
25 joint exhibit list ---



1 **THE COURT:** Okay.

2 **MS. PHELAN:** --- but at the last minute, Mr.
3 Reddy's counsel added those exhibits back in,
4 so there are duplicates.

5 **THE COURT:** All right. Here's how I'm gonna have
6 to rule. At this stage of the game, I admit
7 exhibits that are stipulated to, not objected
8 to, all right? If you're going to be offering
9 exhibits that are not consented to, then you'll
10 have to offer them at the appropriate time
11 after you've laid a foundation for their
12 admission.

13 **MR. REDDY:** I'm happy to do that. Could I proffer
14 them, Your Honor?

15 **THE COURT:** You can proffer them, but I --
16 normally, you proffer something after I rule,
17 make an evidentiary ruling that does not allow
18 certain evidence to come in. So, and I have
19 not made any rulings regarding any evidence at
20 this point, so I'm not sure what you would be
21 proffering from a legal standpoint.

22 **MR. REDDY:** I am not sure either. I'm new to this.
23 I've never been in a courtroom.

24 **THE COURT:** How about let's ---

25 **MR. REDDY:** But ---



1 **THE COURT:** --- let's just get going. You can
2 always proffer something at the end of the
3 case.

4 **MR. REDDY:** Okay.

5 **THE COURT:** So, let's just get the ball rolling,
6 and you'll have the option down the road. All
7 right.

8 **MR. REDDY:** I appreciate you accommodating the
9 novices in the courtroom.

10 **THE COURT:** Okay. I'm fine with that.

11 **MS. PHELAN:** And, Your Honor, I have identified the
12 ones that are duplicates that I ---

13 **THE COURT:** Well, let's just deal with that ---

14 **MS. PHELAN:** Okay. I don't think we have a final
15 exhibit list from them.

16 **THE COURT:** Well, I need to get -- what I'm going
17 to do is when we get -- when we take a break,
18 and I may take a little bit longer break down
19 the road here, the court reporter needs to mark
20 the exhibits. Because I don't rule on exhibits
21 that aren't marked. I don't even know what
22 they are. So, I'm going to address that as we
23 move.

24 **MS. PHELAN:** Okay.

25 **THE COURT:** If the record's not clear, there was no



1 objection to the joint exhibits. So, that's
2 Exhibits 1 through ---

3 **COURT REPORTER:** 272.

4 **MS. PHELAN:** Yes, 1 through 272.

5 **MS. LENHARDT:** 274.

6 **THE COURT:** Exhibits 1 through 272 are admitted.

7 **MS. PHELAN:** It's 1 through 272.

8 **(Joint Exhibit Numbers 1 through 272 were admitted**
9 **into evidence.)**

10 **MS. PHELAN:** Thank you.

11 **THE COURT:** 273 and 274, we'll work out.

12 (Laughter)

13 **THE COURT:** It's not like I don't have enough
14 exhibits. All right. Any other motions or
15 stipulations the parties wish to make before we
16 proceed?

17 (No response.)

18 **THE COURT:** Well, with that said, since you have
19 the burden, I'll hear your opening.

20 **OPENING STATEMENTS:**

21 **MS. PHELAN:** May it please the Court. Your Honor,
22 I am Sallie Phelan and I represent the
23 Department of Environmental Services, Bureau of
24 Coastal Management. Here with me today is Mr.
25 Bradley Churdar, also representing the



1 Department. We have several staff members with
2 the Department today that will testify. We
3 have Mr. Matt Slagel, who is a former
4 Beachfront Critical Area Manager. We have
5 Jessica Boynton, who is the Manager of the
6 Coastal Services Section. Ms. Morgan Flake,
7 who is the Manager of the Compliance and
8 Enforcement section. And we also have Chris
9 Stout, the Director of Program here today. And
10 in the back is Jacques Prevost. You will also
11 hear from him. He was a former Project Manager
12 for Compliance. We also have Chris Jones
13 sitting on the back row here. He's an expert
14 in coastal engineering and coastal processes.
15 We will also hear from Mr. Doug -- Douglas
16 Truslow. I'm not sure he's here today. He's
17 a resident on the Isle of Palms.

18 Your Honor, we're here today about a total
19 disregard of the law and a total disregard of
20 the Department's authority to regulate the
21 coastline and the beaches critical area. We
22 are here about two seawalls that the Reddys
23 constructed on the beach at Isle of Palms to
24 protect their yard, despite the Department's
25 repeated warnings that it was not authorized



1 and that the Department believed it to be a
2 violation of the South Carolina Coastal
3 Tidelands and Wetlands Act. The Reddys put
4 clay, gravel, fabric, metal screw piles, some
5 kind of foam, rebar, riprap and concrete, among
6 other things, on the beach. First, you will
7 hear from Mr. Slagel, the former Section
8 Beachfront Manager. You will hear that when it
9 was first reported that the Department looked
10 like the Reddys were going to do something on
11 the beach, that Mr. Slagel sent a letter to the
12 Reddys and their contractor, BluTide
13 Construction, advising, quote ---

14 **THE COURT:** What's the name of the construction?

15 **MS. PHELAN:** BluTide Construction.

16 **THE COURT:** BluTide, okay. Go ahead.

17 **MS. PHELAN:** That any unauthorized work within the
18 State's critical areas, which include the
19 beach/dune system and beaches, will be
20 considered a violation of the South Carolina
21 Coastal Tidelands and Wetlands Act, and may
22 result in enforcement action being initiated by
23 the Department. You will also hear that right
24 after this letter was sent, the Reddys, through
25 their contractor, BluTide, requested that the



1 Department meet with them on the Reddys'
2 property because they wanted to put clay down.
3 Within days after that, on September 11th,
4 2023, Mr. Slagel met with them and explained
5 that the area they wanted to put the clay in
6 was beaches critical area, and they were not
7 authorized to do that. He further explained
8 that it was beaches critical area, even though
9 it was landward of the setback line, because
10 the beaches critical area was defined by vege-
11 -- the lack of vegetation. He also explained
12 that the clay that they proposed to put down
13 would be harmful to the sea turtles. It was
14 only some time later, when the Department
15 received documents through their subcontractor,
16 that the Department learned that the clay had
17 already been put down at the time of the
18 meeting. The Reddys had made sure to have the
19 clay covered up with sand before the Department
20 arrived. And this is not the only time that
21 you will hear about the Reddys covering up what
22 they were doing. They somehow built the
23 original wall without anyone reporting it, and
24 covered it up with artificial turf. They never
25 notified the Department, much less sought



1 approval for this wall. You will hear from Mr.
2 Slagel that he discovered the wall when he was
3 doing damage assessment on the Isle of Palms
4 after a nor'easter storm in December 2023. And
5 this is what he saw. So, he's doing a damages
6 assessment walking down the beach, and lo and
7 behold, he sees this hard erosion control
8 structure that has been uncovered by the storm.
9 Mr. Slagel will also explain how the Department
10 had advised the Reddys what actions were
11 permissible in the beaches critical area,
12 including minor renourishment, planting native
13 vegetation, and sand fencing. The Department
14 worked with the Reddys to issue a permit for
15 these soft solutions that were allowed to
16 protect their property, but instead, the Reddys
17 ignored the Department's warnings, did not take
18 advantage of the permit for soft solutions, and
19 rather installed non-beach compatible fill and
20 a wall in the beaches critical area. When the
21 first wall started cracking and falling down,
22 instead of removing the wall, the Reddys dug
23 out behind the wall, pulled it back up and put
24 metal pins on the front and back to keep it
25 from falling and installed metal brackets on



1 the front of the wall where it was cracking.
2 The Reddys then decided they need to build a
3 second wall to fortify the first wall. You
4 will hear the combined footprint of the two
5 walls is approximately nine feet wide and about
6 150 feet long, not including the wing walls.
7 You will hear how during the time they were
8 strengthening the first wall and building the
9 second wall, they were trying to hurry up and
10 get the job done before the State could do
11 anything. They also were trying to do it at a
12 high tide when less people were walking around
13 on the beach. You'll also hear how whenever
14 they knew the Department was going to be there,
15 they made a point to make sure that they didn't
16 have their equipment on the beach.

17 Jacques Prevost, then a Project Manager for
18 Compliance, and Morgan Flake, the Compliance
19 and Enforcement Section Manager, will explain
20 that when the Department learned of the Reddys'
21 installation of the clay, the Department issued
22 a notice to comply to remove the unauthorized
23 materials. When they learned the Reddys were
24 fortifying the original wall, the Department
25 issued the first cease and desist. And when



1 the Reddys built the second wall, the
2 Department issued a second cease and desist.
3 And when the Reddys continued to alter the area
4 with landscaping and more artificial turf, the
5 Department issued a third cease and desist.
6 But the Reddys did not stop what they were
7 doing. You'll hear from Mr. Pro- -- Prevost,
8 and he will testify to his numerous site visits
9 and inspections documented by detailed
10 photographs. Mr. Prevost will walk you through
11 these photos and show you where the water was
12 reaching landward of the wall, indicating that
13 there was periodic inundation, so that no
14 nonlittoral vegetation was being established.
15 Next, you will hear from Ms. Flake, who was
16 then the Compliance and Enforcement Manager.
17 She will testify about the very well documented
18 and supported Administrative Order that the
19 Department issued against the Reddys. She also
20 will tell you how the overall egregiousness of
21 the Reddys' violations was a factor in applying
22 a 289,000 penalty. She also will testify that
23 through an oversight, the Department did not
24 apply the statutory continuing penalty of up to
25 1,000 per day until the violation is resolved



1 and the wall is removed. She will explain that
2 even after the Department issued a notice to
3 comply, three cease and desists and filed a
4 temporary restraining order before this Court,
5 Mr. Reddy continued to build his wall
6 structures in beaches critical area and
7 exhibited a willful disregard for the
8 Department's authority.

9 You'll also hear from Ms. Jessica Boynton,
10 the Department's Coastal Services Manager. She
11 will talk about the changes to the shoreline
12 and the movement of the beaches critical area
13 along in -- over the last several years. She
14 will also take you through her feature
15 identification study of where the beaches
16 critical area was during the October time
17 period when the Reddys constructed the first
18 wall.

19 You'll also hear from Mr. Truslow, who is a
20 resident of the Isle of Palms, and he will talk
21 about how the Reddys' wall was impact -- has
22 impacted his enjoyment of the beach. He will
23 tell you that there have been times that he and
24 other members of the public have been unable to
25 get the -- past the wall without getting into



1 the ocean. They've been unable to walk the
2 beach. They've been unable to recreate on dry
3 sand beach in this area.

4 Finally, the Department will present Chris
5 Jones. Chris Jones, an expert with decades of
6 experience in coastal engineering and coastal
7 processes, has substantial familiarity with the
8 Isle of Palms' shorelines. He is going to tell
9 you about the instability of this area over
10 time and his assessment of where the beaches
11 critical area was, applying the statutory
12 definition at each of the relevant time periods
13 that the Reddys did their alterations. He will
14 back that with his assessments of the data is
15 -- that is collected from the Department,
16 showing where the dunes are located and
17 indicating where there was no nonlittoral
18 vegetation established. Mr. Jones will also
19 respond to the respondents' expert, Matthew
20 Goodrich's, opinion related to the upward
21 limits of periodic inundation at the Reddy
22 site.

23 We also expect that you will hear from Mr.
24 Reddy, who will insist that he should not have
25 to listen to the Department because the



1 Department does not have authority over his
2 private property. He will insist that the
3 Department has somehow expanded their
4 jurisdiction and changed their practice.
5 Ignoring the Department has been acting in
6 accordance with the plain meaning of the
7 statute. And he will insist that his wall does
8 not block public access, even though it juts
9 way out into the beach, as shown by this next
10 picture.

11 **THE COURT:** When you say he'll insist that the
12 Department is taking a different position. Has
13 the Department technically done -- either taken
14 or published a position that is different than
15 what is being expressed today in the past?

16 **MS. PHELAN:** Your Honor, Ms. Jessica Boynton will
17 help you understand the language that was
18 drafted in the past. What has changed is not
19 the position of the Department that they have
20 authority over the beaches critical area. What
21 has happened is the ground conditions have
22 changed because of the -- the quickening
23 erosion.

24 **THE COURT:** Are you talking about in this area?
25 I'm talking about generally, as far as the



1 interpretation of the law.

2 **MS. PHELAN:** No, Your Honor, they have not changed
3 the interpretation of the law. I believe that
4 Mr. Reddy will bring up one example of where
5 the Department got it wrong. We didn't
6 identify the beaches critical area.

7 **THE COURT:** That was a specific case?

8 **MS. PHELAN:** Yes, it was, Your Honor.

9 **THE COURT:** Okay. What's the purpose of the
10 setback line?

11 **MS. PHELAN:** The purpose of the setback line is to
12 define the beach/dune system. It is -- it was
13 originally intended to be -- predict the
14 erosion rate and set the outer landward limit
15 of the beach/dune system.

16 **THE COURT:** All right. Is that purpose applicable
17 only to the beach/dune system and not for -- to
18 the phraseology of beaches?

19 **MS. PHELAN:** Your Honor, it is not -- it is not
20 relevant to the beaches. We have four critical
21 areas. The beaches is a critical area and the
22 beach/dune system ---

23 **THE COURT:** I follow that.

24 **MS. PHELAN:** And the beaches has a completely
25 different definition defining its outer limits.



1 **THE COURT:** I saw the definition of active beach,
2 and I see it's the land -- is it land area
3 seaward of the escarpment, or the first line of
4 stable natural vegetation, whichever --
5 whichever first occurs measured from the ocean.
6 So, it -- are you saying that in this instance
7 there -- the setback line may exist in one
8 place, and this area that we're talking about,
9 active Beach, is behind the setback line? Is
10 that going to be the testimony? Or landward of
11 the setback line?

12 **MS. PHELAN:** Landward of the setback line.

13 **THE COURT:** Behind ---

14 **MS. PHELAN:** But it's not just that the act- -- the
15 beaches can extend even past active beach too.

16 **THE COURT:** Okay.

17 **MS. PHELAN:** So, active beaches necessarily within
18 the beaches critical area ---

19 **THE COURT:** Okay.

20 **MS. PHELAN:** And active beach can either be seaward
21 or landward of the beaches critical area, just
22 like the beaches critical area can be either
23 seaward or landward of the beach/dune system.
24 And Ms. -- Ms. Jessica Boynton will show you
25 some figures and so will Mr. Slagel to -- to



1 demonstrate what the different -- these
2 different scenarios are.

3 **THE COURT:** Well, that will be based on the facts
4 that exist at this beach?

5 **MS. PHELAN:** It will be based on the -- yes, the
6 conditions.

7 **THE COURT:** The conditions, yeah.

8 **MS. PHELAN:** At the coastline.

9 **THE COURT:** All right. I interrupted you.

10 **MS. PHELAN:** That's all right. So, the Department
11 has always -- has always asserted jurisdiction
12 over the beaches critical area as it has been
13 mandated to do by the statute. Your Honor is
14 aware of the 1998 Summer House case that we
15 briefed. So, going back to 1998, the beaches
16 were asserting jurisdiction of the beaches
17 critical area and the Depart- -- you'll hear
18 from Mr. Slagel also they issue permits for
19 renourishment that can be placed seaward of the
20 setback line -- I'm sorry, landward of the
21 setback line into the beaches critical area,
22 and also other emergency borders. So, we have
23 always asserted jurisdiction of the beaches
24 critical area.

25 What I was saying is that Mr. Reddy will



1 insist that this wall does not block public
2 access. But as you can see, this wall juts out
3 way out into the beach further than the
4 adjacent structures. And so when the tide gets
5 up to the wall, people walking on the beach
6 cannot go around it without getting into the
7 ocean. You can ---

8 **THE COURT:** When the tide comes all the way up, can
9 anybody, I mean, a complete high tide, can
10 anybody walk on the sandy beach or does the
11 tide come all the way up to -- covers the
12 entire sandy beach?

13 **MS. PHELAN:** Your Honor, depends on the conditions
14 of the beach. Right now, the beach has
15 recovered some and so there is a sandy beach in
16 front of the wall.

17 **THE COURT:** Okay.

18 **MS. PHELAN:** But in another storm, it may not be.
19 There have been many times where the water had
20 come up to the wall, and you could have -- you
21 had a sandy beach on the adjacent properties,
22 but you couldn't get around the wall because
23 the ocean was banging up against the wall.

24 **THE COURT:** Proceed.

25 **MS. PHELAN:** Okay. Next picture, please. This



1 last picture just shows again that -- it
2 explains some that the beaches critical area
3 definition for one, this is the wall, and as
4 you can see, on the adjacent properties, you
5 see where the natural vegetation is. You can't
6 tell from Mr. Reddy's property where the wall
7 is, because he's -- he has artificial turf.
8 So, the Department looks to the adjacent
9 properties to see where that -- where that
10 vegetation is, to determine where the beaches
11 critical area is. And, again, you can see how
12 far this wall comes out from the other
13 structures surrounding it.

14 The Department requests that, after you hear
15 the testimony and you rule, that you rule that
16 the Reddys' numerous alterations of the beach
17 were in the beaches critical area and in
18 violation of the Act. The Department will also
19 -- also asks that you order the removal of the
20 wall and then award the appropriate penalties
21 for the Reddys' complete disregard of the
22 provisions of the South Carolina Coastal
23 Tidelands and Wetlands Act and the Department's
24 authority to regulate and protect this valuable
25 coastal resource. Thank you, Your Honor.



1 **THE COURT:** Ms. Lenhardt.

2 **MS. LENHARDT:** Thank you, Your Honor. May it
3 please the Court. I'm Leslie Lenhardt, and I'm
4 here on behalf of the Coastal Conservation
5 League, along with my colleague Lauren Milton.
6 And Jeff Lee, who is the Coastal Conservation
7 -- Coastal Conservation League's General
8 Counsel, as well as Riley Edgar, who's one of
9 our staff members. And Judge, I'll be brief.
10 I know that you want to not have cumulative
11 testimony today. Mr. Reddy has raised to -- to
12 the Court and to other -- in other forums
13 questions about, why is the League even here?
14 What is the interest that the League is here to
15 protect? Isn't this about just me and whether
16 or not I can protect my property? And ---

17 **THE COURT:** Well, I can answer that question for
18 Mr. Reddy, because I saw that raised. In part,
19 the League is here because you made a motion to
20 intervene, and the previous counsel did not
21 object to that motion to intervene. And,
22 therefore, that is one reason you're here.

23 **MS. LENHARDT:** That's one reason, not the only
24 reason, Your Honor. Because we fought about
25 it, if you recall, in a companion case, in the



1 injunctive relief case, and you issued an Order
2 laying forth that we had standing and a right
3 to intervene based on our obligations. But
4 that is why we made the motion, is because I
5 think there is a fundamental misunderstanding
6 that Mr. and Mrs. Reddy have about the Coastal
7 Zone Management Act and the purpose behind it.
8 The legislature has been very clear since 1977
9 and then in 1988 and 1989 when they passed the
10 Beach Front Management Act, which is that the
11 State, and, in particular, DES, formerly DHEC,
12 has an obligation to protect this priceless
13 resource for the members of the public who use
14 it, who generate millions and millions of
15 dollars in tourism income for the State, and
16 that is the work that CCL does. We -- we are
17 an advocacy -- they are an advocacy
18 organization that it's mission is to protect
19 these kind of natural resources for the -- for
20 its members and members of the public.

21 Your Honor, the -- you'll hear today, DES
22 staff speaking to the statutory and regulatory
23 provisions that are included in the Beachfront
24 Management Act, policies that the legislature
25 has imposed on DHEC and charged them with --



1 with applying, which is just a couple in
2 particular, 48-39-30, the policy of the State
3 is to create a coastal man- -- coastal planning
4 program that is designed to protect the
5 sensitive and fragile areas from inappropriate
6 development and provide adequate environmental
7 safeguards with respect to the construction of
8 facilities in the critical areas. 148 -- 48-
9 39-150, which is a section that includes the
10 ten general considerations that I believe Your
11 Honor is familiar with, requires the agency to
12 consider ---

13 **THE COURT:** Yeah. You don't have that one up, but
14 go ahead.

15 **MS. LENHARDT:** 48-39-150 and it's number five, the
16 extent to which the development could affect
17 existing public access to tidal and submerged
18 lands, navigable waters and beaches or other
19 recreational coastal resources. And, in
20 particular, the regulations give a really good
21 overview of the reasons why the Beachfront
22 Management Act was passed, and that was because
23 they didn't feel like there was enough
24 protection with the already existing critical
25 area definitions. They were recognizing sea



1 level rise. This is, you know, approved by the
2 legislature, recognizing that the coast is
3 becoming more erosional, recognizing the
4 dangers of hard erosion control -- control
5 structures like this, and recounted that
6 history and -- and rec- -- and also recognized,
7 as I said, the massive amount of tourism
8 dollars that these beaches and these public
9 resources bring in. So, that's why we're here
10 today. We are here to ensure that the record
11 is clear, that protecting the beach is for
12 everyone and not just the only -- the interest
13 -- the property interest of Mr. and Mrs. Reddy.
14 You'll hear that they did have and do have
15 options to protect their property, but I think
16 it should be in the front of Your Honor's mind,
17 given the limited number of facts and the
18 limited areas of factual inquiry that you've
19 identified that you want to hear today. And
20 one last section I'd like to point out to it's
21 at the end of 30-1(C), which is the regulation
22 I was just talking about, it says, "In the
23 final analysis ---

24 **THE COURT:** Wait a second, let me get to that. 30-
25 1(C).



1 **MS. LENHARDT:** Yes, Your Honor. 30-1(C),
2 subsection 7.

3 **THE COURT:** Okay. Go ahead.

4 **MS. LENHARDT:** Says, "In the final analysis, the
5 long range public good is the same as the long
6 range private good. If dry sand beaches of
7 this state disappear because of the failure of
8 its people and governmental natural resource
9 managers to protect the beach/dune system,
10 future generations will never have the
11 opportunity to use and enjoy this valuable
12 resource." So, we ask that you affirm the
13 Agency's decision. Thank you.

14 **THE COURT:** All right. Mr. Reddy.

15 **MR. REDDY:** Your Honor, I thought they liked me.
16 Wow. This is an honor to be here. I've never
17 been in a court, but listening to them, you
18 would think I have committed a lot of
19 wrongdoings over my life. I've been the CEO of
20 ten to twelve major companies, all dealing with
21 U.S. manufacturing. We've created hundreds of
22 thousands of jobs in this country. My last
23 company, I had a license in all 50 states. I
24 had an A license in California, which means I
25 could build the Golden Gate Bridge. So, I



1 understand a little bit more than a bunch of
2 unelected bureaucrats do about laws and how to
3 comply with laws, and have never been in
4 violation of the law.

5 This is an unusual situation where we sit
6 here with the citizen, my beautiful wife, and
7 myself, arrayed against the police powers of
8 the State and a taxpayer funded charity who
9 belongs here in a major -- I will prove that
10 they don't belong here. And one of the reasons
11 why I didn't have my previous counsel. The
12 great David Lucas, the petitioner Lucas versus
13 South Carolina, endorsed what I was doing by
14 saying they're -- what they are doing is a
15 dissent into total tyranny. I'm going to tell
16 you how that is. In the next few days, I will
17 show that the General Assembly, in all their
18 wisdom, recognized one thing very clearly, and
19 that the Constitution is supreme. It is and
20 will always remain the supreme law of the land,
21 regardless of what these unelected agencies
22 said and the -- and the Constitution, 48-39-13,
23 Section 13 is so clear on takings, so clear on
24 the rights of private property, it literally
25 leaves no room for any type of private property



1 taking without compensation.

2 **THE COURT:** Can I stop you here on that? I want
3 you to understand, because I saw that one of
4 the issues you raised was takings. This Court
5 doesn't hear the takings issue. So, if I was
6 to decide, or make a decision in this Court
7 that would result in a potential takings, then
8 you would bring that action in another court to
9 be compensated for that.

10 **MR. REDDY:** No, I totally understand. What I'm
11 trying to make is the connection between the
12 Constitution and the Act.

13 **THE COURT:** Okay.

14 **MR. REDDY:** And so the Act under 48-39-30(C), which
15 she quoted some version of it, 48-39-30(C) is
16 very, very clear. It says that there is no
17 nothing that any application of the law, any
18 application of the regulation, cannot be in
19 violation of the Constitution, cannot be a
20 regulatory taking and be in violation of the
21 Constitution of South Carolina and the
22 Constitution of the United States. So, the
23 General Assembly, in creating this Act, wanted
24 to make very sure that's the case. So, then I
25 will show in -- during this -- the next few



1 days that the reading is so clear. I'm a
2 business guy, and so I read many, many
3 contracts in my life. And I will show that in
4 48-39-10 ---

5 **THE COURT:** Hold it, let me get there.

6 **MR. REDDY:** Pardon me?

7 **THE COURT:** Let me get there.

8 **MR. REDDY:** Okay.

9 **THE COURT:** I like to look at it when you're ---

10 **MR. REDDY:** Sure, sure.

11 **THE COURT:** --- quoting it.

12 **MR. REDDY:** Take your time.

13 **THE COURT:** It won't take long. All right. I'm
14 there. 48-39-10.

15 **MR. REDDY:** You will see that coastal waters is a
16 defined term. It says coastal waters means
17 this. The next letter on that alphabet says
18 tidelands means this. The next letter says
19 beaches means this. The next letter says dunes
20 means this. And the very next alphabet, J,
21 says there are four critical areas, coastal
22 defined term, tidelands defined term, beaches
23 defined term, beach/dune, a combination of two
24 defined terms. Now, the only way you can read
25 this differently is if you say this General



1 Assembly was stupid. They defined three terms
2 and the fourth term they decided, according to
3 them, not to define, when it is so clear that
4 the fourth term, the fourth critical area, is
5 a combination of two defined terms. I have had
6 business contracts I've read my whole life.
7 You cannot come up with your own defined term.
8 When it says, beaches is this, dunes is this,
9 and beach/dune is this.

10 The second reason for that, Your Honor, is
11 if you look at that, each one, coastal waters
12 and tidelands, has geographic boundaries.
13 Beaches and dunes does not under the defined
14 terms. So, all the General Assembly was doing
15 is saying, hey, I cannot violate 48-39-30(C).
16 Under no circumstances can I violate that or,
17 in turn, the U.S. Constitution. So, what this
18 wonderful body has been doing for many, many,
19 many years, from the beginning of time, they
20 have been interpreting it correctly. That is
21 exactly how they've administered these laws,
22 exactly how the laws, all the regulations, all
23 their guidance, everything they have ever done,
24 with one exception of Summer House in 1998,
25 like she brought up. And then what happened in



1 Summer House? The General Assembly got very
2 concerned that, once again, they were stepping
3 past lines they're not supposed to. And so in
4 1999, they go in and change the regulation,
5 reaffirming that you stop at the setback line,
6 because every -- there is no law in the land
7 that can violate. It says that in 48-39-30(C).
8 It says, no -- every regulation has to comply.
9 It has defined terms. It says, this is the
10 meaning of coastal; this is the meaning of
11 tideland; this is the meaning of beach; this is
12 the meaning of dune. Beach/dune is a
13 combination of two defined terms. And all of
14 a sudden we have decided we're going to come up
15 with something. We will show during the course
16 of this trial that interpreting the Act the way
17 they're doing it will result in unlimited
18 jurisdiction. It untethers beaches. It says
19 the General Assembly has no idea what they're
20 talking about. It untethers beaches from any
21 geographic control, and it hands it over to
22 these people you see sitting here ---

23 **THE COURT:** When you say ---

24 **MR. REDDY:** --- every you every one of them,
25 unelected.



1 **THE COURT:** But when you say that, beaches is
2 defined as land subject to periodic inundation
3 ---

4 **MR. REDDY:** Perfect. I don't -- I don't disagree
5 with that. But beach/dune is not.

6 **THE COURT:** But do they have the right ---

7 **MR. REDDY:** Absolutely, they do.

8 **THE COURT:** --- to regulate beaches is what I'm
9 asking?

10 **MR. REDDY:** Okay. But I'm saying beach/dune is not
11 a defined term, Your Honor. It's a combination
12 of beaches and dunes. That's how it reads.
13 It's a combination of the defined term beach
14 and the defined term dune. And all they were
15 doing is they said the first two critical areas
16 -- if you read the definitions in the critical
17 areas, it puts geographic boundaries on them.
18 On beaches which I don't disagree with your
19 reading of it, and dunes, there is no
20 geographic boundary. So, they simply combine
21 those into a geographic boundary.

22 **THE COURT:** Well, let me stop you here and just
23 ask. They de- -- they did define primary
24 dunes, I think it was ---

25 **MR. REDDY:** Correct.



1 **THE COURT:** --- I don't have them in front of me.

2 **MR. REDDY:** They did.

3 **THE COURT:** I mean, but they -- when they said,
4 beach/dune system ---

5 **MR. REDDY:** Correct.

6 **THE COURT:** --- it's like they put their own
7 definition right in there, because they said
8 they -- they did the term, and then they said,
9 "which is the area from mean high-water mark to
10 the setback line as determined" by 48-39-280.

11 **MR. REDDY:** Correct.

12 **THE COURT:** So, why would I not take that as the
13 definition of the beach/dune system and let
14 beaches stand alone as its own definition?

15 **MR. REDDY:** Because if you look at it, you -- the
16 way you would -- Your Honor, I'm not going to
17 tell you how to interpret it ---

18 **THE COURT:** No, but you're ---

19 **MR. REDDY:** --- you know the law.

20 **THE COURT:** You have the right to argue your
21 interpretation.

22 **MR. REDDY:** No, but I'm saying, when you look at a
23 defined term, you have to assume that the
24 combination of -- when they use a defined term
25 in a combination, unless you say it somehow



1 completely upends the statute, you have to say
2 -- when they say beach/dune is a combination of
3 a defined term beach and a defined term dune.
4 All they're doing with beach/dune is simply
5 saying beach/dune is a beach defined above, and
6 a dune, defined above, and both of those in
7 order to comply with 48-39-30(C) has a
8 boundary. Because if you don't, you open up --
9 open this up, and you say, every property in
10 this entire state, from coast to coast, is
11 going to be determining its boundaries, not by
12 any -- any -- there's no way to predict it.
13 You will never sell a home because I could --
14 I could sign a contract with you today, and you
15 say, Mr. Reddy, I need 60 days to close on this
16 home. Yes, Your Honor, you can have 60 days.
17 60 days later you come, one of these guys has
18 walked by with a flag and said, whoa, I don't
19 see any vegetation there. Boom, I put a flag.
20 It is unlimited jurisdiction. If you -- if you
21 untether it, it is unlimited jurisdiction at
22 the discretion of an unelected bureaucrat. We
23 cannot subject the citizens of this state.
24 This is tyranny at its very best, and this is
25 what David Lucas said, George Washington, Your



1 Honor, simply said, freedom and property rights
2 go hand in hand. You can't have one without
3 the other. This country was founded on that.
4 These people are trying to dismantle it, and
5 they keep -- they're dismantling it by accusing
6 me of doing all kinds of wrongdoing when I
7 don't have -- ever have a history. I have been
8 on the front lines of business for my whole
9 life. If anyone took a shot at me, they should
10 -- they would have taken a shot at me a long
11 time ago. I don't -- we don't have a history
12 of that. Look at my wife, you think she'd
13 break the law, Your Honor? She'd probably
14 kicked me if I did.

15 I will show also that this clarification, as
16 they put it, will result in the greatest
17 confiscation of private property ever seen in
18 the State, because they are basically turned
19 loose. And at that point in time, I'm telling,
20 Your Honor, this is getting national attention.
21 Just before I left home yesterday, the Pacific
22 Legal Foundation called me because they saw an
23 article written by fake news over there, and
24 they simply said, this is unprecedented. We
25 have never seen anything like this. Are you



1 saying there is no boundaries? They can just
2 walk in and say, I don't see vegetation. Well,
3 my -- my neighbor is a great -- very great eye
4 surgeon. You know, Mr. -- Mr. Solomon. One of
5 them walked down and put a flag under his
6 house, because that's where they saw the
7 vegetation. Your Honor, this is tyranny at its
8 very best. You can't get any worse than this.
9 I will -- I will show that when the
10 jurisdictional lines were set up, the original
11 setback lines and the original so-called lines,
12 which are still in place, which they want to
13 ignore now and say, oh, it has no meaning, it
14 was a quid pro quo with owners. Owners gave
15 the State jurisdiction with no compensation,
16 and the -- and -- and -- and the offset was
17 they were going to maintain the public beach.
18 And they did. In 2018, the General Assembly
19 passed a law, they said, no more retreat. No
20 more retreat. Why did they say no more
21 retreat? Because Scalia and these great
22 Supreme Court justices ruled that if you
23 retreat, like the -- the -- the taxpayer funded
24 charity over there, saying, if you retreat
25 back, what happens is, you are -- you have to



1 buy -- the State has to buy the property and
2 shrink the tax base. And they said, whoa, no
3 more retreat. Are we not going to retreat?
4 We're gonna retreat the water. How you going
5 to retreat the water? Replenish, renourish and
6 maintain a vegetated dune. They have not
7 replenished my side of the beach.

8 I will show, Your Honor, I will show with
9 documents in one of their -- with one of the
10 witnesses, not only has there been no
11 replenishment in 25 years in that section of
12 the beach, I will show that if I ran my company
13 this way, I would be in jail for fraud. They
14 took \$7 million of public money in 2018
15 claiming they were going to put 600,000 cubic
16 yards of sand between Breach Inlet and the
17 connector. There's a permit. It says 600 out
18 of 1.8 million cubic yards, joint project with
19 Wild Dunes, the private entity. What happened?
20 Nothing, nothing. It all went in there, and my
21 taxpayer money never came back. Why doesn't
22 that taxpayer funded charity go after that?
23 That would be in the public interest. No, they
24 don't. That money has gone all into that. If
25 I did that, running a company, I'd be in jail.



1 Your Honor, what's going on here is something
2 that you will see in the next few days. We're
3 going to uncover this thing in a big way.

4 I will also show that if this mismanagement
5 of the beach had not happened -- there -- there
6 is no dune by the way. People who come to our
7 beach say -- from anywhere, even from
8 California, they said there is no dune on this
9 beach. Isn't that supposed to be the first
10 line of protection? No, flat. My property is
11 the first line. What does she say? She says,
12 oh, your property is -- is projecting out
13 there. Well, that's because all the other
14 properties have washed away. So, what do you
15 want me to do? Be washed away with the rest of
16 them? Great. But under the law, under the
17 Constitution, you're supposed to buy it, not
18 grab it and say, oh, I gave you public beach by
19 just washing away your property.

20 I will also show that this State has
21 targeted me. I am entitled under state law and
22 under the Fourteenth Amendment of the U.S.
23 Constitution to equal protection. I will show
24 they pass it off as one case. It is not one
25 case. They have never, never, with the



1 exception of Summer House that was changed,
2 ever imposed this thing. And in Hilton Head,
3 five homeowners ---

4 **THE COURT:** When you say imposed this thing, what
5 are you talking about?

6 **MR. REDDY:** Required permitting of construction
7 landward of the setback. And in Hilton Head,
8 five homeowners, 85 feet from their home in the
9 middle of the beach, there's not a slick of
10 vegetation. You can look at it with a
11 microscope. You won't see vegetation. They
12 get the approval from this great agency to
13 build it. They built a wall 80 -- 30 feet deep
14 in the ocean. My little structure that she
15 shows you all these pictures of was inside my
16 fence, seven foot put by a guy with a flip
17 phone named Jose. And they call that an
18 erosion control structure.

19 I will also show that how they treated
20 Hilton Head and how they treated me.

21 **THE COURT:** Sir ---

22 **MR. REDDY:** They never ---

23 **THE COURT:** Are you saying that your erosion
24 control structure is, what do they call it, a
25 hard erosion control structure? Are you saying



1 it's not that; it's a -- something else?

2 **MR. REDDY:** My erosion control structure. Everyone
3 knows an erosion control structure has to be --
4 means it's water facing. It has to face the
5 water. My original thing was put in because I
6 have an artificial turf -- I had an artificial
7 turf company at that time, and I used to use my
8 backyard as a lab to try to do various projects
9 with it. And my -- I saw wrinkles in my turf,
10 and the guy said, there's too much of
11 instability with your -- with your soil. So,
12 he sent his landscape guy. The guy dug a hole
13 and put a seven foot retaining wall. She's --
14 She makes it seem like a conspiracy. I covered
15 it up with sand. I didn't cover it up with
16 sand. They dug the wall, and whatever he dug
17 out, he put back in. What would you want me to
18 do, haul the sand off and say, look, I got a
19 retaining wall in my yard? This is crazy what
20 these people are doing. They are targeting me,
21 Your Honor. I will prove that today. They are
22 targeting me in how they're treating me.
23 They're going after me. They've never said
24 this. They don't like the fact that I promote
25 things like DOGE SC for which I'm the founder.



1 And so this is -- this is their way of
2 retaliating.

3 I will also show that even now, even
4 yesterday, even at this morning, they're
5 fighting to allow me to enter evidence. A lot
6 of that evidence deals with Hilton Head. They
7 don't want you to see that, and I'll show you
8 why. I will show that CCL, who has all these
9 noble things she talks about, does not belong
10 in here. My lawyer should never have allowed
11 them in here. They're ignoring a very simple
12 -- they want to ignore the law. The public
13 trust doctrine in South Carolina says the
14 public has access. The State owns the land
15 below the mean high tide line. That is the
16 public trust doctrine. The State owns the land
17 below the mean high tide line. My wall is
18 landward of the mean high tide line. Nothing
19 says I should be giving people saying if they
20 don't want to maintain the beach, if they don't
21 want to put a dune, I have to keep backing up
22 my yard so someone can take their dog walk --
23 their dog for a walk. I want to ask this guy,
24 whoever is going to testify on this walking
25 thing, what does he think? You don't keep the



1 beach, you don't put sand, you don't keep a
2 dune, I need to keep backing up. Where do I
3 need to back up? Well, some of them are backed
4 up to the porch right now, to their back porch,
5 while these people say, we are protecting the
6 beach. What have they done? They have not
7 done one thing to protect the beach, Your
8 Honor. In 2018, the law was changed. It said,
9 no more retreat. What have they done? We will
10 -- we will ask them on the witness stand, what
11 have you done to change your policy? You
12 haven't. She just stood up there and said,
13 well, we gotta back up. They read this book,
14 The Rising Seas, that says every barrier island
15 should be evacuated, and that's what's
16 happened. CCL, through Hilton Head, which I
17 will show, has taken over the agenda of this
18 entity, and that's what you're seeing, tyranny
19 against the people.

20 I will also show that I have donated --
21 they're talking about beach access. I don't --
22 this is my property. I donated three feet of
23 my property. My neighbor donated three feet of
24 their property, and we have six feet of beach
25 access from the road all the way to the beach.



1 Beyond that, I'm not required to give them
2 access up to the mean high tide line. And
3 until today, my beautiful wife and I are paying
4 taxes to the mean high tide line, which is 200
5 feet-plus past my so-called structure.

6 I will also show, Your Honor, that --
7 finally, I will show that if this beach that
8 they're talking about is unfettered, even if
9 you unconnect it -- disconnect it from what the
10 General Assembly decided, we do not meet the
11 definition like you read, Your Honor. It's
12 periodic tidal and wave inundation, so that no
13 nonlittoral is established. They marked
14 jurisdiction on my property with one data
15 point. One, one. They had one data point from
16 Idalia. And Idalia happened, I will show
17 during testimony, where the storm surge from
18 Idalia was less than Irma, less than Matthew.
19 Those were hurricanes. Irma and Matthew never
20 impacted us because there was a dune. Idalia,
21 there was no dune. So, Idalia did impact us.
22 They came over there and they marked it with
23 one data point. You can -- they're going to
24 have their expert, a lot of taxpayer money, 25-
25 some thousand dollars gone to the expert, I



1 believe. All of these people are paying into
2 this taxpayer money. And this is a -- this --
3 this is a hoax. He's going to come here and
4 talk about the definition of periodic from --
5 apparently he read it in Microsoft Word. Well,
6 you know what? The definition of periodic can
7 be anything, but it's not one. And then prior
8 to that -- prior to that, Your Honor, for 35
9 years, there was vegetation established. 35.

10 So, like I said, in summary, Your Honor,
11 this clarification they're talking about is not
12 a clarification, but will provide unelected
13 agencies unlimited jurisdiction in violation of
14 30-10-C (sic) in the statue. I stand as a
15 citizen in the breach to stem this largest
16 confiscation of private land and this Court and
17 Your Honor, you stand between freedom and
18 tyranny. God bless.

19 **THE COURT:** How would -- how would -- well, thank
20 you for the last part. How would you interpret
21 the meaning of periodic inundation?

22 **MR. REDDY:** Periodic inundation means there is
23 regular tidal inundation that happens, which
24 happens, you know, with the gravitational
25 forces of the sun and the moon, and nothing can



1 be established. It's so that -- it's very
2 important. So, that is a cause and effect.
3 So, that means this -- it's happening at such
4 a frequency.

5 **THE COURT:** Well, how often would the periodic
6 inundation have to occur?

7 **MR. REDDY:** I don't know. You should ask them that,
8 right? Why don't they define that?

9 **THE COURT:** Well, I've got a definition here. You
10 get to give your interpretation.

11 **MR. REDDY:** Well, my interpretation is simple, Your
12 Honor. It's not once.

13 **THE COURT:** Okay.

14 **MR. REDDY:** Interpret it any way you want. It's
15 not once. They mark their jurisdiction with
16 one data point. All this nonsense they're
17 going to feed you, all these people sitting
18 here are going to be paying taxpayer money to
19 hear this nonsense. You will -- you gotta get
20 down to the one thing. Are you going to give
21 them unlimited jurisdiction on private
22 property? There are no boundaries, none at
23 all. And are you going to say that these type
24 of judgments they can use, what is periodic,
25 what is established? One of them actually is



1 going to -- says in his deposition, they don't
2 have the time. They got thousands of people,
3 millions of dollars of taxpayer money being
4 wasted here, but they don't have the time to
5 see if it's really periodic. So, all they do
6 is they walk down the beach with a flag in
7 their pocket and say, I don't see vegetation.
8 That's mine.

9 **THE COURT:** Okay.

10 **MR. REDDY:** Thank you, Your Honor. Thank you for
11 accommodating us.

12 **THE COURT:** All right.

13 **PETITIONERS' CASE IN CHIEF**

14 **THE COURT:** Ms. Phelan, call your first witness.

15 **MS. PHELAN:** Yes, Your Honor. The Department would
16 like to call Mr. Slagel.

17 **THE COURT:** I tell you what, before he -- you can
18 go ahead and take the -- go ahead and get sworn
19 in.

20 **COURT REPORTER:** Give me your name, please.

21 **MR. SLAGEL:** Matthew Slagel.

22 **COURT REPORTER:** Spell the last name.

23 **MR. SLAGEL:** S, as in stop, L-A-G-E-L.

24 **COURT REPORTER:** Raise your right hand.

25 (Witness complies.)



1 **COURT REPORTER:** Do you solemnly swear the testimony
2 you're about to give in this matter is the
3 truth, the whole truth, and nothing but the
4 truth, so help you God?

5 **MR. SLAGEL:** Yes.

6 **COURT REPORTER:** Thank you.

7 **CLARIFICATION:**

8 **THE COURT:** I want to make sure we're all -- you can
9 be seated. I want to make sure we're all on
10 the same page. Mr. Reddy, I want you to hear.
11 I perceive there was five issues presented.
12 I'm going to read them. I want to make sure
13 y'all agree that those are the issues that I'm
14 considering, of which one I don't think I am.
15 But the first one is, did the Department have
16 the authority to enforce an Administrative
17 Order in the area where the critical area of
18 the beach is eroded toward the beach/dune
19 system. Is that a ---

20 **MS. PHELAN:** Can you read the last part eroded what?

21 **THE COURT:** Where -- in the area where the critical
22 area of the beach has eroded toward the
23 beach/dune system.

24 **MS. PHELAN:** It's actually, I think, Your Honor,
25 past the beach/dune system.



1 **THE COURT:** Okay. So you, would say eroded ---

2 **MS. PHELAN:** Or landward of the beach/dune system.

3 **THE COURT:** Landward of the beach/dune system.

4 Okay. Is the penalty appropriate? Is the
5 Act's definition of beaches unconstitutionally
6 vague and, thus, does not afford due process?
7 Did the Department violate the Administrative
8 Procedures Act when it took enforcement action
9 based on its interpretation of beaches? And --
10 got that? And did the Department's actions
11 amount to a regulatory taking, and that is the
12 one I said the Court, unless y'all are going to
13 instruct me on something that I'm going to be
14 quite surprised about, I do not believe I have
15 jurisdiction on that one.

16 **MS. PHELAN:** Could you read number -- the fourth
17 issue again for me, please?

18 **THE COURT:** Did the Department violate the
19 Administrative Procedures Act, APA ---

20 **MS. PHELAN:** Uh-huh.

21 **THE COURT:** --- when it took enforcement action
22 based on its interpretation of -- I said
23 beaches, I mean the term beaches? Are those
24 issues that I'm here to determine or are there
25 others?



1 **MS. PHELAN:** Well, as far -- you know, I'll confirm
2 that you're here to determine the Department's
3 authority to issue an Administrative Order in
4 the area of landward of the beach/dune system
5 and whether the fee is appropriate. As far as
6 ---

7 **THE COURT:** I mean, they've raised the -- they've
8 raised the issue, they being the respondents,
9 have raised the issue of the
10 unconstitutionality of the Act. So ---

11 **MS. PHELAN:** I would leave whether you phrased
12 three, four or five to them. I think that that
13 is what they put in the request for contested
14 case.

15 **THE COURT:** Yeah, that they've raised, yeah.

16 **MS. PHELAN:** That they've raised. I think that's -
17 --

18 **THE COURT:** Anything else though?

19 **MS. PHELAN:** If the appropriate penalty includes
20 what, you know, the removal of the hard erosion
21 control structure off the beach.

22 **THE COURT:** Well, I said is the penalty
23 appropriate, that would be based on the facts
24 of the case. All right. Ms. Lenhardt?

25 **MS. LENHARDT:** No additional issues that we are



1 aware of.

2 **THE COURT:** Mr. Reddy?

3 **MR. REDDY:** (No audible response.)

4 **THE COURT:** Okay. All right. Now, has he been
5 sworn?

6 **COURT REPORTER:** He has.

7 **THE COURT:** Okay. Go ahead.

8 **MR. MATTHEW SLAGEL,** being first duly sworn, testifies
9 as follows:

10 **MR. SLAGEL - DIRECT EXAMINATION BY MS. PHELAN:**

11 Q: Mr. Slagel, can you please state your full name
12 for the record?

13 A: It's Matthew Joseph Slagel.

14 Q: And you, up until very recently, were the
15 Beachfront Section Manager for the Department?

16 A: Yes.

17 Q: Can you go through your education for us,
18 please?

19 A: I received a Bachelor's of Science degree in
20 Environmental Sciences from the University of
21 Virginia, a Master's of Science in Ocean
22 Sciences from the University of California at
23 Santa Cruz. And then in terms of work history,
24 I first came to South Carolina working for the
25 Coastal Program in 2007 as a NOAA Coastal



1 Management Fellow. That was a two-year
2 fellowship. I was then hired on at the Agency
3 as a State employee for several years. I then
4 left to work for North Carolina's Coastal
5 Program for about three years before returning
6 to South Carolina once again. So, I have 18
7 years of coastal management experience at the
8 state level, 15, of which are with South
9 Carolina's Coastal Program.

10 Q: And what is your current position?

11 A: I now work for the City of Charleston within
12 their Zoning Division.

13 Q: And approximately when did you leave for that
14 position?

15 A: April 22nd, 2025 was my last day with DES.

16 Q: Okay. So, I want to return back to your
17 position with the Department. Could you tell
18 us what your responsibilities were as the
19 Beachfront Project Manager?

20 A: As a Section Manager?

21 Q: Yes.

22 A: So, for the last about three years, I've been
23 the Beachfront Management Section Manager,
24 where I manage -- I managed two staff,
25 reviewing any kind of minor or major types of



1 applications within the Department's beachfront
2 jurisdiction statewide.

3 Q: And the two staff that you managed were Project
4 Managers for the Beachfront Section?

5 A: Yes.

6 Q: And that was your position for quite a number
7 of years with the Department, correct?

8 A: Yes. I was a Beachfront Project Manager for
9 about five years before becoming the Section
10 Manager.

11 Q: Can you -- can you tell us what your
12 responsibilities were as the Project Manager?

13 A: As a Project Manager, I would typically review
14 both minor and major permit applications along
15 the State's beachfront. When I say minor
16 applications, that would be everything from
17 dune restoration, sand fencing to proposals to
18 build a new beach house, all the way up through
19 major projects like offshore beach
20 renourishment projects or groins or other more
21 large scale coastal engineering type projects.

22 **THE COURT:** Did you say offshore beach renourishment
23 project?

24 A: So, as opposed to minor beach renourishment,
25 which would be trucking sand to a site from an



1 inland sand mine, where they just excavate that
2 sand and truck it to a site, what I meant by an
3 offshore project was -- was dredging beach-
4 compatible sand from an offshore borrow site --
5 -

6 **THE COURT:** Okay.

7 A: --- and pumping that onto the beach, typically
8 a much larger volume of sand.

9 **THE COURT:** Yeah, I get it now.

10 A: Yeah.

11 Q: While working in your positions for the
12 Department, did you look at vegetation to
13 assess the shoreline?

14 A: Yes.

15 Q: Can you tell us a little bit about that?

16 A: So, when -- when establishing the beach/dune
17 system, critical area lines, the baseline and
18 the setback line, within unstablized inlet
19 erosion zones, one of the requirements is to
20 set that baseline at the most landward point of
21 erosion in the last 40 years. So, I and other
22 staff would visit beaches, actually walk the
23 shoreline and measure with a GPS unit, which
24 I'm certified to use, the position of the
25 vegetation line as an indicator for the most



1 landward point of erosion. Likewise, when
2 evaluating individual permit applications, I
3 would visit a site, or my project managers
4 would visit a site, and ensure that where an
5 activity was proposed was not either on the
6 active beach, which was touched on earlier, or
7 within beaches critical area, both active beach
8 and beaches include vegetation within those
9 definitions as a feature that we're instructed
10 to look at in the Beachfront Management Act.

11 Q: Are there any other critical areas that you
12 look at the vegetation in determining where the
13 regulatory authority exists?

14 A: Yes. In my time with the South Carolina
15 Coastal Program, I also worked for the Critical
16 Area Permitting Section for a time, certifying
17 critical area lines along estuarine or marsh --
18 salt marsh shorelines. So, in that context,
19 vegetation is also relied upon for establishing
20 where the tidelands critical area is.

21 Q: And what is your understanding of why -- why
22 vegetation is used to define the boundaries of
23 our authority in the different critical areas?

24 A: It's a -- it's an indicator or a feature that's
25 readily observable in the field, so that staff



1 can go out, walk a property and point it out to
2 establish jurisdiction, whether that's walking
3 a critical area line along the marsh, a beaches
4 critical area line along the oceanfront, or
5 when setting the baseline for the beach/dune
6 system. It's a feature that can be identified
7 in the field, as opposed to something that's
8 more abstract.

9 **THE COURT:** Is it always there?

10 A: There's always some -- some feature that is --
11 that is present, yes.

12 **THE COURT:** Talking about vegetation?

13 A: Well, for the baseline, it could be an
14 escarpment, which is an erosion cut, usually a
15 vertical feature in the beach. That would
16 represent the most landward point of erosion on
17 that -- that day when the data is collected.
18 So, it may not always be vegetation that's
19 being identified and selected for a given
20 critical area, but there's -- there's always
21 something, whether on the marsh or on the
22 beach, that can be utilized for that purpose.

23 Q: And what about the beaches critical area, is
24 there always vegetation on the site that you're
25 looking at?



1 A: Either on the site itself or along adjacent
2 properties that -- that information can be
3 identified, the location of vegetation, and
4 then sometimes we might have to interpolate or
5 connect the dots across property, sort of
6 looking at a larger stretch of shoreline.

7 Q: Do you have any training in the identification
8 of vegetation?

9 A: Yes.

10 Q: Could you tell us about that?

11 A: In my educational background, both at the
12 University of Virginia, I took several classes
13 there with Bob Dolan. He was a renowned
14 coastal scientist. He's passed away at this
15 point, but I took his beaches coast and rivers
16 course, a coastal processes course, where we
17 went to the Outer Banks for a week and did that
18 very thing, vegetation identification along a
19 Carolina Beach. And then in graduate school in
20 Santa Cruz, also looked at vegetation,
21 different types of vegetation on the west
22 coast, but vegetation identification
23 nonetheless. And then also, I have on-the-job
24 training with South Carolina's Coastal Program,
25 both years ago, and then more recently, with



1 Brad James, who was a staff person at our
2 office who's an expert on coastal plants.

3 Q: And do you know whether there's training at the
4 Department periodically for identification of
5 vegetation and defining the critical areas?

6 A: There is. There's, I believe, semi annual
7 training, both along the marsh looking at marsh
8 species, as well as along the beachfront,
9 looking at beachfront species.

10 Q: And I believe you mentioned you were certified
11 on the GPS unit.

12 A: Yes.

13 Q: Can you tell us what the GPS unit is?

14 A: I'm certified by Trimble, that's a company that
15 manufactures GPS data collectors. So, I'm
16 certified to use both the handheld units, which
17 have good accuracy, but then also the survey
18 grade RTK GPS units.

19 Q: Have you been awarded any recognitions in your
20 job?

21 A: Back in, I think it was, 2016 I received the
22 DHEC Director's Award.

23 Q: What was that for?

24 A: It was for work that Ms. Boynton and I had
25 completed during the last baseline and setback



1 line review cycle.

2 Q: For the beach/dune system?

3 A: For the beach/dune system, critical area.

4 Q: Let's talk about the critical areas. What are
5 the critical areas?

6 A: There are four critical areas that are defined
7 in statute, coastal waters, tidelands, beaches
8 and the beach/dune system. And those critical
9 areas are where the Department has direct
10 permitting authority. In fact, we're the only
11 state agency that has that permitting authority
12 in those areas for any alteration or
13 utilization of the critical areas.

14 **MS. PHELAN:** Exhibit 62, please.

15 **THE COURT:** When you say we're the only state, you
16 mean in the other states the federal government
17 regulates that area?

18 A: We're the only state agency that regulates it,
19 but certainly ---

20 **THE COURT:** Are you saying in this state or for all
21 the states is what ---

22 A: Within the South Carolina.

23 **THE COURT:** That's what I was ---

24 A: Yeah, within South Carolina, DES is the agency
25 that regulates the critical areas, but



1 certainly there's overlapping jurisdiction
2 there. The Corps of Engineers at the federal
3 level have jurisdiction in certain cases.
4 Local governments even have overlapping
5 jurisdiction.

6 Q: Trying to pull an exhibit up for you. While
7 she's doing that ---

8 **THE COURT:** I don't know what else --- relevant?
9 (Laughter)

10 Q: Tell us a little bit about -- well, she's got
11 it up. Okay. The Judge was asking earlier
12 about the beaches critical area in relationship
13 to the beach/dune system and the lines that are
14 set. So, I'm showing you an image that's
15 Exhibit 62. Can you kind of walk us through
16 what this image shows?

17 **(Joint Exhibit Number 62 was referenced at this**
18 **time.)**

19 A: So, this image shows the -- a typical kind of
20 example where the beach/dune system where that
21 setback line is landward of beaches critical
22 area. So, if we start at the right side of
23 this image, looking at the different critical
24 areas, coastal waters is a critical area that
25 extends from the high water mark offshore to



1 three nautical miles, the limit of state
2 waters. The beaches critical area would be
3 those lands subject to periodic inundation by
4 tidal and wave action, so that no nonlittoral
5 vegetation is established. So, you see the
6 landward limit of beaches in this scenario is
7 approximately to that -- that line of
8 established vegetation. And then the
9 beach/dune system critical area is measured
10 from the mean high water mark to the setback
11 line, as described in Section 48-39-280 of the
12 Beachfront Management Act.

13 **THE COURT:** 48-39 ---

14 A: 280.

15 **THE COURT:** Oh, 280, okay.

16 Q: So, can you tell us a little bit about the
17 baseline and setback line of the beach/dune
18 system?

19 A: So, the baseline is established and based on
20 what type of zone a property is located within.
21 There are standard erosion zones that are some
22 distance away from inlets, so they're not
23 influenced by inlet dynamics, the ebb and flow
24 of a tide through an inlet, the development of
25 shoals or sandbars in that vicinity. So, that



1 would be a standard zone. There are
2 unstabilized inlet zones which are adjacent to
3 an inlet, and they are directly influenced by
4 those processes that I just described, and they
5 are not stabilized by any kind of hard
6 structure. And then there are stabilized inlet
7 erosion zones, which are near an inlet that is
8 stabilized with some kind of structure. Think
9 of the south end of Sullivan's Island where the
10 North Jetty of Charleston Harbor comes onto the
11 shoreline.

12 Q: What about the Reddys' property?

13 A: The Reddys' property, 118 Ocean Boulevard, is
14 located in an unstabilized inlet zone at the
15 south end of Isle of Palms near Breach Inlet.

16 Q: And how did the -- how do the setback line and
17 the baseline relate to the beaches critical
18 area?

19 **THE COURT:** I'm sorry; I didn't hear that question.

20 Q: How do the baseline and setback line relate --
21 of the beach/dune system critical area relate
22 to the beaches critical area?

23 A: Well, the beach/dune system critical area is --
24 is one of the four critical areas, but beaches
25 is another. So, in this example, beaches



1 critical area is located seaward of the setback
2 line. It's within the beach/dune system
3 critical area. But there's other times where
4 beaches critical area can be landward of the
5 setback line.

6 **MS. PHELAN:** Page two, please.

7 **Q:** Could you walk us through what this shows,
8 please?

9 **A:** So, this is a scenario like I just described.
10 There's still coastal waters going out to three
11 nautical miles, but here that blue dashed
12 setback line, it's located kind of in the
13 middle of this beach, below even the high water
14 mark. So, in this case, that -- that area from
15 the dashed blue setback line to that line of
16 vegetation along the dune there, that would be
17 considered beaches critical area. Just because
18 the setback line happens to be sort of in the
19 middle of the beach here does not mean that the
20 Department relinquishes direct permitting
21 authority over that beaches critical area.

22 **THE COURT:** Are you saying the Department
23 relinquishes -- what was the phrase,
24 relinquishes what?

25 **A:** Direct permitting authority within the critical



1 area.

2 **THE COURT:** All right.

3 Q: So, Mr. Slagel, is this the definition of
4 beaches that you apply when you go out on the
5 -- in the field to try to determine where the
6 beaches critical area is located?

7 A: Yes.

8 Q: Can you tell us -- explain that, how you do
9 that, please?

10 A: So, I'll read the definition, and this is from
11 Section 48-39-10(H), says that, "'Beaches'
12 means those lands subject to periodic
13 inundation by tidal and wave action, so that no
14 nonlittoral vegetation is established."
15 Nonlittoral, I'll touch on that. So, littoral
16 vegetation would be vegetation that thrives in
17 a saltwater environment, like submerged aquatic
18 vegetation or sea grass, or things that can be
19 always inundated and survive, whereas
20 nonlittoral would mean, like, more upland
21 species of vegetation. So, what this is saying
22 is that there's no, excuse me, nonlittoral
23 vegetation because of that periodic inundation
24 that is occurring. It's not able to survive
25 and thrive there.



1 **THE COURT:** In layman's term, I guess that would be
2 the saltwater would kill the vegetation?

3 A: Right. So, it's salt tolerant to a degree,
4 it's living there along the beach, but it's not
5 tolerant enough that it can survive that
6 periodic inundation, because it would kill the
7 plants. So, we use this definition as we're --
8 as I testified before, at a given property in
9 assessing the site conditions. Basically where
10 that sand and vegetation boundary exists, where
11 there's sand on the left and vegetation on the
12 right, that would be the limit of beaches
13 critical area, using that vegetation as an
14 indicator for the periodic inundation that is
15 occurring.

16 Q: Does the Department ever just use the periodic
17 -- try to determine where periodic inundation
18 is?

19 A: We might have some knowledge of that just from
20 assessing sites over a period of time, looking
21 at aerial photographs over a period of time,
22 but in the field, we primarily utilize the
23 vegetation as -- as that indicator.

24 Q: And do you consider -- when you're looking over
25 the aerial photographs, do you also consider



1 whether there's vegetation shown?

2 A: Yes.

3 Q: Does the Department have unfettered discretion
4 in determining beaches critical area?

5 A: No, we're guided by the Act.

6 Q: Okay. And can you please explain more why you
7 don't think that the Department has unfettered
8 discretion in determining beaches critical
9 area?

10 A: What -- I believe that the definition is -- is
11 clear, and that it provides the guidance that
12 staff are meant to rely upon when assessing
13 beaches critical area. That phrase that -- so
14 that no nonlittoral vegetation is established.
15 That is in the law. It's also within the
16 regulations.

17 **MS. PHELAN:** Exhibit 63, please.

18 Q: We've also heard the term active beach. So,
19 I'd like for you to explain to the judge how
20 active beach relates to the beaches critical
21 area.

22 A: So ---

23 Q: This is exhibit -- Joint Exhibit 63 and can you
24 just explain what this shows us?

25 **(Joint Exhibit Number 63 was referenced at this**



1 **time.)**

2 A: So, looking at this aerial photograph, and just
3 for reference purposes, the house to the left
4 side with the red tile roof, that's 120 Ocean
5 Boulevard. That's the property immediately to
6 the north of 118 Ocean Boulevard that we're
7 here discussing. This is a photograph from the
8 Isle of Palms showing an escarpment that is
9 marked with that dashed yellow line. And
10 again, an escarpment is that -- that sort of
11 vertical cut into the sand of a beach from wave
12 and tide action. So, the definition of active
13 beach is the area basically from the ocean to
14 either an escarpment or the first line of
15 stable and natural vegetation, whichever occurs
16 first. So, here, active beach would end at the
17 escarpment. But beaches critical area
18 continues beyond because that was an area that
19 had been periodically inundated, prior
20 vegetation had not yet become reestablished.
21 So beaches, in this case, exists landward of
22 active beach.

23 Q: When an artificial dune is scraped up or
24 created through renourishment efforts, does
25 that change where active beach is located?



1 A: It can change where active beach is located
2 because as that scraped up sand, or that sand
3 that was placed through a minor renourishment
4 project is impacted by the tides and the waves,
5 you might get an escarpment that is cut into
6 that new sand material that was placed, so it
7 can change where the active beach is, but it
8 doesn't change where beaches critical area
9 exists.

10 Q: And when an artificial dune is scraped up or
11 created through renourishment, that doesn't
12 change beaches critical area. So, can you
13 explain that a little more?

14 A: It doesn't because that placement of sand does
15 not result in the immediate reestablishment of
16 nonlittoral vegetation. It's -- it's sand that
17 has been placed there, but vegetation has not
18 yet had time to become established, so it does
19 not change where beaches critical area is.

20 Q: And in determining whether vegetation has been
21 established, what do you look for?

22 A: We would look at the density of plants that are
23 present at a site. Are they sparse or are they
24 more dense throughout an area? Are rhizomes
25 starting to spread between plants? So, not



1 just having individual root systems of
2 individual plants, but are rhizomes sort of
3 spreading throughout? That's an indicator of
4 establishment. And also just the health, the
5 visual health of the plant, is it -- is it
6 green and thriving, is it dead and brown and
7 dying? So, it's really the density, the
8 rhizomes, and just sort of the visual
9 observation of the plants.

10 Q: We have discussed this a little bit, but at the
11 Reddys' site, it's been heavily manipulated by
12 putting artificial turf, correct?

13 A: Yes.

14 Q: So, what do you do when you go to the Reddy
15 site? What do you look for?

16 A: We can -- as I mentioned earlier, we can look
17 at adjacent properties and see where the
18 vegetation line is on neighboring properties,
19 or along the sort of the side property lines of
20 a property like the Reddys where there's
21 artificial turf, there may be other natural
22 plants that have been planted, like other
23 shrubs and things like that. So, we can look
24 at either the side property lines or the
25 neighboring properties to figure out where that



1 line of vegetation is.

2 Q: Is that in accordance with the statute?

3 A: Yes.

4 Q: Can you explain that?

5 A: Again, for beaches critical area, it's the --
6 those areas that are subject to periodic
7 inundation by wave or tidal action -- and tidal
8 action so that no nonlittoral vegetation is
9 established. So, again, vegetation is the
10 indicator that the Act wants us to use for this
11 purpose.

12 Q: Is there any guidance in the Act about what
13 information should be used in making a
14 decision, what type of information?

15 A: I mean, there's broad guidance for, I mean, all
16 the decisions ---

17 Q: If you don't have the ---

18 A: --- that are made.

19 Q: If you don't have scientific ---

20 A: Okay.

21 Q: --- information available, then is there
22 guidance from the Act of what to do?

23 A: There's broad guidance about using the best
24 available scientific and historical data.

25 Q: Okay. What is your understanding of the



1 purpose of the baseline in the beach/dune
2 system?

3 A: The purpose of the baseline, or baseline and
4 the setback line?

5 Q: Well, I'm sorry, the setback line. The
6 baseline and the setback line in the beach/dune
7 system.

8 **THE COURT:** When you asked about his interpretation
9 of the purpose, he can't really give his
10 interpretation of the meaning of the law.

11 **MS. PHELAN:** Yes, Your Honor.

12 **THE COURT:** He can give it from the Department's
13 perspective.

14 **MS. PHELAN:** Yes, Your Honor.

15 **THE COURT:** So, I think I need you to rephrase that
16 question.

17 **MS. PHELAN:** Okay. Let me ask it a little bit
18 differently.

19 Q: If beaches critical area extends landward of
20 the setback line, does that make it so, in the
21 Department's interpretation, that the
22 beach/dune system setback line has no purpose?

23 A: No. In the vast majority of cases, properties
24 along the South Carolina shoreline, the setback
25 line is landward of beaches critical area.



1 It's that first image that we looked at, kind
2 of those two different scenarios. That's the
3 vast majority of the case in South Carolina.
4 So, in those -- in those areas, that setback
5 line limits development, square footage of
6 development, the siting of different types of
7 activities along -- along the state's beaches.
8 So, it's in those areas where beaches has now
9 migrated landward of that, the setback line
10 still serves a purpose, but it's -- it's
11 marking the landward limit of one of the four
12 critical areas, the beach/dune system. There's
13 still beaches that we -- that we deal with and
14 that we have direct permitting authority over.

15 **MS. PHELAN:** Exhibit 48, please. 48.

16 Q: Now, in your job responsibilities, do you -- do
17 you have to evaluate class?

18 A: Yes.

19 Q: So, I'm going to show you Exhibit 48 which I
20 believe you have seen before. So, do you
21 recognize this document?

22 **(Joint Exhibit Number 48 was referenced at this**
23 **time.)**

24 A: Yes.

25 Q: What is it, please?



1 A: This is a plat of 118 Ocean Boulevard, and I
2 believe this was from the Reddys' closing
3 documents when they purchased the property.

4 Q: Does this plat indicate anything about what
5 information he was provided regarding his
6 potential to develop at the time he purchased
7 the property?

8 A: This plat shows the South Carolina Coastal
9 Council baseline and setback line at that time.
10 So, those are the lines for the beach/dune
11 system critical area. The South Carolina
12 Coastal Council was a predecessor agency of
13 DHEC and now DES. It shows a 20-foot no
14 construction area immediately seaward of the
15 house structure. It also shows a measurement
16 line of 250 feet from mean high water towards
17 the property, and I believe that has to do with
18 a local City of Isle of Palms ordinance related
19 to erosion control structures.

20 **MS. PHELAN:** And I hate to do this to you, can you
21 rotate it the other way and zoom in on the
22 notes? Bottom right.

23 Q: Do you need it zoomed in closer?

24 A: I can see it.

25 Q: All right. In the notes section, did it



1 provide any guidance?

2 A: Number three states that the City of Isle of
3 Palms at the time of the approval of this
4 subdivision plat stated for the record that it
5 strongly opposed the future issuance of any
6 permit for any kind of beach erosion control
7 structure, i.e., seawalls, riprap bulkheads,
8 etcetera, should such measures be requested by
9 property owners as a result of erosion to these
10 properties shown on this plat.

11 Q: Thank you.

12 **MS. PHELAN:** Exhibit 50, please.

13 Q: Do you recognize this document?

14 **(Joint Exhibit Number 50 was referenced at this**
15 **time.)**

16 A: Yes.

17 Q: What is it?

18 A: This is a survey of 118 Ocean Boulevard. The
19 green information is a reference survey by a
20 surveyor named John Wade in 2018, and then the
21 Reddys asked a recent surveyor with 3W
22 Engineering to add some information to that
23 reference survey.

24 Q: Okay. What does the magenta line show?

25 A: So, that's data from July 5th of 2023, by 3W



1 Engineering and Surveying. There's various
2 information shown here. The top of bank is
3 labeled around -- can I -- is there a way to --
4 -

5 Q: Yeah.

6 **MS. PHELAN:** Can you zoom it in a little bit?

7 A: I think I can annotate this, right.

8 **COURT REPORTER:** Yeah.

9 A: Is there a pointer?

10 Q: Do you need her to zoom it in a little bit?

11 **THE COURT:** There you go.

12 A: So, this -- this line here that I'm sort of
13 highlighting in red, and it goes across the
14 property to the left, as well, that's labeled
15 "top of bank" on July 5th of 2023, so that's
16 basically the top of a escarpment at the
17 property, is what the surveyor told us that
18 feature represents.

19 Q: And what, if anything, does this image tell
20 you?

21 A: It tells me that there was an escarpment formed
22 by tidal and wave action landward of the
23 setback line that's shown here in blue on the
24 survey.

25 Q: Can you go to page two, please?



1 A: How do I clear this?

2 Q: How about page two of this figure?

3 A: Could we zoom in?

4 **MS. PHELAN:** Can you zoom in on the middle?

5 Q: Is that good?

6 A: Yes, that's good. So, that same top of bank
7 line, it's a little hard to see on this survey,
8 but this was also done by 3W Surveying and
9 Engineering. The top of bank -- let me get my
10 marker. I have it. It's labeled here again,
11 top of bank, July 5th, 2023, and it shows that
12 the top of bank is landward of where the
13 erosion control structures were eventually
14 built. The erosion control structures, for
15 Your Honor's reference, that sort of red
16 dotted/hashed area, that's the original erosion
17 control structure that we'll talk more about.
18 And then the solid red line to the -- above it
19 in this image is the second erosion control
20 structure. But what this shows me is that that
21 top of bank in July of 2023 was landward of
22 where the erosion control structures were
23 built. I would also add that the magenta
24 information on this survey is from April 4th,
25 2024, and if we look at the neighboring



1 properties on either side, at 120 Ocean
2 Boulevard, the toe of the dune is here
3 (indicating). At 116 Ocean Boulevard, the toe
4 of the dune is approximately there
5 (indicating). So, it shows that, as we've seen
6 in some of the earlier photographs, that
7 beaches critical area is now starting to move
8 even around these erosion control structures,
9 as well.

10 Q: And this is the data on here, shown by the
11 magenta line, that's the July 5th, 2023, data?

12 A: The gray ---

13 Q: Gray.

14 A: The gray data and labels are from July 5th that
15 we saw on the last survey.

16 Q: Okay.

17 A: And then to that, the surveyor has added data
18 from April 4th, 2024.

19 Q: Did anything happen -- the wall was built, I'll
20 represent to you, in October of 2023. Is that
21 your understanding?

22 A: That's my understanding.

23 Q: The original first wall. Did anything happen
24 of significance that would have affected
25 erosion between July of 2023 and the time the



1 wall was built in October of 2023?

2 A: Hurricane Idalia impacted the area in late
3 August 2023, so that would have resulted in
4 additional erosion beyond even what's shown
5 here from July 5th of 2023.

6 Q: Thank you. There has been some suggestion by
7 respondent that we had a different practice,
8 and we changed what we're doing in the beaches
9 critical area. Is that true?

10 A: No.

11 Q: What other examples are there of the Department
12 exerting authority in the beaches critical
13 area?

14 A: We've issued many permits for major beach
15 renourishment projects, like I mentioned
16 before, where a dredge pumps sand from offshore
17 onto the beach. Oftentimes, those projects
18 place sand within the beaches critical area
19 landward of the setback line. When erosion
20 occurs such that properties qualify for an
21 emergency order, meaning that they're about 20
22 feet from erosion, we've also authorized
23 sandbags, sand scraping, trucking in sand
24 landward of the setback line within beaches
25 critical area.



1 Q: Are you aware of us exerting our jurisdiction
2 landward of the setback line at any other time
3 related to building structures?

4 A: What do you mean by structures?

5 Q: Erosion control structures or ...

6 A: Yes.

7 Q: And could you tell us about that?

8 A: There's other properties on Folly Beach, Garden
9 City, to name a few, where -- that are, like
10 this property, landward of the setback line
11 within beaches critical area, and we have told
12 those property owners that, based on the site
13 conditions at this time, that they could not
14 move forward with that request.

15 Q: And those are -- those are more recent actions
16 that the Department has taken?

17 A: Those are relatively recent.

18 Q: Have we exerted beaches critical area landward
19 of the setback line in more past years?

20 A: Sure. Back in -- it's already been referenced
21 here, back in 1998 there was a Summer House,
22 which is also on the Isle of Palms at the other
23 end, the northern end near Dewees Inlet, where
24 landward of the setback line, some property
25 owners wanted to install sandbags that did not



1 -- my understanding is did not meet the
2 requirements of the agency, so the Department
3 asserted critical area permitting jurisdiction
4 in the beaches critical area there, as well.

5 Q: Aside from that example, why has it -- is it
6 that the examples we have of exerting
7 authority, regulatory authority, prohibiting
8 structures in the beaches critical area
9 landward of the setback line, only been more
10 recent?

11 A: Because prior to the last several years, that
12 scenario was -- was infrequent. It was
13 atypical to have beaches critical area landward
14 of the setback line, landward of the beach/dune
15 system critical area. But in the last several
16 years, we've been seeing with more frequency
17 this issue occurring, whether it's due to
18 higher king tides than predicted, more frequent
19 king tides, sea level rise, the hurricanes that
20 have impacted our coast going back to Hurricane
21 Matthew in 2016, to Hurricane Matthew, Irma,
22 Florence, Michael Ian, Isaias, Idalia, all
23 within the last about ten years. They didn't
24 have a direct impact like Hugo did, but,
25 cumulatively, each one of those storms has been



1 causing erosion along the State's beaches.

2 Q: Okay. Let's turn to your first involvement
3 with this case, with the Reddys' case. And in
4 my questions to you, I will refer to the area
5 where the wall was constructed at the site, and
6 I will refer to the agency -- agency formerly
7 known as DHEC and now known as DES, as the
8 Department, so to make that distinction in
9 testimony. Could you please tell us how you
10 became aware of erosion issues on and adjacent
11 to the site?

12 A: Back in May of 2023, the Reddys and some other
13 property owners at the southern end of Isle of
14 Palms reached out to the Department with
15 concerns that they had about erosion that they
16 were observing.

17 Q: And Mr. Slagel, there are deposition ex- -- I
18 mean, there are exhibit notebooks in front of
19 you if you want to look at the hard copy.

20 A: Okay.

21 Q: Do you recognize this document, we're on
22 Exhibit 12.

23 **(Joint Exhibit Number 12 was referenced at this**
24 **time.)**

25 A: Yes, it's an email from May 20th, 2023, to me



1 from the Reddys stating that they would like to
2 request an emergency permit to conduct
3 renourishment and sand scraping to repair and
4 replace the dunes that were completely eroded
5 during the recent high tides and storm on May
6 18th, 2023.

7 Q: And did they send photos attached to this
8 email?

9 A: Yes.

10 **MS. PHELAN:** Go to the next page, please.

11 Q: Yeah, just slowly scroll through these. Are
12 these the photos that they sent?

13 A: They are.

14 Q: Can you walk us through these photos and what
15 they show?

16 A: Can we go back to the first one? So, this is
17 118 Ocean Boulevard. You can see the
18 artificial turf that we've been referencing in
19 the backyard. There's a vertical cut into the
20 beach. This is an escarpment. You can see
21 there's some sort of palm plant here, sort of
22 right on the edge of that escarpment in this
23 photo in May of 2023. The dune walkover
24 structure in the foreground of the image has
25 been damaged and is now disconnected from --



1 from the upland. So, this shows the erosion
2 that had occurred at that time.

3 Q: Okay. Next.

4 A: This is actually a photo looking from the 118
5 Ocean Boulevard north towards 120 Ocean
6 Boulevard. So, the neighboring property with
7 the Spanish sort of style, red tile roof, also
8 has artificial turf in the backyard, and you
9 can see that that's sort of draped over the
10 escarpment. And similarly, the dune walkover
11 structure there has been separated from the
12 upland due to erosion.

13 Q: Next.

14 A: This photo is of the Reddys' property, again,
15 showing the escarpment from the storm or the
16 high tides, the vegetation that has fallen onto
17 the beach, exposed irrigation lines, other
18 indicators of recent erosion, a fence, you
19 know, laying down in the intertidal zone that
20 was damaged.

21 Q: And I believe you wanted to point out something
22 about the artificial turf in this picture?

23 A: So, here in this photo from -- from late May of
24 2023, the artificial turf extends from the
25 house seaward to the escarpment, and then it



1 ends where the planted landscaping, those --
2 the vegetation exists. But I think we'll see
3 later that artificial turf was then added or
4 attached to then be sort of draped over that
5 escarpment to protect it by the property owner.

6 Q: Next.

7 A: This photo shows more of the same.

8 Q: Okay. Thank you. So, going back up to page
9 three, please. Is this your response to the
10 Reddys' request for an emergency order?

11 A: Yes.

12 Q: What did you respond?

13 A: I responded that currently the property
14 appeared to be ineligible for an emergency
15 order because erosion was not within 20 feet of
16 the house. I believe I stated that it was
17 closer to 60 feet from that escarpment, and I
18 attached a Google Earth aerial photo showing
19 that. So, then I provided guidance that while
20 they may not be eligible for an emergency
21 order, they could apply for a general permit to
22 truck in beach compatible sand and then
23 possibly stabilize that with vegetation or sand
24 fencing.

25 Q: Okay. Did you indicate anything about



1 coordinating with DNR in this email?

2 A: I did. Since sea turtle nesting season in
3 South Carolina begins on May 1st, and this was
4 May 22nd, any activity on the beach during sea
5 turtle nesting season would have to be further
6 coordinated with the Department of Natural
7 Resources for any kind of turtle concerns. So,
8 yes, I added that -- that point here, and I'll
9 also point out that I provided a contact
10 website for a sand provider that they could
11 contact if they wanted to pursue that option.

12 Q: Okay. I want to turn a little bit now to your
13 site visits and kind of go chronologically
14 through what happened with the Reddys and the
15 site visits. Did you -- did you ever visit and
16 assess the site?

17 A: Yes.

18 Q: How many times, approximately?

19 A: From about June of 2023 through late 2024 I
20 think I visited probably 18 to 20 times, not
21 just their property specifically, but given the
22 erosion issues that this part of the shoreline
23 was facing, I would typically park at Third
24 Avenue, at the southern end of Isle of Palms,
25 and then walk the beach to Breach Inlet to



1 check on sandbags that had been installed, sand
2 scraping that was ongoing, permit applications
3 for trucking in sand, the Corps of Engineers
4 pumping sand onto the beach. There was a lot
5 of activity going on that I was trying to keep
6 tabs on over that time period.

7 Q: Let's talk about your June 2023 site visit.
8 How did this visit come about?

9 A: That was a site visit that I made after
10 receiving the inquiry from -- from the Reddys
11 about what their options were. I believe Mr.
12 Jorgensen, the property -- a neighbor of theirs
13 just to the south, at 116, had also reached out
14 for a meeting on the beach to sort of have
15 staff observe the erosion, talk about what
16 their options might be. So, I believe there
17 were several different property owners there at
18 that site visit, as well as the City of Isle of
19 Palms.

20 **MS. PHELAN:** Exhibit 82, please.

21 Q: Do you recognize that -- these photos?

22 **(Joint Exhibit Number 82 was referenced at this**
23 **time.)**

24 A: Yes, these are site photographs that I took on
25 June 9, 2023, during that meeting with the



1 property owners.

2 Q: And how do you know you took these?

3 A: I know those are mine because at the top left
4 of these photographs, it says, SCDHEC-MJS,
5 those are my initials. And then at the bottom
6 left there's a date stamp and a time stamp
7 showing that this particular photo was taken at
8 9:16 in the morning on June 9th.

9 Q: So, why don't you walk us through these photos
10 and you can just say next when you like Ms.
11 DeBruhl to go to the next photo.

12 A: So, I'm standing here somewhere in the vicinity
13 of 116 Ocean Boulevard. That's the neighboring
14 property right here (indicating). And then 118
15 is here (indicating). So, I'm at either 114 or
16 116, but just looking towards the north at the
17 escarpment along the beach, that vertical cut.
18 There's wrack or dead marsh grass that has been
19 deposited by -- by tide and wave action. So,
20 just again, this area is undergoing current
21 erosion at the time of this photo. Next. So,
22 that's a picture of -- so, this is showing the
23 artificial turf that I referenced before, that
24 has now been -- been added and kind of draped
25 over the escarpment to protect it from further



1 erosion. It's no longer just that sand cliff
2 that you see. You now see that that turf has
3 been -- been added and attached, and I believe
4 Mr. Reddy testified to that fact during his
5 deposition that he affixed artificial turf to
6 try to protect the escarpment. This is just a
7 closer up view of that. You can sort of see
8 this material separating sort of the seams of
9 the strips of artificial turf that were placed.
10 There's wrack even on top of where the
11 escarpment was; there's some sand that's been
12 deposited up there. This is that same palm
13 plant that we observed before that was located
14 sort of at the escarpment. More wrack piled
15 up. So, clearly, this area has been getting
16 water up to it on June 9th, 2023.

17 **MS. PHELAN:** Pull up Exhibit 83, please.

18 Q: I'm going to show you what's Exhibit 83. Do
19 you recognize this email?

20 **(Joint Exhibit Number 83 was referenced at this**
21 **time.)**

22 A: Yes, this is an email from Desiree Fragoso.

23 Q: And who is she?

24 A: She's the former Isle of Palms City
25 Administrator. And she copied Douglas Kerr,



1 who's the current, as of now, City
2 Administrator.

3 Q: Okay. And what is this email about?

4 A: It's about -- she just provided photographs
5 that she took following Hurricane Idalia. So,
6 these photos are from August 31st, soon after
7 that storm.

8 Q: Can you walk us through those pictures, please?

9 A: So, this photo shows that some of that
10 artificial turf that was added is -- had been
11 further impacted by Idalia. It's not just sort
12 of that draped material over the escarpment;
13 it's now more uneven and kind of disheveled,
14 covered up with sand. There's wrack that's,
15 you know, in the yard. So, this shows that
16 erosion additionally impacted the property
17 beyond what was seen at my last site visit in
18 June of 2023. This photo shows more of the
19 same. This -- this palm plant is now kind of
20 further seaward of -- of where the escarpment
21 has eaten into the beach. Just other evidence
22 of recent erosion. This photo shows that some
23 of that turf that was placed is now even
24 further seaward, out on the beach, and was
25 obviously impacted by the storm. Next. And



1 this is the neighboring property at 116 Ocean
2 Boulevard, without artificial turf, just
3 showing sort of the natural escarpment that
4 formed at their property from the storm. And
5 then the property to the north, at 120 Ocean
6 Boulevard, showing its conditions following
7 Idalia.

8 Q: Okay. We're gonna go to Exhibit 84, which I
9 believe is a site visit on September 1st, 2023.
10 Why don't you tell us about the site visit
11 while she's putting that up? Why did you go to
12 this area on September 1st, 2023?

13 **(Joint Exhibit Number 84 was referenced at this**
14 **time.)**

15 A: This was after Idalia and after we received the
16 photographs from the City of Isle of Palms. We
17 visited the southern end of Isle of Palms just
18 to document the site conditions after that
19 storm, to collect site photographs and to
20 collect an escarpment line, or vegetation line,
21 where present along this stretch of shoreline.
22 So, here in this photo, you see all that dead
23 marsh grass, the wrack that's piled up against
24 the escarpment there. You see Jessica Boynton
25 with the handheld GPS unit collecting the



1 location of that escarpment.

2 Q: And she'll talk a little bit more about that
3 collection. So, we can move to Exhibit 14,
4 please.

5 (Joint Exhibit Number 14 was referenced at this
6 time.)

7 THE COURT: Ms. Phalen?

8 MS. PHELAN: I'm sorry, my co-counsel needs a quick
9 break.

10 THE COURT: Well, I was about to ask y'all how much
11 longer you're going to be because it's 12:00
12 o'clock, so I was going to take a short break.

13 MS. PHELAN: Yeah, it's gonna be a little bit.

14 THE COURT: What's a little bit? Give me an
15 estimated time?

16 MS. PHELAN: I'd say maybe another half an hour, 45
17 minutes.

18 THE COURT: Okay. Well, then, we're going to take a
19 five-minute break here. I tell you, I wanted
20 you to get your exhibits marked. Maybe we can
21 do that over the lunch break, either before or
22 after rather than this quick little break we're
23 about to do now. I got a feeling my court
24 reporter wants a break too. All right. So,
25 let's take five, ten minutes, top. Thank



1 y'all.

2 (Off the record from 12:04 p.m. until 12:19 p.m.)

3 **THE COURT:** Proceed.

4 Q: So, we were looking at Exhibit 14. Do you
5 recognize this document?

6 A: Yes, this is a letter that I sent to BluTide
7 Marine and Mr. and Mrs. Reddy in early
8 September. So, this is six days after that
9 last photo we were looking at where Ms. Boynton
10 was collecting that escarpment and vegetation
11 line. And I was just letting the contractor
12 know that our office had heard they might be
13 proposing some work out there within the
14 critical area, and that any type of project in
15 the critical areas would require Department
16 review and authorization.

17 Q: Can you read the language that you used in the
18 letter?

19 A: I stated that, "It has come to our attention
20 that you may be intending to perform activities
21 on the ocean side of the property located at
22 118 Ocean Boulevard, Isle of Palms" and I
23 listed the ID number, "within the State's
24 critical areas without any review or
25 authorization from the South Carolina



1 Department of Health and Environmental
2 Control's Office of Ocean and Coastal Resource
3 Management," the Department. "Please be
4 advised that any unauthorized work within the
5 State's critical areas, which include the
6 beach/dune system and beaches, will be
7 considered a violation of the South Carolina
8 Coastal Tidelands and Wetlands Act and may
9 result in an enforcement action being initiated
10 by the Department which can include the
11 assessment of civil penalties."

12 Q: What happened after you sent this -- this
13 letter to Reddys and their contractor?

14 A: The contractor, BluTide Marine, gave me a phone
15 call and requested a meeting on site to talk
16 about the work that they wanted to do, and how
17 it related to this letter.

18 Q: And what was your understanding of the work
19 that they wanted to do at the site?

20 A: My understanding was that they had intended to
21 place clay material, so not beach compatible
22 sand, but clay, within the beaches critical
23 area, but that they had not yet done that.

24 Q: Did you meet with them on the site?

25 A: Yes, we met on site the following Monday,



1 September 11th, 2023. You, Ms. Phelan, joined
2 me at the property to discuss with Mr. and Mrs.
3 Reddy, with one of their neighbors at 120 Ocean
4 Boulevard, and an attorney, Ross Appel, who, my
5 understanding, was representing the Reddys.

6 Q: And can you tell us about that site visit?

7 A: We stood there on the beach observing the
8 property. There was questions about Department
9 jurisdiction and authorities. We discussed
10 where the setback line for the beach/dune
11 system critical area was located, and the fact
12 that, at this point in time, beaches critical
13 area existed landward of the setback line. We
14 talked about how putting clay in that material
15 -- sorry, putting clay material in that area
16 would not be considered beach compatible, that
17 it would need to be sand. So, we talked about
18 allowable options, like placing sand in that
19 area instead of clay.

20 Q: Did you discuss the sea turtles?

21 A: Sea turtles were mentioned in the context of
22 why putting clay would not be allowable. It
23 was sea turtle nesting season still, and
24 turtles need beach compatible sand to dig
25 through to lay their eggs in their nests. They



1 can't dig through clay. And Loggerhead sea
2 turtles are the primary species that we have in
3 South Carolina, and they're a threatened
4 species under the Endangered Species Act.

5 Q: At any time when you were discussing the clay
6 with the Reddys or the contractors, did they
7 indicate that they had already put the clay
8 down?

9 A: No.

10 Q: And how come you couldn't tell what the clay
11 had been ...

12 A: It had been covered up with sand.

13 Q: Did you discuss with them about the beaches --
14 the definition of beaches and its relation to
15 the vegetation?

16 A: Yes.

17 Q: Okay.

18 **MS. PHELAN:** Could you go to Exhibit 71, please?

19 Q: When did you first learn that that clay had
20 been put down -- had already been put down
21 before you even met with the Reddys?

22 A: It was through the discovery process for this
23 case. I think it was maybe a subpoenaed text
24 message or something from BluTide. And then I
25 think Mr. or Mrs. Reddy testified that the clay



1 was already present at this time.

2 Q: Do you recognize these photos?

3 **(Joint Exhibit Number 71 was referenced at this**
4 **time.)**

5 A: These are photos that I took following the
6 conclusion of our discussion on the beach on
7 September 11th, 2023.

8 Q: What do they show?

9 A: They show -- where's my pointer? So, on the
10 far left, kind of background of this image, you
11 can see work that the City of Isle of Palms was
12 doing, permitted work, to try to replace the
13 dune that had been eroded in this area by
14 Idalia, plus the other storm and high tide
15 events that predated Idalia. The -- that
16 vertical escarpment that had been covered with
17 artificial turf had been graded or leveled out
18 by the Reddys' contractors. They had sort of
19 cleaned up this whole area where we saw
20 previously the artificial turf was, I described
21 it as disheveled. It was sort of lumpy and
22 impacted by the erosion. So, they cleaned up
23 that area. They cut the artificial turf, and
24 then, evidently, not to the Department's
25 knowledge, but they had then put clay in this



1 area, which, again, we would consider beaches.

2 Q: When you had boots on the ground that day on
3 September 11th, 2023, did you evaluate the
4 natural vegetation that was adjacent to the
5 site?

6 A: Yes, and it's shown here in this photo. At
7 approximately this fence line, there's this
8 kind of viney species growing, and then at the
9 adjacent property down here, too, you can see
10 the natural vegetation, which is roughly in
11 line with where the artificial turf was cut.

12 Q: Next picture.

13 A: This is a photo again from the same day,
14 showing the work that the City of Isle of Palms
15 was doing in the background. They were doing
16 some beach scraping, where they would excavate
17 in the intertidal zone and then load up these
18 off-road dump trucks, take that sand to the
19 dune line, dump it and then grade it with
20 bulldozers. So, here, they were not taking a
21 dozer and scraping this entire area. They were
22 excavating in the intertidal zone, loading
23 trucks and then transporting it.

24 Q: And what was the purpose of those activities
25 that the City was engaged in?



1 A: To try to restore this shoreline that had been
2 impacted by Idalia and prior erosion events to
3 try to provide a temporary sand berm in this
4 area.

5 Q: And was that to protect the properties?

6 A: Yes.

7 **MS. PHELAN:** Exhibit 15, please.

8 Q: Do you recognize this document, Exhibit 15?

9 **(Joint Exhibit Number 15 was referenced at this**
10 **time.)**

11 A: Yeah, so this -- the page is further back in
12 this document. It's the beginning of an email
13 exchange with Ross Appel, who is an attorney,
14 talking about attending the site visit on
15 September 11th. And then what we're looking at
16 here is my follow up email that was sent
17 through you, Ms. Phelan, to Mr. Appel,
18 summarizing our discussion on the beach and
19 what some of the next steps could be for the
20 property owner, specifically, a general permit
21 for minor beach renourishment, dune vegetation
22 or sand fencing. I'm sorry. I'll add that I
23 also provided a couple of contractors that are
24 specialists with growing and installing native
25 dune plants that they could reach out to if



1 they wanted to.

2 Q: Does this letter address the -- the -- their
3 proposal to put clay down?

4 A: It does. I summarize the difference between
5 the beach/dune system critical area and beaches
6 critical area, citing the law in each case, and
7 then I stated that, therefore, any fill would
8 need to be beach compatible sand, not clay, and
9 would need to be properly authorized by the
10 Department.

11 Q: Okay. Did -- at any time, did someone reach
12 out to you, either the Reddys or their
13 contractors, and let you know, hey, by the way,
14 the clay is already down?

15 A: No.

16 **MS. PHELAN:** Exhibit 70, please, page 3.

17 Q: Is there anything else that you would like to
18 add about the September 11th visit?

19 **(Joint Exhibit Number 70 was referenced at this**
20 **time.)**

21 A: This is a photograph from the Reddys taken from
22 their property looking out at the beach and the
23 work that the City of Isle of Palms was doing
24 earlier that morning. You can see here this --
25 this photo was from September 11th, at 2:15 in



1 the afternoon. The work that was in the -- in
2 the background of the photos we were looking
3 at, that work has now made its way a little bit
4 further to the north, in front of the Reddys'
5 property. So, you can see the excavating --
6 excavation of sand, an off-road dump truck
7 dumping that sand, a bulldozer sort of making
8 this temporary berm of sand in this area.

9 Q: This is Exhibit 70 that we're discussing?

10 A: It is. This is Exhibit 70.

11 **MS. PHELAN:** Page 4, please.

12 Q: What about this photo?

13 A: That shows that the City's work is continuing
14 even further. This photo is taken at 4:46 in
15 the afternoon, so that protective sand berm has
16 now reached entirely across 118 Ocean
17 Boulevard. You can see that straight line
18 where the artificial turf was cut and the
19 Reddys' contractors did work in this area.
20 Yeah, that's all I have to say about that.

21 Q: Okay.

22 **THE COURT:** When I'm looking at this picture, so,
23 what the City did, there's no longer an
24 escarpment, is there?

25 A: Not at this moment in time until probably the



1 next high tide reached it. But at this moment
2 of time where that sand berm has been built,
3 there's -- there's not an escarpment. And I
4 think where you're going is that where is --
5 where is the first line of stable and natural
6 vegetation for the active Beach.

7 **THE COURT:** I don't really like people predicting
8 where I'm going, but that was where I was
9 going.

10 (Laughter)

11 **THE COURT:** 'Cause it -- I'm not so sure about
12 there being a moving target here. Okay.
13 There's an escarpment in one spot one day, an
14 escarpment in another, so the beaches is -- you
15 know, on Monday is here, and on Friday it's --
16 it's here. So, can you explain that for me?

17 A: Sure. I think it's important to keep in mind
18 that the term active beach and beaches critical
19 area, they're both defined in statute and
20 they're defined differently.

21 **THE COURT:** Okay.

22 A: They're not one in the same.

23 **THE COURT:** Active beach has the phrase escarpment
24 in it.

25 A: Beaches critical area does not.



1 **THE COURT:** Yeah. Okay. How about -- you know,
2 we've got -- it seems with your definition of
3 beaches, you've kind of skipped over periodic
4 inundation, because you look at where the
5 nonlittoral -- littoral vegetation is, why
6 would there not be a consideration of whether
7 or not there's periodic inundation? Because it
8 says so that no nonlittoral vegetation is
9 established.

10 **A:** I wouldn't -- I wouldn't say that we've skipped
11 over that aspect. And I think the photographs
12 and the site visits that we've reviewed from
13 May 2023 up to this point in September, those
14 different storm impacts and the wrack lines and
15 the escarpment and clear indicators that
16 inundation has occurred. Not just once, but
17 periodically over that time frame that we are
18 considering that.

19 **THE COURT:** Okay. I saw how you did the facts. I'm
20 trying to discern how you were doing the
21 definition. So, you do consider that?

22 **A:** Yes.

23 **THE COURT:** All right. Go ahead.

24 **Q:** So, the dune that the City created, what was
25 the purpose of that, again?



1 A: To protect properties landward of that dune.

2 Q: Now, at the 9/11 meeting and in the follow-up
3 letter, you advise the Reddys and their
4 subcontractor, BluTide, that they could apply
5 for a sand fencing and vegetation permit,
6 correct?

7 A: Yes.

8 Q: Did the Reddys reach out to you about that?

9 A: They did. They requested an emergency order to
10 tag on those activities, the sand fencing and
11 the vegetation. And the Department issued
12 that.

13 Q: Okay. And did you all -- did you supply them
14 the information on how to do that?

15 A: Yes.

16 Q: And what about the subcontractor, the
17 subcontractor reach out to you?

18 A: Yes.

19 Q: And did you provide him the information?

20 A: Yes. That was BluTide at that time, as well.

21 Q: In response to the communication and you
22 issuing the permit, did the Reddys apply for --
23 I'm sorry, in response to the communication,
24 did the Reddys apply for the permit, then?

25 A: It was an emergency order request, yes.



1 Q: Okay. And you issued it?

2 A: Yes.

3 Q: Okay.

4 **MS. PHELAN:** Exhibit 17, please.

5 **MS. DEBRUHL:** Did you say 17?

6 **MS. PHELAN:** Yes.

7 Q: While she's pulling it up, let me ask you,
8 we're going to -- when we look at it, we're
9 going to see that the issuance of the emergency
10 order for minor renourishment, sand fencing and
11 vegetation. Did the Reddys ever sign the
12 permit that you issued or the emergency order?

13 A: If they did, they didn't return it to the
14 Department.

15 Q: Okay. And did they take advantage of any of
16 the options under that emergency order that the
17 Department issued?

18 A: No.

19 Q: Did they renourish in the fall of 2023?

20 A: The City was performing renourishment, but I
21 don't believe the Reddys themselves did.

22 Q: Okay. What about planting the natural
23 vegetation?

24 A: No.

25 Q: And how about the sand fencing, did they avail



1 themselves of being able to put in sand
2 fencing?

3 A: No.

4 **MS. PHELAN:** Can you get -- you can't get it up?

5 Q: Were there any conditions of the permit? If we
6 can -- if you look to Exhibit 17, Mr. Slagel,
7 can you kind of read us some of the conditions
8 that were related to the permits that you
9 issued?

10 **(Joint Exhibit Number 17 was referenced at this**
11 **time.)**

12 A: If you scroll within Exhibit 17 on the screen
13 ---

14 Q: Okay.

15 A: --- the Court can see, as well. So, the
16 conditions are listed here.

17 **MS. DEBRUHL:** Tell me where -- tell me where to
18 stop.

19 A: Sorry, there. Stop.

20 **MS. DEBRUHL:** Okay.

21 A: So, one through nine, basically that any sand
22 that was placed would have to be documented in
23 terms of how much sand, unless the sand must
24 originate from an upland source and be approved
25 by the Department as beach compatible in size



1 and grain color, and free -- clean and free of
2 any debris. Sand placed would have to be
3 located between extended property lines.
4 Cannot cover or bury any portion of an erosion
5 control structure. Constructed dunes should
6 not be located seaward of the normal spring
7 high tide line. Any dunes would have to be
8 aligned to the greatest extent possible with
9 existing dune ridges, and via the same general
10 configuration. It can be stabilized with sand
11 fencing and beach vegetation. A copy of the
12 order would have to be in possession of any
13 contractor doing the work. And then there's a
14 sea turtle coordination requirement with the
15 South Carolina Department of Natural Resources.

16 Q: Some of these conditions became relevant to the
17 issues of what the Reddys were complaining of
18 about the City's efforts. So, I'd like to draw
19 your attention to the condition number four.
20 So, that was -- this was a condition not to
21 bury any portion of erosion control structure.
22 This was contained in the emergency order that
23 was issued on September 21st, 2023 before the
24 wall was installed.

25 A: Correct.



1 Q: And condition number five provides that the,
2 constructed dunes shall not be located landward
3 of the normal spring tide. And again, this was
4 in the emergency order as a condition before
5 the original wall was installed?

6 A: It's located seaward of. You said landward
7 of. It's constructed dunes shall not be
8 located seaward of ---

9 Q: Thank you.

10 A: --- the normal spring high-tide line.

11 Q: All right. And number six provides that the
12 sand had to be aligned to the greatest extent
13 possible with existing dunes?

14 A: Yes.

15 Q: And that was provided to the Reddys before --
16 before they even put the wall in, correct?

17 A: Yes.

18 **MS. PHELAN:** Exhibit 19, please.

19 Q: Let's go to Exhibit 19, please. So, while she
20 pulls that up, I'm going to show you some
21 October 3rd, 2023, site photos that were taken
22 by Steve in training from Coastal Science and
23 Engineering. Do you recall getting photos from
24 them?

25 A: Yes.



1 Q: And what was your understanding as to why they
2 were sent to you?

3 A: I believe they were submitted as a -- as a
4 complaint, notifying the Department that
5 something may have happened out at the beach
6 that possibly was not reviewed or authorized.

7 Q: All right. Is this the email in Exhibit 19
8 that was sent to you?

9 **(Joint Exhibit Number 19 was referenced at this**
10 **time.)**

11 A: No, this is an email ---

12 Q: I'm sorry.

13 A: --- right here that I sent to our compliance
14 and enforcement staff ---

15 Q: That's right.

16 A: --- notifying them of these photographs that I
17 received.

18 Q: All right. And are the photographs attached to
19 this?

20 A: Yes.

21 Q: Can you scroll -- can you walk us through what
22 these photographs that you received from
23 Coastal Science Engineering show?

24 A: So this -- the top photograph shows this dark
25 black material of some kind. You can see it a



1 little bit better in the bottom photo, it's
2 some sort of fabric underlayment, maybe some
3 kind of geosynthetic, that was installed
4 beneath this artificial turf installation. So,
5 associated with that in the bottom image,
6 there's gravel, artificial turf itself, some
7 kind of wood that may or may not be associated
8 with their property. Next picture. And then
9 kind of looking up and down the beach, you
10 could see evidence of scattered clay balls and
11 gravel and other non beach compatible materials
12 that were scattered up and down the shoreline.

13 Q: Are all these man-made and non beach compatible
14 materials generally allowed out on the beach
15 like this?

16 A: Clay and gravel are not a man-made material,
17 but nonetheless, they're not beach compatible
18 and would not be allowed within the beach/dune
19 system or beaches critical areas.

20 Q: Now, you said that you -- this email forwarded
21 the information you got from CSE to compliance
22 and enforcement. Can you kind of explain the
23 relationship between the Beachfront Permitting
24 Section and Compliance Enforcement in this
25 case?



1 A: So, the Beachfront Management Section that I
2 worked in and that I managed, we review
3 requests, permit applications, other -- other
4 requests, to make sure that they are
5 permissible, and then we would issue some form
6 of authorization. When there's something
7 that's identified, like in this case, a
8 complaint, we would send those to our
9 Compliance and Enforcement staff to follow-up
10 on that complaint.

11 **MS. PHELAN:** 78h, please.

12 Q: Now, you visited the property also on December
13 18th, 2023, is that right?

14 A: Yes.

15 Q: Can you tell me the circumstances surrounding
16 that visit?

17 A: That was a site visit, much like others that I
18 have taken to Isle of Palms. This was the day
19 after a coastal storm. I believe some have
20 classified it as a nor'easter that impacted the
21 area on December 17th, 2023. So, I was
22 visiting the southern end of Isle of Palms to
23 do damage assessment and just get a feel for
24 what level of impact was experienced.

25 Q: So, I'm showing you 78h. Can you tell us what



1 this is?

2 **(Joint Exhibit Number 78h was referenced at this**
3 **time.)**

4 A: This is a photograph. I'm standing
5 approximately at 120 Ocean Boulevard, looking
6 at 118 Ocean Boulevard, and there's an erosion
7 control structure here that has become exposed
8 by that nor'easter, that artificial turf that
9 had been reinstalled in the backyard is once
10 again sort of disheveled and eroded. You can
11 see where erosion reached at 120 Ocean
12 Boulevard, the neighboring property, and you
13 can see a bunch of wooden debris and other
14 stuff that actually got up onto the backyard
15 from that storm.

16 Q: And is this the first time that you learned of
17 the erosion control structure out on the beach?

18 A: Yes.

19 **MS. PHELAN:** Exhibit 57, please.

20 A: One thing I'll add about this site visit is
21 that I not only collected photographs, I also
22 had a handheld GPS unit with me, so I walked
23 and collected the vegetation line, or the
24 escarpment line, from about Third Avenue to
25 Breach Inlet on this day.



1 **THE COURT:** You said vegetation or escarpment line.
2 Were they distinct?

3 A: So ---

4 **THE COURT:** Sound like you grouped them together.

5 A: So, I would collect -- sometimes they're one in
6 the same. So, if you have a vegetative ---

7 **THE COURT:** No, I was talking about that day.

8 A: So, that day I was collecting either or. So,
9 I was walking the escarpment line ---

10 **THE COURT:** Okay.

11 A: --- or the vegetation line, depending on which
12 of those features was first identified.

13 **THE COURT:** Okay.

14 **MS. PHELAN:** Can you zoom in on the area around the
15 Reddys' property and get -- that's good.

16 Q: Does this image show the data that you
17 collected?

18 **(Joint Exhibit Number 57 was referenced at this**
19 **time.)**

20 A: So, just to orient the Court, 118 Ocean
21 Boulevard is -- is here, the putting green, and
22 then the black points represent the wall
23 location. So, these different squiggly -- let
24 me turn off my red lines. The different
25 colored lines here represent data that the



1 Department has in our possession, different
2 dates and time. So, on December 18th, 2023,
3 this -- the most landward cyan or turquoise
4 color is that line that I collected, and where
5 the line is dashed across the Reddys' property
6 and then across the swimming pool to the north,
7 that represents that I stopped data collection,
8 where the -- where the solid line ends, and
9 then I started again on the other side. The
10 reason I didn't go across the Reddys' property
11 was because they had the erosion control
12 structure sticking way out onto the beach. So,
13 I stopped data collection then picked up the
14 vegetation line on the other side. And
15 likewise for the swimming pool, the erosion
16 reached here and here, but I didn't wade
17 through the pool to kind of collect those --
18 those dots. But, nonetheless, this shows the
19 extent of erosion on December 18th, 2023.

20 Q: Okay.

21 **MS. PHELAN:** Exhibit 89.

22 Q: Next, I want to talk about your February site
23 visit of February 23rd, 2024. Do you recall
24 what the purpose of that visit was?

25 A: I believe that was a routine site visit to the



1 area.

2 Q: All right. Can you please tell us what we see
3 in these photos?

4 **(Joint Exhibit Number 89 was referenced at this**
5 **time.)**

6 A: In the foreground, you see an escarpment that
7 has been cut into the sand that was placed by
8 the City of Isle of Palms at a neighboring
9 property. And then towards the background of
10 this photo, you see the original erosion
11 control structure, plus some -- some small
12 riprap or rocks they were also placed on the
13 beach.

14 Q: Next.

15 A: This is just walking towards 118 Ocean
16 Boulevard. You see the house to the right and
17 the struc- -- the original erosion control
18 structure. You can see where the high tide
19 line has reached the escarpment. It's reached
20 that original erosion control structure. The
21 riprap is getting scattered a little bit. And
22 this is the first time I think that we've seen
23 this -- the second erosion control structure,
24 this concrete structure that was built landward
25 of the original one. Next.



1 Q: Is the Department concerned about riprap placed
2 on the beach?

3 A: Yes, much like the clay that we discussed
4 previously, riprap is not beach compatible, so,
5 the placement of it within the critical area
6 would be of concern. It's a (sic) issue for
7 sea turtle nesting, public access and public
8 safety. You can imagine walking along the
9 beach and stubbing your toes on this stuff.
10 And riprap is also defined as an erosion
11 control structure within the Beachfront
12 Management Act.

13 Q: Next.

14 A: Just shows more of the same.

15 Q: Next.

16 A: Next. This picture shows these brackets and
17 some yellow synthetic spray foam type material
18 that was applied to the original erosion
19 control structure in an effort to stabilize it
20 following the nor'easter. It had started to
21 tilt towards the beach. It was becoming
22 undermined. It was starting to break apart at
23 these seams. So, this was an effort to -- by
24 the property owner to try to stabilize that
25 first structure. And here you can see more



1 clearly the second concrete structure that was
2 built just landward of the first one.

3 Q: And does this picture give you any indication
4 about whether this area was being periodically
5 inundated?

6 A: Yes, I mean, there's evidence that water is
7 reaching the structure during high tides.

8 **THE COURT:** When you say there's evidence, what is
9 the evidence?

10 A: So, if we could go back to that picture.

11 Q: I'm sorry.

12 A: So, it's all these little rocks, the little
13 riprap that's been placed on the beach. You
14 can see where flow has, as water has rushed
15 back around those rocks, it's left markings on
16 the beach showing that water has gotten up to
17 that level and flowed back towards the beach.
18 Would be one.

19 **MS. PHELAN:** Now, go to 90. Exhibit 90.

20 Q: Okay. We're going to go to your April 9th,
21 2024, site visit. And we have eliminated
22 several of your site visits. So, we're just
23 hit- -- we're trying to hit the ones that show
24 the most substantial information.

25 **(Joint Exhibit Number 90 was referenced at this**



1 **time.)**

2 A: So, this is a site visit on April 9th, 2024,
3 similar to the last where I'm walking towards
4 118 Ocean Boulevard. Can see there's a
5 gentleman to the right setting up beach chairs
6 and umbrellas to the right of the structure.
7 He would not be able to do that out here.
8 There's better evidence -- or additional
9 evidence, that on April 9th, that water is
10 reaching the structure, which I think we'll see
11 better in the next photo. So, here clearly you
12 can see that the wet/dry line is in -- you
13 know, reaching that original erosion control
14 structure on this date. And it shows more of
15 the same, waters at the structure. Next.
16 Next. These are all the same it looks like.

17 Q: Okay. I want to skip ahead to your October
18 29th, 2024 site visit, which is Exhibit 93.
19 Okay. Can you tell us about these photographs?

20 **(Joint Exhibit Number 93 was referenced at this**
21 **time.)**

22 A: The City of Isle of Palms, amongst many other
23 authorization, received a general permit from
24 DES to truck-in sand. So, this is beach
25 compatible sand trucked in from a sand mine.



1 And that general permit covered many
2 properties, from Breach Inlet to -- can't
3 remember exactly, maybe Fifth or Sixth Avenue.
4 So, the Reddys took advantage of the City's
5 general permit, with authorization from the
6 Department. We did issue the Reddys a
7 construction placard to operate under the
8 City's permit to place this sand entirely
9 seaward of both the original and the second
10 erosion control structures.

11 **THE COURT:** When you say second, you mean what
12 appears to be a concrete wall?

13 A: Correct. Correct. The sand here looks a
14 little kind of dark, and brown ---

15 **THE COURT:** Yeah, it does.

16 A: So, oftentimes, when using an inland sand mine,
17 that material, when it's sort of fresh from the
18 pit, it's wet, so that really affects the color
19 of it. But once it's placed on the beach, and
20 it has a chance to kind of bleach out by the
21 sun and otherwise weather out in the elements,
22 it'll lighten up to that more typical kind of
23 gray/tan color of the beach. So, this is just
24 immediately after it was placed. But using
25 this particular pit, we've observed that the



1 material does lighten up. So, anyway, this is
2 Decem- -- I'm sorry, October 29th, 2024 showing
3 that sand placement that occurred. And one of
4 the requirements that the Reddys did comply
5 with was that they could not cover the original
6 or that concrete second erosion control
7 structure. So, this -- the sand was placed
8 seaward of those structures.

9 Q: Okay.

10 A: And note that it's -- if you look at the height
11 or the elevation of the sand placement, it was
12 roughly in line with that concrete second
13 erosion control structure. Next.

14 Q: And on that last picture, we see the
15 installation of something new. The flagpole
16 was put also in this area.

17 A: Yes, there was a flagpole installed. And at
18 some point this other vegetation was placed
19 landward of that second wall.

20 **MS. PHELAN:** Exhibit 94, please.

21 Q: We're going to go to the photos of your
22 November 15th, 2024, site visit in Exhibit 94.

23 **(Joint Exhibit Number 94 was referenced at this**
24 **time.)**

25 A: So, the last photos we were looking at was



1 October 29th. This is now November 15th, so,
2 about two weeks later. I'm once again walking
3 down the beach towards 118 Ocean Boulevard, and
4 the sand that we observed in those last photos
5 is now gone. It has been eroded away. If we
6 go to the next pa- -- or next photo, moving
7 closer. Some of the sand remains along the
8 wing walls here and on the other side, but all
9 the sand that was, remember, at the same height
10 as the second structure, that's all been eroded
11 away by periodic inundation.

12 Q: So, with the sand that has been placed by the
13 City to protect the properties, would that
14 block public access?

15 A: It could temporarily, I suppose, but it's -- as
16 we've seen on this stretch of Isle of Palms,
17 it's temporary. It doesn't -- it doesn't seem
18 to last for long. So, there might be a
19 temporary public access restriction from placed
20 sand, but it's not a long term issue.

21 Q: And allowing sand to be placed up in that area,
22 is that only part of an emergency order that
23 it's allowed?

24 A: Sand can be placed under a general permit, as
25 well, for minor beach renourishment.



1 **MS. PHELAN:** Exhibit 176.

2 Q: Okay. We're going to look at a series -- a
3 couple of photos now taken in May and June. Do
4 you recognize this photo?

5 **(Joint Exhibit Number 176 was referenced at this**
6 **time.)**

7 A: Yes, it's a photo taken by the Reddys in May of
8 2023.

9 Q: And what are we looking at?

10 A: We're looking, once again, at a damaged dune
11 walkover structure in the foreground, an
12 escarpment, the same palm species we were
13 looking at before, artificial turf that's only
14 draped over this part of the escarpment to the
15 right of their property. We're looking at
16 evidence of recent erosion in May of 2023.

17 Q: Next, we're going to look at a June 2023 video.

18 **MS. PHELAN:** Exhibit 81.

19 **(Joint Exhibit Number 81 was referenced at this**
20 **time.)**

21 **THE COURT:** Are we getting close to the end?

22 **MS. PHELAN:** Yes, very close.

23 (Video is played)

24 Q: Do you recognize this video?

25 A: Yes, it's a video taken by Renee Reddy from her



1 property looking out towards the beach in June
2 of 2023. That same palm is there along the
3 escarpment line. You can see that edge of the
4 escarpment where the artificial turf ends, and
5 then you drop down to the beach, the damaged
6 dune walkover structure. So, this just shows
7 that same erosion issue, that periodic
8 inundation from the May, June 2023 time frame.

9 Q: Okay.

10 **MS. PHELAN:** Exhibit 53.

11 Q: Do you recognize this Exhibit in 53?

12 **(Joint Exhibit Number 53 was referenced at this**
13 **time.)**

14 A: Yes, this is an aerial photo from June 12th,
15 2023, so, that same time frame of that video we
16 just looked at, where the video showed the
17 escarpment, approximately here (indicating).
18 If you look at the putting green in the video,
19 you can see these strips of artificial turf
20 that were installed to try to protect the
21 escarpment. There's wrack that has piled up
22 here. There's some sand that's piled up on the
23 property, and all that to say, the dash --
24 these little yellow dots represent where the
25 initial erosion control structure was later



1 built in October. So, where the wall was built
2 was clearly landward -- I'm sorry, was clearly
3 seaward of where periodic inundation had
4 occurred up to that point.

5 Q: Can you -- can you see any natural vegetation
6 on the adjacent properties?

7 A: It looks like there's -- not from this photo,
8 I can't really see it very well. I mean, there
9 is some vegetation along the fence lines, it
10 looks like, on either side, but I would need a
11 more zoomed out photo to see what the
12 vegetation looks like on the neighboring
13 properties.

14 Q: Fair enough. Okay, so these -- the three
15 figures that we just looked at, the May 2023
16 photo, the June video and the June -- and then
17 this map that was done on June 2023, did
18 anything happen in this time period after June
19 that we looked at that would have changed the
20 erosion?

21 A: Hurricane Idalia also impacted this area in
22 late August of 2023.

23 Q: Now, you evaluated the vegetation, the erosion
24 in your numerous site visits. Did you see any
25 indication that the location of the natural



1 vegetation was not due to periodic inundation,
2 but due to some other factor, such as
3 destruction by sand scraping, foot traffic or
4 wind blown events?

5 A: No.

6 Q: In all your site visits and the information you
7 reviewed, did you assess whether the Reddys'
8 alterations at the time they were made were
9 within the beaches critical area?

10 A: Yes.

11 Q: And what did you determine?

12 A: Determined that the alterizations to the
13 critical area, that it was beaches critical
14 area, not only after Idalia, but in May and
15 June and then throughout, really, 2023 into
16 2024.

17 Q: No further questions.

18 **THE COURT:** Ms. Lenhardt?

19 **MS. PHELAN:** Just one second.

20 **THE COURT:** Okay.

21 **MS. PHELAN:** No further questions.

22 **MR. SLAGEL - DIRECT EXAMINATION BY MS. LENHARDT:**

23 Q: I just have very few, Mr. Slagel. Would you
24 agree with me that the Tidelands and Wetlands
25 Act contains provisions addressing impacts to



1 public access to beaches?

2 A: Yes.

3 Q: And the agency's required to abide by the
4 statutory and regulatory provisions relating to
5 beaches and beaches critical area, correct?

6 A: Beaches critical area and beach/dune system.

7 Q: And the beach/dune system?

8 A: Uh-huh.

9 Q: Any critical areas that are located in
10 different areas along our coast?

11 A: Yes.

12 Q: Okay. All right. And do you have the statute
13 in front of you? No, you just have different
14 ---

15 A: I have a lot of exhibits. I don't know if the
16 statute is one of them.

17 Q: All right. Let me just do this really quickly.
18 I'm going to hand you a copy of the beachfront
19 -- or the Coastal Tidelands and Wetlands Act
20 and direct your attention to ---

21 **MS. LENHARDT:** If I may approach, Your Honor.

22 Q: 48-39-150. Hand you that. Do you recognize
23 that as a copy of the statute?

24 **THE COURT:** You said 39 ---

25 **MS. LENHARDT:** 48-39-150, Your Honor.



1 A: Yes, I do recognize it.

2 Q: And does ---

3 **THE COURT:** Let me get there. Let me get there.

4 A: Sorry.

5 **THE COURT:** All right. I'm there.

6 Q: And does 48-39-150 contain what is known as the
7 ten general considerations that the agency has
8 to consider?

9 A: Yes, these general considerations would apply
10 to all applications.

11 Q: All applications in all matters relating to
12 critical area alterations, is that right?

13 A: That's right.

14 Q: Okay. And subsection number five, would you
15 just publish that for the Court?

16 A: Number five states, "The extent to which the
17 development could affect existing public access
18 to tidal and submerged lands, navigable waters,
19 and beaches or other recreational coastal
20 resources."

21 Q: Okay. And, particularly, how does an erosion
22 control structure impact public access and
23 public safety?

24 A: The reason that the Beachfront Management Act
25 prohibits new erosion control structures, one



1 reason, is that -- that installation of a hard
2 structure, if a beach continues to erode, as
3 we've seen here, will result in the loss of
4 that dry sand beach seaward of the structure,
5 resulting in the loss of that public access
6 laterally along the beach past that structure.

7 Q: Okay. And has the construct- -- has the
8 erosion control structure that was constructed
9 or directed to be constructed by the Reddys, is
10 that any different from any other erosion
11 control structures in terms of impacts to
12 public access?

13 A: No.

14 Q: I don't think I have any other questions.
15 Thank you.

16 **THE COURT:** I'm gonna take a lunch break at this
17 time. So can we be back at -- is ---

18 **MR. REDDY:** No, I only have a question, Your Honor.

19 **THE COURT:** Okay.

20 **MR. REDDY:** Which is the witnesses in this hearing,
21 I didn't see them do this, do they have to be
22 under oath?

23 **THE COURT:** Oh, yeah, he was sworn.

24 **MR. REDDY:** He was sworn?

25 **THE COURT:** Yeah.



1 **MR. REDDY:** Okay. And so this would be perjury if
2 we show it?

3 **THE COURT:** Yeah.

4 **MR. REDDY:** Good. Thank you.

5 **THE COURT:** I guess by -- if you say if we show it,
6 the rest of that sentence would have been if we
7 show that it was not true.

8 **MR. REDDY:** Absolutely. We will.

9 **THE COURT:** All right.

10 **MS. PHELAN:** And I didn't catch what time you said
11 to be back.

12 **THE COURT:** 1 -- oh, did I say 1?

13 **MS. PHELAN:** Yes.

14 (Laughter)

15 **THE COURT:** I'm sorry. Yeah, that's going to be a
16 real quick lunch. 2:30. I'm used to breaking
17 at 12:00. Okay. 2:30. Thank y'all.

18 **(Off the record from 1:08 p.m. until 2:29 p.m.)**

19 **THE COURT:** All right. You're still under oath.
20 Whoa, whoa, I guess we gotta wait. Proceed.

21 **MR. REDDY:** Your Honor, other than My Cousin Vinny,
22 I haven't really done this before.

23 **COURT REPORTER:** I'm sorry. I can't hear you. I
24 couldn't hear what you said; I'm sorry.

25 **MR. REDDY:** Other than My Cousin Vinny, I haven't



1 done this before, so hopefully you'll be a
2 little patient with me.

3 **MR. SLAGEL - CROSS-EXAMINATION BY MR. REDDY:**

4 Q: So -- So, Matt, before we get started --
5 actually, I didn't know you had so many
6 degrees. Very impressive. Should a citizen
7 have all these degrees to understand all these
8 laws and rules? I mean, the judge asked a
9 great question, like, seems like an ever
10 varying thing, like, are you all trained the
11 same? So, if you went on vacation and someone
12 took your place, and that just happened to be
13 the time I sold my property, are they gonna
14 come and say, wait, I see another bush there
15 that the previous guy didn't see, or I don't
16 see a bush there that got covered up because
17 there was a sandstorm?

18 A: So, the Beachfront Management Section is a
19 small section. There was the section manager,
20 myself, with two staff, and we are all well
21 familiar with, you know, how to interpret these
22 issues that we're discussing. We have the same
23 training, and we have frequent discussions
24 within the section about what we're talking
25 about.



1 Q: Is there any limit? So, you -- you look too
2 young to have been here for Hugo, but were you
3 familiar with something like that? Category
4 Five? Unfortunately, a lot of people suffered.
5 I was running an Exxon plant in Birmingham, and
6 I know we trucked a bunch of stuff in here, and
7 I happened to come once, and I saw it, but
8 literally, the entire oceanfront was covered
9 with sand, including the roads, the barrier
10 islands. So, that happens, what's -- what's
11 the outcome of that? There was no vegetation.
12 It's all covered up pretty deep. So, you come
13 out, you testified after Idalia, you were out
14 there the next day with your GPS. What happens
15 if you come out there with your GPS?

16 A: There is a limit. So, if it can be documented
17 by a property owner or someone else that
18 vegetation was simply covered up by sand as a
19 large storm came through and covered that area,
20 that we would consider that information. But
21 when we have clear documentation that the
22 vegetation wasn't destroyed, that is sort of
23 where that difference is between it being
24 buried versus destroyed.

25 Q: So, I'm going to read you this, this is from



1 the statute, so, I don't have to enter it or do
2 any of those things. So, I'm just going to
3 read you, 48-39-30(C), okay. I promise you I'm
4 reading it. I'm happy for you to read it ---

5 A: I believe you.

6 Q: "In the implementation of the chapter",
7 meaning, this is the Tidelands Act, "no
8 government agency shall adopt a rule or
9 regulation or issue any order that is unduly
10 restricted so as" not "to constitute a taking
11 of property without the payment of just
12 compensation in violation of the Constitution
13 of this State or of the United States" of
14 America. So, do you think this is unduly
15 restrictive, this search for the vegetation
16 that y'all have just started to do?

17 A: We didn't just start to do it. I wouldn't say
18 that it's unduly restrictive. It's a -- it's
19 one of the four critical areas that the state
20 legislature directs our agency to manage. It's
21 a jurisdiction area. It's not taking private
22 property as public property.

23 Q: Really? What can you do once you tell me --
24 you wrote me a letter, you said that beach
25 compatible material. So, once you claim it,



1 what is your version of beach compatible
2 material? That I can now put in because you
3 claimed it.

4 A: It would be -- instead of clay, like we were
5 discussing at that moment in time, it would be
6 sand.

7 Q: Sand. So, you're saying, If my property gets
8 taken out to my back porch, I can replace it
9 with sand? Can I put a fence on that sand?
10 Because the fence is not beach compatible.

11 A: So, you could place sand, you could install
12 vegetation, sand fencing, and then if and when
13 that area does become established with
14 vegetation, then possibly you would be out of
15 beaches critical area ---

16 Q: And how long is that?

17 A: --- and you could then do what you please.

18 Q: How long is that? There's a standard for that,
19 like, so suddenly a plant comes up, or my wife,
20 who likes gardening, goes out there and plants
21 some plants, you'll come back in a week, three
22 weeks? Is there a standard for that?

23 A: As I testified before, it would be based on the
24 density of the plants, the rhizome growth that
25 is occurring underneath the ground.



1 Q: All that's too technical for me. So, my -- I
2 just lost my home. What -- roughly, what
3 guidance would you give me?

4 A: You didn't just lose your home that I'm aware
5 of.

6 Q: No, I'm saying, it's hypothetical, Matt. Just
7 said, just did, Hugo happened. It's all gone.
8 No vegetation. And you say rhizome and all
9 that. I'm like, I don't know anything about
10 rhizomes. I've never done -- planted a plant
11 in my life. So, I'm just saying I'm a citizen.
12 What would you say to me? And I want to remind
13 you again that we're going to cover this
14 conversation, but the conversation that she
15 covered with you, that you had on September
16 11th, was actually recorded and is in
17 discovery, right? If we need to pull it up, we
18 will. But you actually addressed this issue
19 there with my neighbor, not with me, as to what
20 she would need to do if she wanted to restore
21 her yard. So, what did you say there about
22 vegetation and maybe a timeline?

23 A: I don't recall what timeline I might have
24 mentioned. I mean, I think it would be based
25 on how that vegetation does over time.



1 Q: You said six months, roughly, is what -- what
2 it would take, enough for it to be established
3 and the roots to take. Do you realize your
4 DHEC board said 30 days?

5 A: What you're referencing is the -- it was the
6 final review conference related to beaches
7 critical area and they said that staff should
8 work with property owners to replant and then
9 visit the properties again to see how that
10 vegetation is doing and to reassess it. I
11 don't think the board has the expertise to say
12 that -- that it would be established at that
13 time, but that was the time frame to reassess.

14 Q: Do you agree they said 30 days?

15 A: I believe that's right. Yeah.

16 Q: It is right, because that's public record. So,
17 how in the world are you expecting people to
18 comply with these archaic rules that you say
19 some storm comes, you come out, you say
20 something about vegetation? By the way, do you
21 also recall one of the homes of my good friend,
22 Kerry (ph) Solomon, that little visual
23 inspection ended up with flags under his house?
24 Do you own a sofa at that point?

25 A: I remember that after the December nor'easter



1 in 2023 that we visited that property and where
2 there was vegetation, we flagged it.

3 Q: Under the house?

4 A: Well, I think it was interpolated between
5 vegetation, but ...

6 Q: Because he was -- he was -- you know, this,
7 right, you can testify to this, he tried to do
8 some work under his house, and he was stopped.

9 A: He was stopped at that moment, and then he was
10 allowed to do what he wanted to do after we
11 reviewed the activity.

12 Q: So, you now have -- you, unelected,
13 unaccountable to anyone in this room, have the
14 authority to walk in there and tell me what the
15 heck I can do under my house. When is it going
16 to be in my house? Is that the next step to
17 this tyranny y'all are unleashing?

18 A: We assess beaches critical area where -- where
19 it is found. It could be temporary
20 jurisdiction.

21 (Inaudible due to simultaneous speakers.)

22 **MR. REDDY:** Your Honor, I'm going to try this. I
23 would like to enter ---

24 **MS. PHELAN:** I'm sorry; I'm going to object. He
25 needs to let the witness finish.



1 **THE COURT:** Let him finish his answer, and then you
2 can ---

3 **MR. REDDY:** I'm done with his answer.

4 **THE COURT:** Well, he wasn't finished.

5 **MR. REDDY:** Okay.

6 **THE COURT:** Let him finish.

7 A: I'm finished.

8 Q: Thank you. Thank you, Matt, you and I know
9 each other better. I have seen your tie by the
10 way, nice tie. You feel more comfortable
11 taking it off, go ahead. This is ---

12 **MR. REDDY:** Do you have it, the Exhibit 73 or is
13 there a different number?

14 **COURT REPORTER:** I have all the exhibits.

15 **THE COURT:** You want to just hand them to him?

16 **COURT REPORTER:** Sure. I have not marked them yet,
17 though.

18 **THE COURT:** Oh. They're not marked.

19 **COURT REPORTER:** I haven't got the sticker on them.
20 There were a lot of them.

21 **MR. REDDY:** Well, we have pre-marked them, so we
22 have them marked.

23 **COURT REPORTER:** He has his sticker, but I was
24 instructed to put Court's stickers.

25 **THE COURT:** Hold on one second. Number one, you



1 can't talk while she's talking. And here's the
2 reason, so you'll understand, she can't record
3 it. When she's talking to me, she can't record
4 it.

5 **MR. REDDY:** I got it.

6 **(Off the record discussion regarding marking**
7 **exhibits.)**

8 **THE COURT:** I will take a break and let y'all get
9 the rest of the exhibits marked and then you
10 can -- I can give you those exhibits, and then
11 you can use them. Does everyone agree with
12 that?

13 **MS. PHELAN:** No, we just -- we don't have copies of
14 exhibits.

15 **THE COURT:** Well, he's just going to have to show
16 them to you. So, okay.

17 **MR. REDDY:** Ten minutes, Your Honor?

18 **THE COURT:** Well, if it takes five, I'll be back in
19 five.

20 **COURT REPORTER:** I'll come get you when I'm done.

21 **THE COURT:** Yeah.

22 **(Off the record from 2:40 p.m. until 3:01 p.m.)**

23 **(Respondent's Exhibit Numbers 1 through 108 were**
24 **marked during the break.)**

25 **THE COURT:** I can't remember your question, but I



1 was going to tell you before. Here's how we're
2 going to have to handle this, since the
3 exhibits have not been shown to the other
4 counsel, each time you offer an exhibit, you're
5 going to have to show it to them first and if
6 we move down the line maybe by tomorrow, we can
7 have them look over all your exhibits. But
8 right now, if you want to introduce anything
9 into evidence, you have to -- you have to show
10 it to them first, then you can make a motion.

11 **MR. REDDY:** Yes, Your Honor.

12 **THE COURT:** Now, what was your question?

13 **MR. REDDY:** For the witness or for you?

14 **THE COURT:** No, you had asked me a question ---

15 **MR. REDDY:** Oh, no, no. I said I just want to back
16 up to -- go back to a separate question.

17 **THE COURT:** Okay. All right.

18 Q: So, this morning you testified several times
19 that you look at it, and you look at beach, and
20 you look at dune, is that not right, as two
21 separate systems, is that correct?

22 A: Beaches critical area and the beach/dune system
23 critical area are two different critical areas,
24 yes.

25 Q: Have you ever under oath testified differently?



1 A: During a deposition related to Piping Plover
2 for Hilton Head, I can't recall exactly what I
3 said. I may have said something that was
4 slightly different from that.

5 Q: Would you like me to refresh your memory or
6 would you like to refresh it yourself?

7 A: I'd welcome you to refresh it.

8 Q: So, I'm going to just read it to you. And
9 would you agree with me that there are two
10 distinct categories of beaches and beach/dune
11 systems, like you testified now ---

12 **MR. CHURDAR:** Page and line number?

13 **MR. REDDY:** It's line number 1, page 39.

14 Q: And you said, yes. But I believe you testified
15 that OCRM does not distinguish between these
16 two categories. You said, to my knowledge, we
17 never have. And why do you not distinguish?
18 I believe, it's because beaches are typically
19 included within the beach/dune system. What
20 I've been saying, because the beach/dune system
21 extends from the mean high water mark to the
22 setback line. Do you have any explanation as
23 to why there are two separate critical area
24 designations in the statute? I don't.
25 Meaning, I do not.



1 A: Is there a question?

2 Q: So, why have you changed your position?

3 A: I think that testimony in that deposition where
4 I said that typically, beaches is within
5 beach/dune system critical area, that's what I
6 testified to earlier today. Typically, that is
7 the case, but there are cases where beaches is
8 landward of the setback line.

9 Q: So, do you want to keep going on this to
10 further show that that's not the case? As part
11 of your professional responsibilities, do you
12 inspect oceanfront properties to determine the
13 location of a critical line? Which your
14 testimony this morning was y'all go looking for
15 plants.

16 **MS. LENHARDT:** Your Honor, we're not exactly clear
17 on where -- what page he's reading from.

18 **THE COURT:** I think he's just asking him a question
19 right now.

20 **MS. LENHARDT:** Oh, I thought he was reading from the
21 testimony.

22 **THE COURT:** Oh, you are?

23 **MS. PHELAN:** I think he was.

24 **THE COURT:** If he was reading ---

25 **MR. REDDY:** It's on page 9, please. Page 9.



1 Q: As part of your professional responsibility, do
2 you inspect oceanfront properties to determine
3 the location of a critical line? I believe the
4 judge asked something along those lines, and
5 you said, yes, y'all look for vegetation.
6 Could be all different opinions. There's no
7 standard for how it's looked at. And you said
8 to determine if there is two lines of
9 jurisdiction along the oceanfront, there's the
10 baseline and there's the setback line. So, we
11 determine the location of these two lines.

12 A: For the beach/dune system critical area.

13 Q: That's not what it says.

14 A: I mean, that's one response in isolation from
15 a full deposition. I think there's other
16 information in there.

17 Q: It actually reinforces it. I mean, I'm happy
18 to give you the whole thing, you can read it
19 tonight, we can go over this tomorrow again.
20 So, I want to go back to this beaches and
21 dunes, since we keep coming back to it.

22 **MR. REDDY:** This is the statute, I don't have to
23 enter it into anything, right? Okay, good.

24 Q: Coastal -- this is 48-39-10, again, my favorite
25 section, because it sets up the whole document.



1 Coastal waters ---

2 **THE COURT:** What's the number?

3 **MR. REDDY:** 48-39-10, Your Honor.

4 **THE COURT:** I've got it.

5 Q: Coastal waters means -- means, tidelands means,
6 beaches means, primary oceanfront sand dune
7 means, beach/dune system, which is the area, it
8 does not say beach/dune system means. It's
9 just defining a geographic area for two defined
10 terms right above it. So, coastal waters is
11 letter F, tidelands is letter G, beaches letter
12 H, primary ocean dunes letter I, critical area
13 letter J, all of them say, means, means, means,
14 means, means, means, it's a defined term. The
15 General Assembly is trying to tell you what it
16 means. And then it takes two defined terms,
17 combines them together and says, which is,
18 doesn't say beach/dune system means. This is
19 so clear to me, it should be clear to every
20 citizen. It was obviously clear to you till
21 y'all got taken over by the Coastal
22 Conservation League. So ...

23 **MS. PHELAN:** Objection, Your Honor. Is there a
24 question?

25 **MR. REDDY:** You can object if you want.



1 **THE COURT:** Well, she's objecting because you
2 haven't got to a question yet. So, your
3 purpose here is to ask him questions.

4 **MR. REDDY:** I will.

5 **THE COURT:** And you'll get a closing argument later
6 on.

7 **MR. REDDY:** I will.

8 **THE COURT:** If you wish.

9 **MR. REDDY:** I will ask him questions, Your Honor.
10 It is my pleasure to ask him questions.

11 Q: So, now that we've gone over that the
12 definitions each say means, beach/dune says --
13 doesn't say means, it says which is, so it's
14 taking two defined terms and just defining
15 geographic boundary; it's defining to comply
16 with 48-39-60, which is the -- which is --
17 which says that you cannot in any way be a part
18 of taking and the Constitution. And that's the
19 way y'all have done it. I want to go back to
20 your testimony from this morning. So, we -- we
21 did little wishy washy stuff here. So, I'm
22 gonna be more clear. Prior to 2023, prior to
23 this, attack on which I brought up a different
24 treatment of me, what was the case you cited
25 that y'all actually went back behind the



1 setback line?

2 A: Are you referring to Hilton Head?

3 Q: No, I'm not ---

4 A: Summer House.

5 Q: You cited some case where you actually enforced
6 this regulation.

7 A: The Summer House case on Isle of Palms in 1998.

8 Q: Correct. So, you have one citation since the
9 beginning of time, and what happened after
10 Summer House in 1999?

11 A: I don't know what you're referring to.

12 Q: Okay, so, maybe I'll refresh your memory. The
13 regulation was changed. The regulation y'all
14 used at Summer House that was kind of loose,
15 you remember that, you need me to go in back
16 and give you the reference for the regulation?

17 A: Yes.

18 Q: Okay. I say, so it is -- I believe it is
19 Regulation 30 H3 or something like that. I
20 don't know all these -- there's so many
21 regulations. It is -- it is a mind numbing
22 process. Certainly, it's not citizen friendly.

23 **MR. REDDY:** Excuse me, Your Honor, sorry to take so
24 long.

25 Q: Regulation 30 R. 30-N, as in Nancy, 3A. Y'all



1 changed that in 2024, remember, where you
2 removed no non-erosion control structures and
3 devices allowed seaward of the setback line.
4 That's what it used to say. That's what y'all
5 said applied to me. 'Cause that's the only
6 thing that was in effect then. Then ---

7 **THE COURT:** What was that regulation number again?

8 **MR. REDDY:** 30-N3A.

9 Q: So, then there is the one that y'all changed,
10 R. 30-21-H(3), I believe it's Joint Exhibit
11 218. While they do that, we can keep going.
12 I actually asked about ---

13 **(Joint Exhibit Number 218 was referenced at this**
14 **time.)**

15 **THE COURT:** Are you asking him a question about
16 that?

17 **MR. REDDY:** Yes, yes. No, not about that. I'm just
18 gonna ask ---

19 **THE COURT:** Oh, okay.

20 **MR. REDDY:** --- something else while I guess they're
21 pulling it up.

22 Q: I actually asked about that. I said, what
23 happened at Summer House? Because it seemed
24 like the agency stepped beyond a line, beyond
25 the setback line. You know why I asked that



1 question? Because I bought two properties.
2 Two. 120 Ocean Boulevard and 118 Ocean
3 Boulevard, subsequent to that in 2010 and then
4 later on in 2014. And in doing that, one of --
5 I'm a -- I'm a big Constitution guy. And I
6 wanted to make sure that my property was going
7 to be protected. And I said -- I actually
8 looked at it, and I said, whoa, what's going on
9 with that?

10 **OBJECTION:**

11 **MS. PHELAN:** Your Honor, objection. He's
12 testifying. He's not asking questions. He
13 hasn't ---

14 **MR. REDDY:** I'm going to ask a question. I'm giving
15 him some context.

16 **Q:** So, my question is ---

17 **THE COURT:** I'll let him go a little further.

18 **MR. REDDY:** Y'all found it yet?

19 **(Off the record discussion - IT issue.)**

20 **THE COURT:** If I could make it quicker for
21 everybody, he was citing 30-21.

22 **MR. REDDY:** 30-21-H. You found it, Your Honor?

23 **THE COURT:** I'm there.

24 **MR. REDDY:** You must be a technical expert. You
25 must be. I used to use a Blackberry two years



1 ago. 21-H(3). It's toward the end.

2 Can we keep going along with the questions,
3 Your Honor, to move along? I don't want to
4 take up all afternoon with this.

5 Q: Matt, while they're doing all of this, can you
6 tell me, once you designate something as a
7 beach, I think you testified earlier that you
8 can only use beach compatible material,
9 correct, to do anything, until someone spots
10 some vegetation?

11 A: There's certain activities that would be
12 allowed within that critical area.

13 Q: Give me an example.

14 A: Placement of beach compatible sand, which we've
15 already talked about, installation of sand
16 fencing, planting of native dune vegetation,
17 installation of a dune walkover structure,
18 which would be exempt from permitting, and
19 there may be others.

20 Q: Basically putting sand. So, let me ask you,
21 earlier, I think it was Joint Exhibit 90 was
22 put up earlier this morning, you were shown my
23 house, and then you were showing beautiful blue
24 umbrellas being set up at the house next door.
25 Remember that exhibit?



1 A: I do.

2 Q: Do I need to pull it up?

3 A: I remember it.

4 Q: You remember it. Excellent. You know that
5 next house, I built it. So, I know something
6 about that house. You know what used to be
7 there where the blue umbrellas and chairs were?
8 You remember used to -- used to be there before
9 the storms and stuff like that? Do you
10 remember?

11 A: I'll let you tell me since you owned the
12 property.

13 Q: It's a beautiful putting green, a fountain, a
14 beautiful fence, and my neighbor's dog, that
15 would run around all over there. Remember
16 that? Do you remember the fountain and the
17 putting green?

18 A: Yes.

19 Q: So, that was private property. What happened?
20 Well, whatever this policies are following, we
21 now have beach chairs and dirty diapers in
22 there. Did she get paid for it? No, sir. How
23 is that possible in America? This America
24 we're in?

25 A: Yes.



1 Q: Okay. Good. Starting to worry about it. So,
2 I want to go back to a topic since you were
3 involved in it, Hilton Head. You testified
4 that you saw the properties after Matthew, is
5 that correct?

6 A: Yes.

7 Q: What did you see?

8 A: So, we're talking about Piping Plover Road on
9 Hilton Head Island, and after Hurricane
10 Matthew, there were some swimming pools seaward
11 of the houses that had been exposed by the
12 erosion in 2016.

13 Q: Did you go and look for vegetation?

14 A: Back in 2016 there was no request to do
15 anything at those properties, so we did not
16 flag the critical area at that time.

17 **OBJECTION:**

18 **MS. PHELAN:** I'm going to object on the grounds of
19 relevance. It's -- it's not anything to do
20 with the issues in this case that I think what
21 he's trying to do is get pattern and practice
22 evidence in of the Department as one example.

23 **MR. REDDY:** Your Honor, I object to her objection.
24 I'm just trying to say ---

25 **THE COURT:** Just respond to it.



1 **MR. REDDY:** I'm just saying that I have a right of
2 equal protection under the law. I cannot be --
3 you cannot take the same laws that did not
4 change. The lines were not redrawn, the
5 setback line or the baseline since that time
6 frame. The laws have not changed until they
7 did something in '24 which is going to be
8 proved unconstitutional. But the laws that
9 were in place then are the same laws now. I
10 have a right to equal protection under those
11 laws. I have a right to that same equal
12 protection under the 14th Amendment of the U.S.
13 Constitution. They cannot be taking these laws
14 and applying them differently, perhaps, because
15 they don't like me.

16 **THE COURT:** Any response?

17 **MS. PHELAN:** Yes, Your Honor. Equal protection has
18 not been even brought in the request or the
19 pleadings. The other thing is, is this is
20 beyond the scope of direct.

21 **THE COURT:** Well, the cross exam -- there's wide
22 latitude on the cross, so, maybe if we were in
23 the federal courts, you might have a point on
24 that one, but not here. So, the last one I
25 overrule. As far as the equal protection's



1 concerned, he brings the -- I'm going to look
2 of the issues. One of the things -- let me
3 see, one of the issues was unconstitutional,
4 vague. Well, that's not equal protection,
5 you're right. But is the penalty appropriate,
6 and he's talking about equal protection. Would
7 that not be something that we would get into as
8 -- ascertaining whether if something was not a
9 penalty, if something was permitted on Hilton
10 Head, and then now it's not permitted here,
11 that he could challenge that as far as the
12 penalty is concerned?

13 **MS. PHELAN:** Well, as far as the equal protection
14 going to the penalty of the ---

15 **THE COURT:** Go ahead. You're right, he's raising it
16 on the Constitutional law.

17 **MS. PHELAN:** The case of Sunrise Corp. of Myrtle
18 Beach v. City of Myrtle Beach says that if
19 disparate treatment alone was sufficient to
20 support a constitutional remedy, then every
21 mistake of a zoning board in which the board
22 mistakenly treated an individual differently
23 from another similarly situated applicant will
24 rise to the level of a federal constitutional
25 claim. And I don't think that ---



1 **THE COURT:** Well, I agree with you on that, but that
2 concept of whether or not there was a --
3 whether the Department has the right to
4 determine a violation. But you still -- a
5 litigant still has the right to express or
6 present evidence as far as unequal treatment
7 regarding the penalty that's concerned. Now,
8 y'all can correct me if I'm -- if I'm wrong on
9 that. That's how I'm -- how I remember it. I
10 tell you what, while y'all converse -- Ms.
11 Lenhardt, you good? Looks like you were going
12 to object too?

13 **MS. LENHARDT:** Well, we were going to join in the
14 objection based on ---

15 **THE COURT:** Oh, okay.

16 **MS. LENHARDT:** --- same grounds, and just point out
17 that the relevant -- the definition of
18 relevance, is that any evidence having any
19 tendency to make the existence of any fact of
20 the ---

21 **THE COURT:** Is a consequence of the determination
22 more probable ---

23 **MS. LENHARDT:** More probable or less probable than
24 it would be.

25 **THE COURT:** More or less probable to be true.



1 **MS. LENHARDT:** Yeah, the evidence. We don't think
2 this is a consequential one -- one off, one --
3 one matter that was not rel- -- not -- not
4 related to his property, his ---

5 **THE COURT:** All right. I'm going to overrule at
6 this point.

7 **MR. REDDY:** Your Honor, I ...

8 **THE COURT:** I've overruled the objection, so you
9 won. The only thing you can do now is mess it
10 up.

11 (Laughter)

12 **MR. REDDY:** Yeah, I've shown that I can do that,
13 Your Honor.

14 **THE COURT:** Go ahead. You can proceed with your
15 question.

16 Q: So, my question is pretty straightforward.
17 There was a washout. You're talking about
18 periodic. They count storms -- named storms as
19 periodic, which is a separate issue, but they
20 do, so you're talking about a massive washout.
21 Two separate hurricanes all the way back.

22 **MR. REDDY:** And it really breaks my heart, Your
23 Honor, that they will not look for vegetation.

24 Q: It's actually in that same deposition where you
25 say you did not.



1 **THE COURT:** Was there a question in there?

2 **MR. REDDY:** Yeah.

3 Q: I'm asking you, why not?

4 A: After Hurricane Matthew?

5 Q: Matthew, Irma, both. They were washed out
6 twice.

7 A: I'll provide some clarity for Your Honor
8 regarding the Piping Plover situation. So,
9 back in 2018, early 2018, I had recently come
10 back to the Department, January 2nd, 2018, is
11 when I come back as a Beachfront Project
12 Manager. And there was already discussions
13 from these Piping Plover property owners on
14 Hilton Head with another project manager who
15 was handling that situation. Had met on site,
16 done a site visit with these property owners,
17 had discussions with them about where they
18 could install an erosion control structure.
19 When I came on board, my understanding was that
20 the guidance those folks received was that they
21 had to be landward of OCRM's jurisdiction.
22 That was clearly landward of the setback line,
23 which is where a structure was built. It was
24 supposed to also be landward of beaches
25 critical area, that was my understanding.



1 However, I think photos have shown that where
2 that structure was installed was beaches
3 critical area. It was a mistake by the
4 Department that we frankly missed. So,
5 comparing Piping Plover to this situation is
6 different in several ways, but one of them is
7 the fact that the Department simply missed that
8 one. It fell through the cracks.

9 **MR. REDDY:** Your Honor, this is not true. I would
10 like to introduce -- I'll show it to them, I'll
11 do whatever, Exhibit number 45. How do I do
12 that?

13 **MS. PHELAN:** Mr. Reddy, we have ---

14 **MR. REDDY:** You have it?

15 **MS. PHELAN:** --- just a certain number. We have
16 that one.

17 Q: Do you have 45?

18 A: I'm looking for it.

19 **COURT REPORTER:** Just for clarity of your record, do
20 you mean Respondent's Exhibit 45 ---

21 **MR. REDDY:** Correct.

22 **COURT REPORTER:** --- or Joint Exhibit 45?

23 **MR. REDDY:** It's Respondent's Exhibit 45.

24 **COURT REPORTER:** Thank you.

25 **MR. REDDY:** Thank you. What's your name? You're



1 very nice.

2 **COURT REPORTER:** Amanda. Thank you.

3 Q: You got it, Matt?

4 A: This is a different -- Joint 45 is different
5 from what ---

6 Q: No, I'm sorry. That was Respondent's Exhibit,
7 that's why she was clarifying.

8 A: I don't have that here.

9 Q: Where do I find that?

10 **THE COURT:** It's on the screen, I think.

11 Q: It's on the screen. I'd like to scroll to the
12 bottom if you can.

13 **(Respondent's Exhibit Number 45 was referenced at
14 this time.)**

15 **MR. REDDY:** So, he's -- he received these emails.

16 **THE COURT:** Well, they've got to be able to look at
17 it first. Do y'all -- do y'all -- have y'all
18 seen the exhibit?

19 **MS. PHELAN:** We have seen this -- this -- this one.

20 **THE COURT:** Okay. Go ahead.

21 **MR. REDDY:** He's a party opponent and the email is
22 from him.

23 **THE COURT:** Okay.

24 Q: So, I'd like to go all the way back, Matt, all
25 the way back. I'm going to start from the



1 back. It says this is from Rocky Browder at
2 Hilton Head. It says, Matt ---

3 **MS. LENHARDT:** Your Honor, he hasn't offered this as
4 an exhibit. I don't think he can publish it.
5 I don't want him to be publishing it. There's
6 no -- there's no foundation, there's hasn't
7 been any foundation.

8 **THE COURT:** You have to lay a foundation.

9 **MR. REDDY:** I am gonna lay a foundation. I'm gonna
10 say that he's contradicting himself.

11 **THE COURT:** Well, you have to lay a foundation to
12 admit the exhibit.

13 **MR. REDDY:** Okay. The foundation to admit the
14 exhibit is that Mr. Slagel, the witness, is
15 contradicting himself in his testimony. And
16 the way he's contradicting himself is he's ---

17 **THE COURT:** Well, there's a phrase in the law called
18 authenticating ---

19 **MR. REDDY:** Ah, authenticating.

20 **THE COURT:** --- the exhibit.

21 **MR. REDDY:** Okay.

22 **THE COURT:** We have to authenticate it before we can
23 admit it.

24 **MR. REDDY:** Yes, Your Honor. So, can I authenticate
25 it given that this email was written by him?



1 **THE COURT:** You can ask him questions about that in
2 order to authenticate it.

3 **MR. REDDY:** Ask him questions?

4 **THE COURT:** Yes.

5 Q: I would like to authenticate this email that
6 you wrote.

7 A: May I see it?

8 **MR. REDDY:** Give him a clean copy.

9 Q: You can have it.

10 **MR. CHURDAR:** What Bates number, on the bottom
11 right-hand corner?

12 **MR. REDDY:** The Bates number, is that the BCM?

13 **MS. LENHARDT:** Yes.

14 **MR. REDDY:** 020030.

15 Q: Oh, here you go, Matt. Sorry, I'll give you a
16 clean copy.

17 A: If the question is, are these emails from or to
18 me, they are.

19 Q: Thank you. So, I'm gonna read them out. This
20 is an email written to ---

21 **MS. LENHARDT:** Your Honor, he hasn't offered the
22 exhibit, and I have several objections to that
23 -- to it.

24 **THE COURT:** All right. Do you wish to offer this
25 into evidence?



1 **MR. REDDY:** I do intend to offer it into evidence,
2 yes.

3 **THE COURT:** All right.

4 **OBJECTION:**

5 **MS. LENHARDT:** First of all, Your Honor, it's a
6 string of emails, some of -- some of which are
7 sent, you know, from Matt. All of that's still
8 hearsay, the entire email chain is hearsay.
9 But there are also emails from Bert Ellis, who
10 is a named defendant in the Hilton Head case,
11 is not affiliated with anybody in this room,
12 any party to this case. So, I think anything
13 from Rocky Browder, who was not a -- an
14 employee, or was not an employee of BCM at the
15 time these emails were sent, so on the grounds
16 of hearsay and -- hearsay.

17 **THE COURT:** Well, could he not -- he can ask him
18 about these questions, the statements in the
19 exhibit without offering it into evidence
20 because it's an admission of a party opponent,
21 and that would avoid the issue of ---

22 **MS. LENHARDT:** What he -- what he ---

23 **THE COURT:** --- the other person.

24 **MS. LENHARDT:** Yes, Your Honor. What he said, is he
25 asked him about -- but he was about to read the



1 entire chain ---

2 **THE COURT:** Yeah.

3 **MS. LENHARDT:** --- and there are chains from people
4 who are not parties to this case.

5 **THE COURT:** Did you hear that?

6 **MR. REDDY:** I heard that. So, I will just read -- I
7 don't know why they're objecting, Your Honor.
8 We didn't object to any of theirs. What are
9 they hiding? Why are they hiding stuff? Why
10 do they keep objecting to all this stuff?

11 **THE COURT:** They have a right to object.

12 **MR. REDDY:** You have to ask yourself, if you're
13 objecting, you're hiding stuff. I haven't
14 objected to anything. We enter all of their
15 exhibits into the email. So, I will only read
16 what Matt Slagel wrote.

17 **THE COURT:** Okay.

18 Q: So, Mr. Slagel, I'm going to ask you if you
19 wrote this, and if this is true, "Is there an
20 aerial photo, site map, or something similar
21 for the area that one of you could email me?
22 I need to see where the bulkhead will be
23 installed in relation to the" DC -- "DHEC-OCRM
24 setback line". That sound like all this hokey
25 pokey stuff you're talking about, critical



1 area, Beach Critical Area, some other critical
2 area. It says, "Is there a photo, site map, or
3 something similar for the area that one" --
4 "one of you could email me? I need to see
5 where the bulkhead will be installed in
6 relation to the DHEC-OCRM setback line". Does
7 that sound like a mistake?

8 A: That is not a mistake. That's in reference to
9 the beach/dune system critical area. So, when
10 you're standing out on a property, you don't
11 know where the baseline is or the setback line
12 is until it's actually surveyed and shown on a
13 drawing. Trent Shaw in our Beaufort office,
14 who did the site visits that I referenced, he
15 was out there with property owners to point out
16 where the wall could be installed in relation
17 to beaches critical area.

18 MR. REDDY: Your Honor, I'd like to offer Mr. Trent
19 Shaw's deposition into the record, he's once
20 again misrepresenting.

21 **OBJECTION:**

22 MS. PHELAN: Objection.

23 MR. REDDY: Why are they lying, Your honor?

24 THE COURT: Sir, don't accuse them of lying.
25 They're ---



1 **MR. REDDY:** Well, they are.

2 **THE COURT:** They have a right to object.

3 **MR. REDDY:** I have Mr. Trent Shaw's deposition right
4 here.

5 **THE COURT:** Well, they have a right to object. And
6 we make ---

7 **MR. REDDY:** Why?

8 **THE COURT:** --- decisions on the Rules of Evidence.

9 **MR. REDDY:** Okay.

10 **THE COURT:** So, and I'm going to follow the Rules of
11 Evidence because I'm required by law to do so.
12 So, what is the grounds of your objection?

13 **MS. LENHARDT:** Well, as an initial matter, Your
14 Honor, if he's offering a deposition, that Rule
15 32(b) requires a party to offer designations to
16 the Court and exchange with parties at least
17 one day before they intend to offer it. That's
18 not occurred. He didn't file anything with
19 you. Didn't provide us with any excerpts. So,
20 he's failed to comply with that rule. It's
21 also hearsay. And also we object on relevance.
22 Hasn't -- foundation. I mean, I don't know
23 that Mr. Shaw has even been employed by ---

24 **THE COURT:** I don't think -- 'cause the deposition
25 is not of him, right?



1 **MS. LENHARDT:** He's -- he's identified it as Trent
2 Shaw.

3 **THE COURT:** That's what I'm getting at.

4 **MS. LENHARDT:** Yeah.

5 **MS. PHELAN:** Trent Shaw's no longer at the
6 Department. And this is not in this case. The
7 deposition wasn't taken in this case, so, we
8 didn't have the opportunity to examine Trent
9 Shaw with the issues of this case in mind.

10 **MR. REDDY:** Your Honor, he is saying what he ---

11 **THE COURT:** Wait -- let her finish.

12 **MS. PHELAN:** I think it would be unfairly
13 prejudicial at this point, especially given the
14 lack of notice, and it is in a different case.

15 **MS. LENHARDT:** And these were a set of documents
16 that we were -- that were received after the
17 close of the discovery period. Some of the --
18 some of the documents we've been discussing
19 were provided in discovery, and then these
20 depositions happened and we were able to
21 question witnesses about those. This was not
22 obtained through the discovery process, but
23 from FOIA. And it happened after the close of
24 discovery. So, we haven't had an opportunity
25 to ask or inquire as to what any of these



1 witnesses would say.

2 **MR. REDDY:** Your Honor, there were 30,000 pages of
3 discovery provided, including broccoli being
4 chopped on a kitchen table. And then we found
5 that a lot of the Hilton Head information was
6 not -- was being withheld. So, our lawyers,
7 instead of doing what they did, which is filing
8 sanctions against me because we were a few days
9 late, if Your Honor might recall, they simply
10 made a FOIA request to get the rest of the
11 Hilton Head. All of this stuff is in the file.
12 They're familiar with it. But my point is,
13 this witness just quoted Mr. Trent Shaw, and
14 what Mr. Trent Shaw says, which directly
15 contradicts what Mr. Trent Shaw said.

16 **MS. PHELAN:** Your Honor, this -- this deposition of
17 Trent Shaw, he was a project manager at the
18 time, and he was not a 30(b)(6) deposition of
19 the Department.

20 **THE COURT:** We're getting further afield here is my
21 problem. Hold on a second. You're not
22 impeaching him on a statement that he made.
23 You're impeaching him on a statement he made
24 about someone else, correct? That -- you're
25 impeaching him about the statement that he said



1 someone else said, correct?

2 **MR. REDDY:** He claimed Mr. Trent Shaw was involved
3 in handing the project off to him, and that Mr.
4 -- he also testified he made a mistake, that's
5 what he's been saying, even though the mistake,
6 Your Honor, went -- supposedly went on for
7 seven months with multiple DHEC people up there
8 inspecting and all, you still -- they're still
9 saying it's a mistake. What I'm saying is Mr.
10 Trent Shaw was involved with this. Mr. Trent
11 Shaw said the exact same thing he said to the
12 homeowners, and he is denying it, saying this
13 was because he made a mistake, because he was
14 new. I'm saying that has not been the position
15 of the Department.

16 **THE COURT:** I'll let you question him about the
17 statement that he just made, and then I'll
18 determine what my ruling will be.

19 **Q:** So, Matt, are you saying that you made a
20 mistake in Piping Plover even though the
21 preliminary plans were submitted in February,
22 the email I read to you with final plans were
23 submitted in March, your response to that was
24 no further approvals are required from this
25 Department. You were copied on several



1 communications on this for months. And the
2 wall, this is a real seawall, not my little
3 retaining wall with the whatever, went in in
4 August. So, from March to August, with 4,000
5 people in this Department, several people going
6 out there, several people inspecting it, all of
7 it, which -- which is in this -- these
8 documentations, you say the Department made a
9 mistake. And I'll remind you, you're under
10 oath.

11 A: I know that I'm under oath. Yes, the
12 Department made a mistake in that matter.

13 Q: Okay.

14 **MR. REDDY:** So, Your Honor, what happened after
15 that, to continue to show how long this mistake
16 went, I will continue that line of questioning.

17 Q: So, what happened after that -- what happened
18 to the homeowners after you made the mistake?

19 A: It became evident that the amount of land
20 disturbance that was being done exceeded what
21 would be allowable under a NPDES, that's
22 National Pollution Discharge Elimination
23 System, a storm water permit. So, that would
24 have triggered a coastal zone consistency
25 certification, and the lack of those things



1 went into the Bureau of Water's compliance and
2 enforcement process.

3 Q: Thank you. You say it became evident. How did
4 it become evident?

5 A: Through measurements and site visits that I
6 wasn't a part of.

7 Q: What if I told you that it became evident
8 because the Coastal Conservation League wrote a
9 letter to DHEC and said that DHEC should have
10 required all kinds of permit and critical area
11 permits, even behind the setback line? Were
12 you aware of that?

13 A: I think I've seen that, yes.

14 Q: You've seen that.

15 A: I don't know if that was the first, you know,
16 time ---

17 Q: So, tell me what ---

18 A: --- the Department became aware of the issue.

19 Q: Okay. Sir, what else are you aware of there?
20 Are you aware of whatever -- what all
21 transpired after that where Coastal
22 Conservation League said they should have gone
23 after them? What happened after that? Were
24 you involved in any of that? You -- because
25 your title was critical area permitting



1 specialist.

2 A: I think it was Beachfront Project Manager at
3 that time.

4 Q: It's got a different title for you here, but
5 it's okay. That's okay. I know how these big
6 bureaucracies are. I used to work for Exxon.

7 **COURT REPORTER:** You used to work for who? I'm
8 sorry.

9 **MR. REDDY:** Exxon.

10 **COURT REPORTER:** Thank you.

11 A: What is your question?

12 Q: My question is, how long after you found it was
13 a mistake, so you found it was a mistake that
14 you approved it, and you felt like Trent Shaw
15 gave them different directions; you were new,
16 and, therefore, you made a mistake, even
17 though, like I said, Trent Shaw contradicts
18 that; he gave them the same advice you did.
19 Then this wall gets built six months after
20 March when the plans were submitted to you.
21 The wall gets built in August, April, May,
22 June, July, August. Wall goes in. You just
23 testified that you were not aware that the
24 Coastal Conservation League is a taxpayer
25 subsidized dollars from all of us, you're not



1 aware of the fact that they wrote a letter to
2 DHEC, is that your testimony?

3 A: That's not my testimony. What I said was, I
4 don't know if that was, like, the first
5 communication, or the first way that the
6 Department became aware. I don't know if that
7 was through the Coastal Conservation League.
8 I know that they got involved in the matter,
9 yes.

10 Q: It was. The history's there. So, then what
11 happened after the Coastal Conservation League
12 sent this nasty letter? Were you involved
13 after that as to what happened with the
14 homeowners?

15 A: Once it went into the land disturbance coastal
16 zone consistency review, no, I was not involved
17 in that.

18 Q: So, none of these people, your entire
19 Department, Coastal Conservation League writes
20 this scathing letter, your entire Department at
21 that point still didn't say, whoops, we made a
22 mistake because we didn't require a critical
23 area permit, because it's in beaches, more
24 beaches than mine ever was. And y'all said,
25 no, we're not gonna correct the mistake. So,



1 what did they do? What was the consent
2 agreement signed I believe by the same Myra
3 Reese, what did it -- what did it say? Are you
4 aware of that?

5 A: I'm aware there is a consent agreement, but I
6 was not involved in that.

7 Q: Do you know -- did it accuse them of any
8 violations, you know, since the mistake must
9 have been found by them? What -- did it accuse
10 them of any violations of the critical area
11 behind the setback line, telling them they
12 should have gotten a critical area permit?

13 A: I'm not sure what those facts that were
14 presented to them.

15 Q: You're not aware of that. Would it help you if
16 I gave you documents to refresh your memory or
17 you were not involved in it at all?

18 A: I was not involved in that.

19 Q: Okay. Do you know if that wall is still
20 standing?

21 A: It's -- I believe it's buried at those
22 properties, but it is still there.

23 Q: You mean, it got buried, or they buried it when
24 they built it?

25 A: I don't know which. I just know that it's



1 currently covered with sand.

2 Q: They covered it right after they built it, and
3 it's still standing, 30 feet deep in the sand.

4 **THE COURT:** You can ask questions, but this is not
5 your time to testify.

6 **MR. REDDY:** Okay.

7 Q: So, after that time, after that point in time
8 that you found you made a mistake, to your
9 knowledge, the Department never corrected that
10 mistake?

11 A: To my knowledge, that's correct.

12 Q: Okay, good. So, I want to mix things up a
13 little bit and get a little boring here. What
14 is your opinion of scraping?

15 A: That it's allowable in an emergency situation
16 when erosion's within 20 feet of a house. When
17 I say it's allowable, it's -- it's within the
18 regulations that allows a property owner to
19 scrape sand from the beach to provide temporary
20 protection.

21 Q: What do you think it does? What do you think
22 it does when you scrape? Do you -- do you --
23 do you recommend it?

24 A: Like I said, it's allowable. But what it does,
25 it allows a bulldozer or an excavator to go one



1 foot below grade on the beach, and remove that
2 amount of sand from the beach, thereby lowering
3 that elevation potentially, and pushing it up
4 in front of houses to protect them.

5 Q: Do you think it brings the water in?

6 A: I think that by lowering the beach elevation,
7 it can allow for water to reach farther up the
8 beach.

9 Q: So, as an expert, and you were very well
10 qualified -- by the -- by the way, I didn't
11 know you were -- you had so many degrees, very,
12 very, very impressive. So, if you were in
13 charge of this group, how much scraping would
14 you allow, if you were to come up with
15 something saying, okay, it's emergency. You
16 already designated as emergency. How long do
17 you think -- knowing -- like you said, it
18 damages the beach, you got heavy equipment
19 doing all that kind of stuff, how long would
20 you say reasonable to have an emergency?

21 A: I think it totally depends on the site
22 conditions. If the purpose of the scraping is
23 to provide protection for houses and other, you
24 know, structures or infrastructure, you have to
25 weigh the pros and cons of -- of that. You



1 know, at what expense do you try to protect
2 what's there?

3 Q: Have y'all ever looked at other states, like,
4 what other states do, or y'all all just sit in
5 a room and figure it out yourself?

6 A: We implement the regulations that we have in
7 this State. But we do -- you know, we are
8 curious, and we work with other coastal states
9 on various issues.

10 Q: I'm just curious about this thing because, you
11 know, I -- we had to go through emergency
12 training at Exxon, especially after a guy put
13 the ship on the rocks, so, my -- when we did
14 emergencies, there was a -- only a certain
15 amount of time we were allowed to use
16 emergencies. Are you allowed to use
17 emergencies indefinitely?

18 A: You're allowed to use those emergency order
19 options when a structure remains imminently
20 threatened, when erosion's within 20 feet.
21 Hopefully, during that time frame, there's a
22 longer term solution that's being worked on.

23 Q: I agree with that. Do you know what the state
24 of Massachusetts does with emergency scrapings?

25 A: I don't.



1 Q: Would you be surprised if I told you they ban
2 it?

3 A: I wouldn't be surprised, no.

4 Q: Would you be surprised if I told you that
5 straight from the mouth of Governor DeSantis,
6 he said, allows it for two days?

7 A: I don't know what Florida's regulations are on
8 scraping.

9 **OBJECTION:**

10 **MS. PHELAN:** Object to the form. I think on hearsay
11 ---

12 **THE COURT:** Well, I'm not sure it's relevant either.

13 **MS. PHELAN:** --- and relevance.

14 **THE COURT:** We have to apply our law.

15 **MR. REDDY:** Your Honor, I'm trying to figure out
16 emergency scraping. Is there any limit to an
17 emergency knowing that it damages the beach,
18 that it's digging up, you know, compacted sand.
19 I mean, a child then, 12 year-old, was saying,
20 Daddy, why they digging the beach all the time.
21 The water -- it's gonna bring the water in.

22 **THE COURT:** How is that relevant to ---

23 **MR. REDDY:** I'm just asking if there's a limit to
24 emergency scraping. So, where it's relevant is
25 the next question.



1 **THE COURT:** Well, let's get to that question.

2 **OBJECTION:**

3 **MS. PHELAN:** And I would object to what he just said
4 based on that's -- that's completely expert
5 opinion testimony that he just gave that he's
6 not qualified to.

7 **THE COURT:** He's not under oath right not ---

8 **MS. PHELAN:** Right.

9 **THE COURT:** --- so ---

10 **MS. PHELAN:** But he should be asking questions.

11 **THE COURT:** I'll remind you again, we gotta keep
12 this case moving, so, it's gotta be a Q and A.

13 **MR. REDDY:** It's gonna move really fast, Your Honor.

14 **THE COURT:** Okay.

15 Q: What is the limit of the emergency scraping you
16 allow on the beach?

17 A: It's one foot below the grade.

18 Q: Do you oversee it?

19 A: We're not out there sort of 24/7 as they're
20 doing those activities. Like a lot of the
21 coastal programs work, we receive complaints
22 from property owners that are out there and
23 observe things and let us know when there might
24 be a problem.

25 Q: Did you ever give the City cease and desist



1 orders for not complying with your regulations?

2 A: I don't recall if we gave -- issued formal
3 documents. I know that we had conversations
4 with the City about talking to their contractor
5 about trying to make sure that they comply with
6 the terms of the emergency order for scraping.

7 Q: Do you -- is it not also your policy, and you
8 can stop me if I'm wrong, that you're only
9 allowed to scrape once per permit?

10 A: Per issued emergency order.

11 Q: Per issued emergency order, just one scraping?

12 A: Correct.

13 Q: So, were you aware of the fact that on those
14 beaches, they were scraping two and three times
15 in a 24-hour period? Are you aware of them
16 seeking two and three permits per day?

17 A: We became aware of that and talked with the
18 City about that issue, and part of it comes
19 down to managing these erosion events. So,
20 when that scraped sand is eroded away at the
21 next high tide and that house is threatened
22 again ---

23 Q: Yeah.

24 A: --- what is the City to do? So, the City --
25 I'm not testifying for the City, they're not



1 here, but they were in the position of trying
2 to manage these erosion events as they were
3 occurring.

4 Q: So, I -- do you not think -- in some of your
5 testimony this morning, it seemed the entire
6 testimony was around, you know, the waves
7 coming up, how high they were coming, what they
8 were doing, so on and so forth. So, my
9 question is, who has the responsibility to
10 maintain a public beach, number one? Number
11 two, do you not think it's a responsibility of
12 some government entity to maintain a dune on a
13 public beach? And number three, when is the
14 last time that you recall that any new sand was
15 put on those beaches -- my southern beaches?

16 A: So ---

17 **OBJECTION:**

18 **MS. PHELAN:** Objection to form.

19 **THE COURT:** Well, there's a ---

20 **MS. PHELAN:** Compound.

21 **THE COURT:** --- objection called compound question.

22 Your question was compound by the very nature
23 of the fact that you went 1, 2, 3. So, you can
24 ask that question, but you need ---

25 **MR. REDDY:** Break them up.



1 **THE COURT:** Yes, sir. Well, I'm saying -- I don't
2 know if they're going to object to parts of it,
3 so, you can ask it 1, 2, 3 that way.

4 **Q:** Do you -- do you recall -- would you issue a
5 permit for a major renourishment on those
6 beaches? Would you be involved in it?

7 **A:** Yes.

8 **Q:** Do you know when a major renourishment of any
9 kind with new sand, not scraped sand -- would
10 you agree that scrape sand is not in beach
11 management considered renourishment?

12 **A:** Yes.

13 **Q:** So, when was new sand put on that beach of any
14 consequence?

15 **A:** From an offshore site, like an offshore
16 dredged, large scale project, I'm not aware
17 that it ever has. And then the City of Isle of
18 Palms trucked in some level of new sand in 2023
19 from an inland sand mine.

20 **Q:** Are you aware of the fact they applied for a
21 permit for new sand from you, which y'all did
22 give them, are you aware of that, the City?

23 **OBJECTION:**

24 **MS. PHELAN:** Objection, relevance, Your Honor.

25 **MR. REDDY:** I'm getting there.



1 **THE COURT:** Well, I'm getting there doesn't make it
2 for me.

3 **MR. REDDY:** Okay.

4 **THE COURT:** What's the relevance? You can just tell
5 me.

6 **MR. REDDY:** The relevance is that unless you put new
7 sand on a beach, you'll never have a beach
8 because erosion is normal, number one. Number
9 two, in 2018 a law was passed saying no more
10 retreat. That was a state law that was passed.
11 And my question is -- was going to what have we
12 done to comply with that law of no more
13 retreat.

14 **THE COURT:** And how is that relevant with this case?

15 **MR. REDDY:** Because if we do not put sand, we will
16 keep retreating, and if we keep retreating,
17 Your Honor, we're facing a no retreat law,
18 which the State simply says, oh, I'm not going
19 to buy a property because I have a no retreat
20 law. And the other hand, these folks over here
21 say, oh, you have a no retreat law. We ain't
22 doing anything about it. So, we're gonna
23 retreat for free. We're gonna take property
24 for free, and we're essentially going to keep
25 the tax base, because I'm paying taxes now for



1 200 feet past my wall.

2 **THE COURT:** But I can't consider the takings part.

3 **MR. REDDY:** You cannot what?

4 **THE COURT:** If they take your property as result of
5 their action.

6 **MR. REDDY:** No, I get it, but I'm asking about
7 retreat, retreat, the 2018 state law and
8 retreat.

9 **MS. PHELAN:** It seems like all of his questions go
10 to the responsibilities of the State, and I
11 just don't see how that is relevant under 401.

12 **MR. REDDY:** Because she said that they want to
13 protect the beaches. Wasn't that the
14 conversation this morning, protecting the
15 beaches by taking private property? That's
16 what they call protection.

17 **THE COURT:** Go ahead.

18 **MS. PHELAN:** This is the Department of Environmental
19 Services, Bureau of Coastal Management, Your
20 Honor, a regulatory agency that are charged
21 with duties under the statute and regulations.
22 And he is arguing things that are way beyond
23 what the agency looks at.

24 **THE COURT:** Well, I'll sustain the objection on this
25 particular area. You need to move on to



1 another subject matter.

2 **MR. REDDY:** Very well, Your Honor. This is a permit
3 signed by the opposing party, can I show it to
4 him?

5 **THE COURT:** Yes, sir.

6 Q: You recognize this permit?

7 **MS. PHELAN:** Exhibit number, please?

8 **MR. REDDY:** 90- -- it's his permit. I'm just asking
9 ---

10 A: Exhibit number?

11 Q: I don't know this.

12 A: 92?

13 **MS. PHELAN:** We don't have 92. Can we see that?

14 **MR. REDDY:** I'm asking him if it's his permit.

15 **THE COURT:** Did you show that to them?

16 **MR. REDDY:** Can I show -- the permit?

17 **THE COURT:** Hold one moment and let them look at it.

18 **(Respondent's Exhibit Number 92 was referenced at**
19 **this time.)**

20 **MR. REDDY:** Your Honor, am I allowed to take advice
21 from my wife?

22 **THE COURT:** Probably wise.

23 **MR. REDDY:** Yeah. She wanted me to say that the
24 relevance from the previous question is more
25 scraping takes more critical area. The more



1 you scrape, the more critical area it takes,
2 because it brings the water in.

3 Q: But anyway, going back to this permit, it
4 doesn't have page numbers, so I'm going to have
5 you maybe flip and I can count if you want, 1,
6 2, 3, 4. I'm reading from page 5.

7 A: Okay.

8 Q: So, page 5 basically says ---

9 A: Can I -- can I see what permit it is? I
10 haven't looked at this.

11 **COURT REPORTER:** So, the one would be brown sticker
12 in the bottom is the actual exhibit, if we
13 could just ensure that it does not get lost in
14 your paperwork.

15 **MR. REDDY:** That's the major Wild Dunes
16 renourishment.

17 A: Okay.

18 Q: Thank you, sir. So page five says ---

19 **MS. LENHARDT:** Your Honor, I don't think he should
20 be publishing the exhibit without offering.

21 **MR. REDDY:** Can I offer this exhibit?

22 **THE COURT:** Well, they're gonna say you haven't laid
23 a foundation. Do you object?

24 **OBJECTION:**

25 **MS. PHELAN:** Yes.



1 **THE COURT:** What grounds?

2 **MS. PHELAN:** Foundation and also relevance. This --
3 this permit has nothing to do with his
4 property.

5 **MS. LENHARDT:** Same.

6 **MR. REDDY:** Can I counter that?

7 **THE COURT:** You can respond to her objection.

8 **MR. REDDY:** The response to her objection is, if
9 this permit had been executed, we would not be
10 in the situation we're in, because 600,000
11 cubic yards of that sand would have gone into
12 my portion of the beach. And it's very
13 specific in determining the area of the beach.

14 **THE COURT:** Any response to that?

15 **MS. PHELAN:** Again, the relevance. I mean, we're
16 here about an Administrative Order that was
17 issued to him to remove his wall because he
18 disregarded the law, and disregarded the
19 Department's authority. What the City of Isle
20 of Palms did under a permit is -- is not
21 related to the issues before the Court today.

22 **MS. LENHARDT:** We -- the League joins in the same
23 objection, and it's not probative to anything
24 included in the five issues that you have
25 identified.



1 **MR. REDDY:** Your Honor ---

2 **THE COURT:** A while ago she quoted -- started
3 quoting, relevant evidence.

4 **MR. REDDY:** And I responded ---

5 **THE COURT:** Listen to me, evidence having any
6 tendency to make the existence of any fact that
7 is a consequence of the determination of the
8 action more or less probable than it would be
9 without the evidence. So, how does that --
10 this evidence make the fact that what you did
11 upon your property less -- less a violation of
12 the law?

13 **MR. REDDY:** Good question. So, Your Honor, first of
14 all, as I will show as we go along, everything
15 I did on my property was not in their area of
16 jurisdiction.

17 **THE COURT:** I understand that argument.

18 **MR. REDDY:** Okay. Secondly, if there is a dune in
19 place, their definition, my definition, the
20 General Assembly's definition, everyone's
21 definition becomes the same. So, my issue is,
22 if they had done their job of keeping -- I've
23 never seen a beach without a dune, but -- and
24 I don't believe the laws were written not to
25 have a dune, but assuming a dune was in place,



1 then the whole definition -- all these
2 definitional things that were argued, about go
3 away, because all of the area is going to be
4 landward -- seaward of that dune. The public's
5 gonna stay seaward of that dune. My property
6 is not gonna keep coming back and back and
7 back, and I'm not gonna be accused of a lot of
8 false things that I'm being accused of.

9 **THE COURT:** What's in your hand right now is a
10 permit application?

11 **MR. REDDY:** It's a permit that took taxpayer money,
12 including my taxpayer money.

13 **THE COURT:** A permit that was granted.

14 **MR. REDDY:** A permit that was granted with a public
15 private partnership between a private entity,
16 Wild Dunes, which is a gated community not
17 considered ---

18 **THE COURT:** And what did that permit authorize?

19 **MR. REDDY:** That permit authorizes 600,000 cubic
20 yards to go in from Breach Inlet, which is
21 three homes down from mine, to 14th Avenue,
22 which means between the -- you're probably not
23 familiar with Charleston, but from -- from the
24 connector to Breach Inlet, which is that entire
25 southern section of the beach that we're



1 talking about right now.

2 **THE COURT:** And you're saying that that wasn't
3 installed?

4 **MR. REDDY:** I was gonna ask him.

5 **THE COURT:** So, if that wasn't installed, is what
6 I'm asking you, then, how would that prove that
7 what you did upon your property was right?

8 **MR. REDDY:** Because if that had been installed, they
9 would -- even their definition would not be any
10 violation. Their definition and my definition
11 will be the same. That would be the beach/dune
12 system at that point would stop at the dune.

13 **MS. PHELAN:** Your Honor, if I may?

14 **THE COURT:** Yes, ma'am.

15 **MS. PHELAN:** Everything he just stated is opinion
16 testimony that would have to be submitted by an
17 expert. He's not named an expert that would
18 even be able to address these issues.

19 **THE COURT:** Well, he would be asking it of your
20 witness, so that would be the line of
21 questioning, whether -- I'm gonna just let him
22 go just for a little bit on this. Y'all -- you
23 can object if it goes a little bit too far, but
24 the struggle I have is under his theory of the
25 case, that from what I understand him arguing,



1 that if the sand had been installed, that
2 jurisdictionally, this would not have been a
3 violation. I think that's what I'm getting
4 here.

5 **MR. REDDY:** That is what you hear.

6 **THE COURT:** So, he can ask that of the witness,
7 now, he may not like the answer that he's going
8 to get, but he can ask, so. Go ahead.

9 **MS. PHELAN:** Yes, Your Honor.

10 Q: Do you work with Steve Traynum, the city
11 engineer?

12 A: Work with him? I've worked ---

13 Q: Meaning ---

14 (Inaudible due to simultaneous speakers.)

15 A: I worked for the state agency, he's a private
16 coastal engineer.

17 Q: Yeah.

18 A: We know each other, and ---

19 Q: Yeah, I'm just saying he has done some analysis
20 on how much sand has been lost on that beach.
21 Are you familiar with any of that?

22 A: Are you referring to monitoring reports after
23 that project that was ---

24 Q: Yeah, yeah, from 2019 till now, how much sand
25 is actually lost from those beaches.



1 A: I don't know the number, but I do know that
2 Coastal Science and Engineering is the, like
3 you said, the kind of hired consultant for the
4 City of Isle of Palms to monitor its beaches.

5 Q: Right. So, in 2019, you were there, right?
6 Were you involved in -- were you involved in
7 the beaches then ---

8 A: Yes.

9 Q: --- in the Isle of Palms beaches? Do you
10 recall there being a dune?

11 A: Where?

12 Q: In that section of the beach, the southern
13 section, from wherever this is saying, 14th ---

14 **THE COURT:** Is this about the area in front of your
15 property or somewhere else?

16 **MR. REDDY:** This is in front of my property.

17 **THE COURT:** Okay. Go ahead.

18 Q: Do you recall ever not having a dune prior to
19 May of '23 in the time that you've been there?

20 A: In the time that I've been there, I think
21 there's always been some form of dune there.

22 Q: Correct.

23 A: Maybe there's been more dunes, a wider dune
24 field, at other times, just depending.

25 Q: Never no dunes, right?



1 A: Not that I can recall.

2 Q: Thank you. Yeah, we've lived there since 2010,
3 and we've never seen no dunes. This 600,000
4 cubic yards going into that area, would you say
5 that's a significant amount of sand?

6 A: Yes.

7 Q: So, I'm going to get cross ways here, but I
8 have the data that says it is greater than the
9 sand that was lost.

10 **THE COURT:** You can ask questions of this witness.

11 **MR. REDDY:** Okay.

12 Q: In your opinion, recognizing you're not an
13 expert, but you're also very familiar with
14 these beaches, as you testified earlier, would
15 600,000 cubic yards going into that section of
16 the beach helped with the beach levels dropping
17 as much as they have?

18 **OBJECTION:**

19 **MS. LENHARDT:** Objection; he's calling for
20 speculation.

21 **MS. PHELAN:** I join in the objection.

22 **THE COURT:** I sustain the objection even based on
23 the way you asked the question, because you
24 said you're not an expert. So, by the fact
25 that you agree that he wasn't an expert, he



1 can't testify as an opinion.

2 **MR. REDDY:** I agree with you, Your Honor, because
3 the reason I wanted to say that is I'm not
4 asking him for -- I was not -- was not going to
5 ask him to say did it increase the height of
6 the beach by four or five or six or seven. I
7 was just asking him a simple question that it's
8 -- which he answered earlier, that it is a
9 substantial amount of sand. And all I was
10 going to say is, if it's a substantial amount
11 of sand, it would have gone towards -- would it
12 have gone towards retreating the water versus
13 retreating the property. Which, by the way, is
14 the goal of the 2018 retreat law.

15 **THE COURT:** That's another question.

16 **MR. REDDY:** Compounding.

17 **THE COURT:** That's a different question.

18 **MR. REDDY:** No more compounding. I won't compound,
19 Your Honor. Sorry. I keep forgetting.

20 **THE COURT:** What I said, though, was that's a
21 different question than what they objected to.

22 **MR. REDDY:** Oh, okay.

23 Q: So, Matt, let me ask you another question, a
24 question a different way. We were told and --
25 about the 2018 law. Are you familiar with the



1 2018 law that was passed?

2 A: Are you referring to the beach preservation
3 policy?

4 Q: Correct.

5 A: Yes.

6 Q: Okay. So, would 600,000 cubic yards going into
7 that section that I just read out to you from
8 the permit, Breach Inlet to 14th Avenue, would
9 it have helped to have retreated the water?

10 **OBJECTION:**

11 **MS. LENHARDT:** Same objection, calls for speculation.

12 **MS. PHELAN:** Join in the objection.

13 Q: Would it have helped?

14 **THE COURT:** Wait. You can answer that question
15 based on your experience as a Department
16 employee but -- and only based upon that, okay.

17 A: Okay. I would just say that anytime that sand
18 is added to the beach, added to this -- the
19 system, that it is beneficial. How that sand
20 -- if it were placed back in 2018, how it would
21 have fared with all the different storms and
22 everything else, that would be speculation. I
23 have no way of knowing that answer.

24 Q: Okay. I'll go with that. I want to address
25 one last issue, which is beach access, before



1 I get to something else. Do you recall what I
2 mentioned -- brought up earlier about us
3 providing access three feet and three feet next
4 to my house?

5 A: I remember you saying that, yes.

6 Q: Would you agree with that?

7 A: I don't know the details of that. I don't --
8 I don't -- just -- I don't disbelieve you.

9 Q: But there is a beach access, right?

10 A: Yes, there is.

11 Q: Right next to my house ---

12 A: Yes.

13 Q: --- goes all the way out to the street.

14 A: Yes.

15 Q: Okay. So, we don't have any problem giving
16 access to the beach because we have a beach
17 access path now. You testified earlier that my
18 wall would restrict access, is that what you
19 said earlier in the morning?

20 A: I don't know if I made a blanket -- a blanket
21 statement like that. I think what I testified
22 to is that at certain times, that it could
23 restrict public access, not -- not all the
24 time.

25 Q: So, what is your theory on that? Is it your



1 theory that I have to give the public access by
2 giving up my property for free every time
3 there's erosion?

4 A: I think there's many reasons that erosion
5 control structures are prohibited along the
6 State's beaches. Public access concerns is one
7 of them, but it's not the only one. So, I
8 think really what the issue comes down to is
9 the alteration of that beaches critical area
10 without a permit.

11 Q: That's not -- that wasn't my question. Are you
12 aware of the public trust doctrine in terms of
13 access, what it says?

14 A: I'm not an attorney. The public trust doctrine
15 is -- I mean, I'm aware of the public trust
16 doctrine.

17 Q: So, the public -- I'm gonna -- I've got a
18 statute here, had it in my hand earlier,
19 where'd I put it?

20 **MR. REDDY:** So much of paperwork, Your Honor, it's
21 driving me crazy. Not used to it.

22 Q: So, the statute actually addresses this -- this
23 point, I believe. Going to go to 48-39-120(B).
24 That's what I'm reading -- do you want a copy
25 or can I read it?



1 **THE COURT:** I can take judicial notice of that.

2 **MR. REDDY:** We good, 120(B)?

3 Q: So, I'm just gonna read it. It says -- the
4 last part -- part of this 120(B) says,
5 "Provided, further, that no person or
6 governmental agency may develop ocean front
7 property accreted by natural forces or as the
8 result of permitted or nonpermitted structures
9 beyond the mean high water mark as it existed
10 at the time the ocean front property was
11 initially developed or subdivided, and such
12 property shall remain the property of the State
13 held in trust for the people of the State."
14 How do you -- what do you get from that, if you
15 were a citizen or anyone else reading the law?

16 A: That based on where mean high water is shown on
17 your plat, that if accretion or building up of
18 the beach occurs seaward of that, that you
19 don't benefit from that in terms of ownership.
20 You don't get to claim that as now yours, that
21 it's still ---

22 Q: And that mean high tide line on this statute is
23 where it was at the time this property was
24 subdivided and, you know, it's obviously filed
25 in the county, and you pay taxes on it. To



1 that point, I'd like to put up the exhibit --
2 Joint Exhibit that shows the ---

3 **MR. REDDY:** I don't use the screen a whole lot, Your
4 Honor, but ---

5 **FEMALE SPEAKER:** Which one?

6 **MR. REDDY:** It's Joint exhibit of the survey, the
7 original survey, which I believe is either 50
8 or 4- -- 48.

9 **THE COURT:** Can I ask you, the statute that you just
10 quoted was 48-39 what?

11 **MR. REDDY:** 48-39 ---

12 **THE COURT:** Oh, 120.

13 **MR. REDDY:** --- 120(B).

14 **THE COURT:** All right. I'm fine.

15 **MR. REDDY:** B as in boy.

16 **THE COURT:** I didn't hear the 1.

17 **MR. REDDY:** So, I'm not good at any of this stuff.
18 Maybe you can point out on that, can y'all
19 point out where the property is and where the
20 mean high tide line is? You can come on out,
21 Renee. You're the best looking person in the
22 whole thing. So, people would be happy to see
23 you.

24 Q: Where's -- where's the property?

25 **(Joint Exhibit Number 48 was referenced at this**



1 time.)

2 **THE COURT:** Hold on. She's not a witness right now?

3 **MR. REDDY:** No, I'm just asking her to point out
4 because I can't point.

5 **THE COURT:** Okay.

6 **MR. REDDY:** My -- my eyesight is ---

7 **THE COURT:** Okay.

8 **MR. REDDY:** You don't want me to be point, I'd be
9 pointing at someone else's house.

10 **THE COURT:** Any objection to her pointing out?

11 **MS. PHELAN:** No, Your Honor.

12 **THE COURT:** All right. Proceed.

13 **MR. REDDY:** Where is -- can you point out the mean
14 high tide line on that picture? Okay. Can you
15 point out where our property is located?

16 Q: So, Matt, would you say that's roughly -- I
17 don't know, because I'm looking at it with bad
18 eyesight, 200-plus feet from my property as
19 platted?

20 **MR. REDDY:** Matt can probably read it. He's young.

21 A: I don't know what the distance is, but it's --
22 mean high water is some distance seaward of
23 your property, sure.

24 Q: So, the way I read the statute -- the way I
25 read the statute, it says that there is



1 platted. That's the way it's filed in
2 Charleston County, that's what I'm paying taxes
3 on. And the State owns the property seaward of
4 that line. And if there's accretion seaward of
5 that line, I can't do -- there's nothing I can
6 do about it. It accrues the benefit of the
7 State, and that's the way I read it. Is that
8 how you understand it?

9 A: That statute that you read, yes, that's my
10 understanding.

11 Q: Okay. Thank you.

12 **MR. REDDY:** So, with -- with that question, I would
13 like to go back and ask to introduce the --
14 these two exhibits, number 71 -- number 71 and
15 71. Any problem introducing those into
16 evidence, Your Honor?

17 **(Respondent's Exhibit Number 71 was was offered into**
18 **evidence.)**

19 **THE COURT:** Any objection?

20 **OBJECTION:**

21 **MS. LENHARDT:** Yes, on relevancy, Your Honor.
22 They're -- they are, looks like, discovery
23 responses that DHEC served in the prior case.

24 **THE COURT:** Not this case?

25 **MS. LENHARDT:** Not this case.



1 **MR. REDDY:** Your Honor, this -- these are the exact
2 same situation that we talked about earlier.
3 This is DHEC, and, if necessary, I'm prepared
4 to put Mr. Brad on the stand as one of the
5 persons writing these -- these responses. DHEC
6 responding to specific questions that are
7 directly relevant to this case where they're
8 asked about, do you have anything to do
9 landward of the setback line. Do you even have
10 the ability to permit landward of the setback
11 line? And their responses are very relevant to
12 this, because I don't know how they can change
13 their responses from one to the next.

14 **THE COURT:** Well, you can't offer that into evidence
15 at this point in time. If you wish to try to
16 impeach the witness, I don't see how that would
17 impeach his testimony. But that's my ruling at
18 this point.

19 **MR. REDDY:** Can I put Mr. Brad on the stand, Your
20 Honor?

21 **THE COURT:** Well, that would be something you'd have
22 to do in your case in chief.

23 **MR. REDDY:** Okay.

24 **Q:** So, I think -- I just now want to respond to
25 some of the things that were brought up this



1 morning, and then we'll be done. So, Matt, I
2 want to start with the whole clay thing we were
3 talking about this morning. I want to go back
4 to the sequence of events. Do you recall when
5 the hurricane happened?

6 A: Late August 2023.

7 Q: Okay. It was August 30th. Do you recall when
8 you called BluTide? I believe you testified
9 the 7th.

10 A: I think I sent a letter to BluTide and to
11 yourself, and then BluTide called me.

12 Q: Did BluTide inform you at any point in time in
13 that conversation that they have been operating
14 under two conditions, one, authorization from
15 the City; two, a request from the City to be
16 done by the end of the week so they can
17 complete the berm, because they needed access
18 to my site, and they were using the same access
19 pass that the City was using to build the berm,
20 and they wanted us -- they said they'll do my
21 berm the last? Did they say anything like that
22 to you?

23 A: Not that I recall, no.

24 Q: Okay. So, you -- there was a picture posted on
25 September 11th, which is a date y'all met at



1 the site, and you saw the picture, which we can
2 put it up again, if you like, but if you recall
3 it, we don't need to put it up, where the City
4 had completed the berm in front of my house and
5 kept going.

6 A: I recall it.

7 Q: You remember that, right? So, are you saying
8 that morning, when you came out there to have
9 the meeting, that we had secretly done
10 something that you didn't know, or did the City
11 inform you? I'm not clear how it could be,
12 because BluTide was operating with a City
13 permit because they were just restoring my
14 yard, they didn't think they needed anything
15 more than a City permit.

16 **OBJECTION:**

17 **MS. PHELAN:** I object, Your Honor.

18 **THE COURT:** What grounds?

19 **MS. PHELAN:** He's not asking a question. He's
20 basically testifying.

21 **MR. REDDY:** Fine, I'll ask the question.

22 **THE COURT:** Yeah, Q and A. Question and answer.

23 Q: So, is it your testimony that on the 7th or 8th
24 -- 7th or 8th, I'm not exactly sure the date of
25 your communication with BluTide, that BluTide



1 never informed you that they had started work
2 early that week under a City permit?

3 A: If they inform me of that, I don't recall it,
4 and they certainly never said, hey, we put clay
5 down at Mr. Reddy's property.

6 Q: Okay. When you arrived on September the 11th
7 at the site, the neighbor was there. You laid
8 out the people who were there, right? All the
9 people that ---

10 A: Your neighbor at 120, Ms. Theresa?

11 Q: Yes, yes. Is it your testimony now that
12 standing there, you had no idea that the work
13 had been done on our property?

14 A: It looked like all that had been done was that
15 it had been graded, like you had cleaned up the
16 escarpment where the artificial turf was messed
17 up and had graded it. But I had no knowledge
18 of there being clay under the sand. That's
19 correct.

20 Q: So, you recall that conversation was recorded,
21 right? It's in discovery.

22 A: Yeah.

23 Q: Did any part of that conversation actually talk
24 about my property or was most of that
25 conversation talking about Theresa's property



1 because she had given the contractor a deposit
2 to do the exact same thing? Theresa is 120
3 Ocean.

4 A: I think it was both. I think -- my
5 understanding was we were talking about both
6 your property with Mr. Appel and you and your
7 wife, and then Theresa's property, as well.

8 Q: So, Mr. Appel, just to clarify the record, he
9 was not representing me. He was representing
10 several homeowners who -- on that section of
11 the beach, including me, but he was the one
12 that was writing the letter. So, you had
13 testified earlier, thought he was representing
14 me. He was actually representing other
15 homeowners. And part of the reason he was
16 there is because of Ms. Theresa, and she asked
17 most of the questions on the putting clay in
18 her yard. Do you remember what your response
19 was?

20 A: To what?

21 Q: To Theresa's question on could she -- could she
22 go ahead with the contract for which she had
23 already paid a deposit down?

24 A: I likely told her that if her plan was to put
25 clay in that area, that she could not proceed.



1 I don't remember what my exact response was.

2 Q: And she said, what do I need to do to fix my
3 yard back, do you remember that?

4 A: I don't. I probably said put down some beach
5 compatible sand.

6 Q: Yeah, but she wanted to put a fence back
7 because of a dog, too. Remember that?

8 A: I don't remember.

9 Q: She lives for her dog. Are you testifying that
10 you did not tell her that they had to complete
11 the City berm, which they were doing that day,
12 and vegetate that berm before she could do work
13 on her yard?

14 A: I'm not disagreeing with you. I think that's
15 what I told her, that it would need to become
16 no longer beaches critical area.

17 Q: Do you recall her asking if the City, who was
18 doing the berm, had a vegetation permit to
19 vegetate the berm?

20 A: I think we discussed that, and I informed her
21 that no, they only had authorization to place
22 sand, that you and her would need separate
23 authorization for vegetation.

24 Q: So, counsel earlier was talking about somehow
25 they keep attributing all kinds of conspiracies



1 to me, but something about we applied for a
2 sand, vegetation permit and all this kind of
3 stuff. Is the sand -- is the sand fencing,
4 vegetation permit the same?

5 A: There's a general permit application that
6 allows those activities. The emergency order
7 for minor renourishment allows those same
8 activities. So, the City was operating under
9 a general permit ---

10 Q: Correct.

11 A: --- for that whole stretch of shoreline ---

12 Q: Correct.

13 A: --- truck in sand. And then you guys, if you
14 wanted to add vegetation and sand fencing, we
15 authorized that through an emergency order
16 after Idalia.

17 Q: And you do not recall -- you -- are you saying
18 you don't remember that the only reason we
19 applied for the permit is because the City had
20 not applied for a permit to vegetate the dune,
21 and you told us we had to individually apply to
22 vegetate the dune? You don't remember that?

23 A: I don't know why you did or didn't apply for,
24 you know, the vegetation or the sand fencing,
25 but that was the situation we were in, is that



1 the installation of those, the vegetation or
2 sand fencing, that that was not authorized yet,
3 so, you would need to apply, which you did
4 correctly.

5 Q: Correct. Yeah. And you don't remember that
6 the reason we applied is because, in that taped
7 conversation, you said we needed a vegetated
8 dune that probably needed to be vegetated for
9 six months, and that the City had not applied
10 For the permit to vegetate a dune they had
11 installed. And if we actually wanted a
12 vegetated dune so she could do whatever the
13 heck she wanted to do to her yard, it needed to
14 be vegetated.

15 A: That's right.

16 Q: Okay. Do you -- you dropped the word active
17 beach a lot of times. I recognize it's a
18 defined term, my favorite word, somewhere in
19 the Coastal Tidelands Act. Do you -- do you --
20 can you share for us, for this Court, how
21 active beach is used in any way, any possible
22 way in jurisdictional language?

23 A: It's referenced specifically in the provisions
24 for special permits for houses seaward of the
25 baseline. So, if someone wants to build a



1 house seaward of the baseline, they have to get
2 a special permit. One of the requirements is
3 that that house cannot be on the primary ocean
4 front sand dune or on the active beach. Our
5 regulations for detached decks have the same
6 language. You cannot be on active beach. So,
7 it is -- it is used in a permitting context.

8 Q: But on the jurisdictional language, these lines
9 we're all talking about, the critical area, the
10 definition of beach, the definition of beach
11 and dunes, tying beach/dune system to 280, 290,
12 tying beach to you finding vegetation. In that
13 -- in those critical area jurisdictional
14 definitions, is active beach used anywhere?

15 A: No.

16 Q: So, can we stop bringing it up? So, the next
17 question is, you say that the day after Idalia,
18 you walk by, there's some beautiful pictures
19 put up there, with a handheld GPS unit, and you
20 marked territory, right? So ---

21 A: The pictures we looked at, just to be clear,
22 were from the City of Isle of Palms right after
23 the storm, and then we came out to this -- to
24 Isle of Palms a few days later.

25 Q: Yeah, I get it. You remember y'all sent me a



1 -- a little drawing many months later, I think
2 in October or whatever, where you claim
3 jurisdiction, there was like a squiggly line
4 where you said that was the eroded escarpment
5 from the storm, and, therefore, that was
6 beaches, and we were not allowed to do
7 anything. You remember that?

8 A: Yes.

9 Q: How many data points did you use for that?

10 A: That individual line from September, it
11 collected many data points along the escarpment
12 at your property.

13 Q: No, I'm not -- I'm sorry; I didn't mean that.
14 Excuse me. Let me -- let me clarify the
15 question. How many periodic inundations went
16 into determining that line?

17 A: That was the extent of the escarpment on that
18 day. But we also had data from June doing the
19 same exercise. We have photos from throughout
20 that time period. So, there was multiple time
21 points.

22 Q: I get it. But that line that was marked, how,
23 again, did you incorporate June and all that?
24 Because it's a very specific line. Was that
25 from one data point or is this your guess of



1 what it might have been if you had incorporated
2 15 data points? Because it wasn't, hmmm, I
3 think the line is there. It was very specific.
4 We'll put it up in a minute. But it has very
5 squiggly lines. And I'm trying to say, I'm an
6 engineer, although I think I'm a fake engineer,
7 because I don't know that much about
8 engineering, but I know that if you draw these
9 lines, and if you're using ten data points, and
10 you're drawing some type of an average or
11 median, or something like that, to get the
12 line, I'm trying to understand. Was it one
13 data point that you used to actually draw that
14 line?

15 A: For that September line, it was data from
16 September, whatever that date was. It was ---

17 Q: September 1st, yeah.

18 A: September 1st.

19 Q: The day afterwards, yeah. And with that one
20 line, it was 1,255 square feet of my property
21 that you said now was Beach Critical Area. So,
22 I'm just trying to figure this thing out, very
23 confusing to people like me who are not
24 engineers. Well, I'm an engineer, but not a
25 good engineer. How do you reconcile periodic



1 inundation with one data point?

2 A: It was periodic inundation that caused that one
3 data point, as you refer to it, to get back to
4 the point that it was on that day in September.

5 Q: Do you have any data that shows prior to August
6 31st other than your pictures of the
7 escarpment, which we'll get to in a second, so
8 I can prove them wrong. But do you have any
9 data that you used in determining this thing to
10 say those lines are Beach Critical Area? How
11 many data points went into that? You can't
12 just draw a line and say, I think it's this and
13 this and this. My understanding of what you're
14 telling me, and you can correct me if I'm
15 wrong, you drew the squiggly line with one data
16 point. I'm an engineer, so you can talk to me
17 like an engineer. Like I said, I'm not a great
18 engineer, but I can understand stuff.

19 A: It was many data points that caused the
20 shoreline to get back to that one point that
21 you're referring to.

22 Q: But that ---

23 A: So, it was ---

24 Q: --- one point was determined by one data point.

25 A: Caused by many.



1 Q: On September 1st. Do you have any other -- any
2 other proof that the shoreline, other than your
3 guessing it, or some picture, that you ever
4 took something and showed me, or even shared
5 with me, or in the 35 years of existence of
6 that property, ever claimed that there was one
7 inch that was Beach Critical Area other than
8 that one data point that you used for that day,
9 other than saying that, I think we slowly got
10 over there, because you didn't have a dune, or
11 whatever the reasons are? We never got over
12 there. I'm going to show you why we never got
13 over there in one minute, but I want you to
14 tell me that -- I am asking you a mathematical
15 question. I am not asking you to use your
16 judgment, because judgment is a dangerous thing
17 when you're taking property. Okay? I'm just
18 asking you a mathematical engineering question.
19 Here was my property. This is my property.
20 For the sake of this argument, you then --
21 there was a line that went like this, very
22 specific line. You then claim this. You
23 didn't say, oh, that's about five feet that
24 came back. It was a squiggly line that looked
25 like some child drew it, and it was 1,255



1 square feet.

2 **OBJECTION:**

3 **MS. PHELAN:** I'm gonna object, Your Honor. Is there
4 a question?

5 Q: I'm asking you, how -- is it one data point?

6 **MR. REDDY:** Why -- why can't he say it's one data
7 point that went in that line?

8 **THE COURT:** You didn't finish it up. You just made
9 a statement.

10 **MR. REDDY:** I'm asking him, is it one data point?

11 A: I think I've already said it's many data points
12 that resulted in that one data point that
13 you're referring to.

14 Q: But when you drew that line, when you put it in
15 your computer ... Okay. Let me ask you a
16 different question, how many GPS readings do
17 you have? Have you put that into discovery?
18 The multiple GPS readings that went into
19 determining this line.

20 A: Any data that we have, you have, at this point,
21 I would say.

22 Q: I'm asking you a specific question. You're
23 saying you came out with your handheld GPS, and
24 you took this line on September the 1st.
25 Having looked at it, being a poor quality,



1 horrible engineer, still, it seemed like there
2 was only one data point. I'm asking you to
3 verify that. Did you just use that one GPS
4 reading?

5 **THE COURT:** Are you asking him -- are you asking him
6 about the data points that were used to create
7 the line itself, or if there are other data
8 points other than the day of the -- that he
9 collected the data off of that GPS for the
10 squiggly line?

11 **MR. REDDY:** Your Honor, this State is claiming --
12 this entire shenanigans we have with taxpayer
13 money that's been going on for so long is
14 around them claiming 1,255 square feet. My
15 property is about 105 feet linear -- linear
16 property.

17 **THE COURT:** Can you just answer the question I
18 asked? Is it -- are you asking for a different
19 day, or that -- what occurred on that day?

20 **MR. REDDY:** I'm asking for a -- how did you come up
21 with that claim of 1245 was it -- 1,255. Was
22 it with one GPS reading on September 2nd, or is
23 there a chronology? A chronology of GPS
24 readings? Because if there is a chronology,
25 then he hasn't provided it.



1 **THE COURT:** I think that may be the confusion. If
2 you could just ask him that question.

3 **MR. REDDY:** Okay.

4 **THE COURT:** Do you understand it, sir?

5 A: We collected another line in June, I don't
6 remember the exact date, and then I think that
7 September 1 was the next line that we
8 collected. We're not out there every day at
9 your property collecting lines.

10 Q: I get it. I get it. But that is not -- that
11 is not the definition of the law, even the way
12 you're reading it. It says periodic tidal and
13 wave inundation, so that no nonlittoral exists.
14 It doesn't say, I came out there one day right
15 after a named Idalia storm when there was no
16 dune, and I took one reading, and I said, that
17 is my property.

18 A: Some other data points that we do have would be
19 your own survey from 3W showing the top of
20 banks where that was in July.

21 Q: Excellent. So, let's put that up.

22 A: We were at your property in May and June.
23 Those photos and videos that we looked at, it
24 was not a single moment in time that we just
25 collected data.



1 Q: Excellent, excellent. That's what I was
2 asking. I want to see. First of all, there's
3 no chronology, by the way. There's no
4 chronology of GPS that we can see that went
5 into that thing. So, this is all circle talk.
6 But we're gonna go back to June. So, let's put
7 it up.

8 MS. PHELAN: Your Honor, are we close to a good
9 breaking point ---

10 MR. REDDY: Which is ---

11 (Inaudible due to simultaneous speakers.)

12 MS. PHELAN: --- brief break, recess?

13 THE COURT: I think we're going to take a break
14 right now.

15 MR. REDDY: --- which is Exhibit ---

16 THE COURT: Hold one second.

17 MR. REDDY: Saying it's the next ---

18 THE COURT: Are you asking to take a break now?

19 MS. PHELAN: Yes, Your Honor. If he's at a good
20 stopping point, I really need ---

21 THE COURT: If you could just go over your
22 questions, I want to try this case within three
23 days for you.

24 MR. REDDY: Pardon me?

25 THE COURT: I said, if you could just think through



1 your questions and maybe -- the goal was to try
2 this case in three days. I don't think we're
3 ---

4 **MR. REDDY:** Your Honor, this is it. He -- after
5 him, we're gonna go lickety split after that.

6 **THE COURT:** Okay. Let's just take a break lickety
7 split.

8 **(Off the record from 4:39 p.m. until 4:50 p.m.)**

9 **THE COURT:** Y'all be seated. All right. Let's
10 proceed.

11 **MR. REDDY:** We'd like to put up Joint Exhibit 126.

12 **(Joint Exhibit Number 126 was referenced at this**
13 **time.)**

14 **MR. REDDY:** Your Honor, this was discussed
15 extensively this morning. This -- this whole
16 setup, and the most famous thing, the king of
17 the show, was the palm. That's the palm right
18 there. That's vegetation right there. That's
19 vegetation right there. This is the squiggly
20 line I'm talking about, which he achieved with
21 one data point. He says there was some June
22 thing. I'm gonna show you in a second that
23 that's not true, but that -- there's
24 vegetation, there's the palm, and there's
25 vegetation. All right. Go back to saying ---



1 **THE COURT:** You can ask him questions about it.

2 **MR. REDDY:** Yes, yes.

3 **Q:** I want to go back to saying, how is it that you
4 came up with that line?

5 **A:** I don't believe that I collected that line, but
6 I believe Department staff collected it with a
7 handheld GPS unit walking along where your
8 artificial turf had sort of been messed up by
9 inundation.

10 **Q:** But that's not what you told Your Honor this
11 morning. You said vegetation, it's not an
12 artificial turf. So, in theory, if I go by
13 your theory, if I covered my whole yard with
14 artificial turf, you'd own it because there's
15 no nonlittoral vegetation.

16 **A:** Well, like I said, that -- we can also look at
17 adjoining properties and look at those property
18 lines to figure out where the natural
19 vegetation is. But here, that was an
20 escarpment that was collected along your turf.

21 **Q:** Okay. But that's -- you know, that's the basis
22 for claiming 1,255 square feet of Beach
23 Critical Area. So, you were not involved with
24 this?

25 **A:** I was on site that day, but I didn't -- like,



1 I wasn't holding the GPS unit.

2 Q: Can I have back my 1,255 square feet, because
3 it doesn't look like I should -- you should
4 have taken it from me and spent a year and a
5 half chasing it?

6 **OBJECTION:**

7 **MS. PHELAN:** Objection, Your Honor. I don't know
8 how he's supposed to answer that question.

9 **THE COURT:** I would call that question
10 argumentative.

11 **MR. REDDY:** Sorry, I hate being argumentative,
12 except with my wife.

13 **THE COURT:** Well ...

14 **MR. REDDY:** But I will go back to saying I would
15 like to ask the witness if the very famous, so
16 called palm that we talked about six different
17 times, the famous palm is here; there's
18 vegetation there; there's vegetation there, if
19 we go by what he said, the first sign of
20 vegetation, what the heck is this?

21 A: It's the escarpment that was ---

22 Q: Whoa, whoa, whoa.

23 A: --- assessed by the ---

24 Q: You said vegetation, right? You said the -- if
25 you see vegetation or the escarpment, you could



1 use either. That was your testimony this
2 morning. Are you changing that?

3 A: Well, like I said, I didn't collect that line
4 in September. There may have been -- that palm
5 might have still been present. I don't recall.

6 **THE COURT:** I want to be clear. So, I thought there
7 was one time you said you did collect the GPS
8 data. Is this not the time?

9 A: This is not the time. It was in December of
10 2023.

11 **THE COURT:** Okay.

12 A: And June, but not September. I collected lines
13 in June and December of 2023. I believe
14 Jessica Boynton, with our staff, who will be
15 testifying at some point, collected in
16 September of 2023.

17 Q: Okay. I'm sorry. I thought you said you were
18 there the day after Idalia this morning. You
19 weren't?

20 A: I was there. I did not collect the data.

21 Q: Okay. Well, I guess we'll ask Jessica this
22 question. But I want to ask you the next
23 question.

24 **MR. REDDY:** So, please make a note of this slide,
25 Renee, we gotta bring it up again. Like, why



1 do we skip all the vegetation? So, can I go to
2 the survey? The -- no, the -- the -- the --
3 yeah, let's -- let's start with that top. So,
4 this is Joint Exhibit Number 50. Joint Exhibit
5 number 50.

6 Q: I think I'm getting good at this, Matt. Do you
7 think so? Okay. All right. So, let's look at
8 Joint Exhibit Number 50. That's my fence line,
9 the green line you see there with the little
10 X's on it.

11 **(Joint Exhibit Number 50 was referenced at this**
12 **time.)**

13 **MR. REDDY:** This is -- this is from the 3M survey,
14 Your Honor. So, it's an official survey, not
15 a handheld or whatever.

16 Q: That's -- that -- yes, that's the fence line.
17 You see that little thing there, over there?
18 That's the palm, the very famous palm. Okay.
19 So, you can see how close the palm is to the
20 fence line, which would make sense, because we
21 put -- we had vegetation, and we put the fence
22 on the other side of the vegetation. Now,
23 we're gonna go to the next slide. The next
24 data that's further down there. Joint Exhibit
25 Number -- the same one?



1 **MRS. REDDY:** Same.

2 **Q:** So, there is that same fence line Xes. There
3 is the position of the wall. So,
4 theoretically, the palm is landward of that
5 wall, which was not the testimony this morning.

6 **A:** I don't see where you make the claim that the
7 palm is landward of the wall.

8 **Q:** Okay. I'm sorry, the palm is seaward of the
9 wall. Wrong, wrong. If you look what I showed
10 you in the last picture, which we can go back
11 if you'd like, the palm was right up against
12 the fence. And now I'm showing you this
13 picture, the wall relative to the fence. The
14 wall is landward of the fence. So, the palm
15 was seaward of the wall. And from your
16 testimony this morning, that right there should
17 have been the limit of your jurisdiction.
18 Instead, we got a big old squiggly curve going
19 somewhere in and I understand I have to now
20 question someone else.

21 **A:** I don't agree with your interpretation of these
22 surveys. I don't see the palm listed on this
23 one ---

24 **Q:** Okay.

25 **A:** --- so I don't know where it is.



1 Q: Okay. let's -- let's go back to the same --
2 let's go back. Okay. This -- this is the 3M
3 survey, so, let's show the -- let's show the
4 palm. See the palm right there?

5 A: It's -- is that the dot? Is the dot to the
6 left of the label -- the palm?

7 Q: Yes.

8 A: And it's right on the top of bank from July
9 5th, 2023.

10 Q: Okay. I don't see a dot. Which dot are you
11 talking about? Where it says palm ---

12 A: There's a purple -- there's a magenta dot just
13 to the left of where it says palm. I think
14 that dot is representing the plant.

15 Q: Okay. That's fine.

16 A: Right on the top of bank from July 5th, 2023.

17 Q: Okay. But we're gonna talk to top of the bank
18 in a minute. But the -- so, that's the fence
19 line. Would you agree with that?

20 A: The green line with the Xes, yes.

21 Q: Yeah. Okay. So, now let's go back to other
22 picture. Okay. So, there is the wall relative
23 to the fence line, right? That palm, by the
24 way, was still there. We have -- that palm,
25 it's like a ninja palm, survived several



1 storms. So, the next thing I want to show you
2 along these same lines -- either way -- can we
3 go back to the first thing we put up, the
4 squiggly line? You see how far in this
5 squiggly flame is going, despite there being
6 vegetation there? What I'm trying to say ---

7 **OBJECTION:**

8 **MS. PHELAN:** Your Honor, I'm going to object to this
9 whole line of questioning as misleading.

10 **MR. REDDY:** Okay.

11 **THE COURT:** Leading?

12 **MS. PHELAN:** Misleading.

13 **THE COURT:** Oh, misleading.

14 (Laughter)

15 **MS. PHELAN:** No, misleading.

16 **THE COURT:** In what way?

17 **MS. PHELAN:** Well, it's a photo -- it's a -- it's a
18 photograph that is a 2020 aerial, and he's
19 comparing it to vegetation on September 1st,
20 2023, three years later.

21 **MR. REDDY:** This is ---

22 **THE COURT:** He's on -- you're on cross. I'm gonna
23 let you go.

24 **MR. REDDY:** This is -- this is the basis ---

25 **THE COURT:** Now, we are getting close to asked and



1 answered, but ...

2 Q: This is -- this is -- is this the basis -- let
3 me ask the question a different way. Or, Matt,
4 you saying you don't know? Is this the basis
5 that was used to claim my 1,255 square feet?

6 A: That yellow line from September is the basis
7 for that measurement, compared to where the --
8 what we're calling non beach compatible fill
9 was placed. But I agree with Ms. Phelan that
10 the base imagery -- this is not representative
11 of when that line was collected. This -- the
12 image itself is from three years earlier.

13 Q: Okay, okay. We can -- we can go back -- back
14 and forth between this and the palm. This is
15 what y'all gave us. This was -- this is not my
16 picture. This is yours.

17 A: I understand. But ...

18 Q: So, this is your claim. This squiggly line is
19 your claim. You -- you are saying that this
20 squiggly line was done on September the 1st?

21 A: Yes.

22 Q: That would be you?

23 A: No. Jessica Boynton.

24 Q: Okay. Fine. Well, we'll have to ask Jessica
25 how she came up with that, because we're going



1 to show you that she went -- I mean, there's no
2 use if you didn't do it. She went seaward of
3 the -- she went landward of the palm. So,
4 that's -- that's -- sounds like that's a
5 question for Jessica. For some reason, I
6 thought you were involved in that. I want to
7 ask you while we have time ---

8 **MR. REDDY:** I know, Judge, Your Honor, you're
9 getting tired of all these questions, but I
10 have to address some of these questions they
11 brought up.

12 **Q:** So, you talked about, this morning, about
13 having this meeting on the beach on June 23
14 with McKenzie O'Connor and you and couple other
15 neighbors.

16 **A:** I think it was early June of 2023.

17 **Q:** Yeah. Yeah, June 9, you're right.

18 **A:** Yes.

19 **Q:** So, in that meeting, there was no dune by then,
20 because the dunes had all gone by May, and
21 there was a lot of discussion, like you
22 testified I think, about what we can do and
23 what we cannot do and so on and so forth. And
24 one of the big points of discussion was what
25 the City, who -- the City and you -- I think



1 the City was there in the form of Desiree. Is
2 that correct?

3 A: I think Desiree Fragoso and Douglas Kerr were
4 ---

5 Q: And Douglas Kerr ---

6 A: --- both there, I think.

7 Q: --- were both there, and the discussion seemed
8 to revolve around what we could do as
9 homeowners. And one of the big follow-up
10 questions from that was, hey, if no one is
11 going to do anything with the dune, because no
12 one seemed to have any money, then can we
13 protect our own property. And we were told,
14 yes, you can bring in sand if you want, or do
15 whatever. We said, well, if we bring in sand,
16 the sand has to be continuous. Do you remember
17 saying that, otherwise, the water is going to
18 get -- if one homeowner brought in sand, the
19 water would get behind that?

20 A: I remember that.

21 Q: You remember that, good. And we said, we don't
22 have a homeowners association for someone to do
23 1,500 linear feet of a berm to protect our own
24 property. So, we said, can we protect it with
25 some other type of hard structures. There was



1 a brief discussion. And I would like to enter
2 Exhibit 58 into -- into the record.

3 **(Respondent's Exhibit Number 58 was introduced into**
4 **the record.)**

5 Q: Do you recognize that? You copied on it?

6 **THE COURT:** Is 58 part of the joint exhibits?

7 **MR. REDDY:** No, sir, it's -- I'm sorry. It's a
8 Respondent's exhibit.

9 A: I recognize it.

10 Q: Thank you. So, this is a follow-up letter that
11 was written to us on June 9th, 2023, addressed
12 -- addressed to me, copied Matt, from McKenzie,
13 who happens to be the ocean coastal -- they're
14 called something else now, right? OCR -- this
15 is not OCRM. Something ---

16 **MS. PHELAN:** Bureau of Coastal Management.

17 Q: Okay. It's a newer version of whatever it used
18 to be. It says, "Thank you for taking the time
19 to meet with Matt, myself," "City this morning.
20 Following our discussion on the beach, I want
21 to use this opportunity to provide some
22 additional information". "Our current baseline
23 and setback line information for the South
24 Carolina coast can be found at our
25 jurisdictional line website copied below. As



1 mentioned, the baseline and setback line for
2 every beach is evaluated every 7-10 years and
3 these lines do not change in between" review,
4 and it gives you a link to the site, and this
5 link to the site -- if you go to the site, what
6 would you see in that site?

7 A: It's an online GIS viewer where you can enter
8 an address and zoom to it and see where the
9 baseline and the setback line and the beach
10 zone ---

11 (Inaudible due to simultaneous speakers.)

12 Q: --- setback line is why it's marked in blue and
13 red, right?

14 A: Right.

15 Q: So, it says, "I want to provide more detailed
16 information regarding some of the Regulations
17 that were mentioned as well." Mentioned
18 meaning at the meeting. "Hard erosion control
19 structures, such as seawalls, bulkheads, or
20 revetments have been prohibited seaward of the
21 DHEC OCRM setback line since 1988 with the
22 passage of the" South Carolina "Beachfront
23 Management Act." it's pretty clear to all of
24 us, guidelines in June of 23.

25 MR. REDDY: Can we enter this into the record,



1 Respondent's Exhibit Number 58?

2 **THE COURT:** Are you offering it?

3 **MR. REDDY:** Yes, I'm offering it.

4 **THE COURT:** Any objection?

5 **MS. PHELAN:** I don't think so, Your Honor, but I
6 still haven't heard a question on that
7 document.

8 **THE COURT:** Well, it's admitted.

9 **(Respondent's Exhibit Number 58 was admitted into**
10 **evidence.)**

11 **MS. PHELAN:** Okay.

12 **MR. REDDY:** So, the question's coming.

13 Q: How would you read that if you were a citizen
14 getting this after that discussion about
15 structures?

16 A: Thank you for pulling it up. I mean, it's a
17 true statement. They had been prohibited
18 seaward of the setback line since the
19 Beachfront Management Act was passed. That
20 applies to the beach/dune system critical area.

21 Q: Did she say that?

22 A: Not here.

23 Q: Seems like a pretty straightforward statement.
24 When we asked her, can we do that, she says, go
25 to these lines. We go to the lines that shows



1 the baseline, setback line, and then we go from
2 there. So, all I'm saying, Matt, I'm not
3 blaming you or accusing you of anything. I'm
4 just saying, as a citizen, how can we interpret
5 these crazy things? You've got all these
6 different things. We have to understand it the
7 way it's written. And like you said this
8 morning, prior to 2023 the only enforcement
9 y'all have ever had was once in 1998 which is
10 what you testified, correct?

11 A: Correct.

12 Q: So, now, I'm also going to ask you, since you
13 seemed to comment a little bit on sand and
14 erosion control structures, we were -- in that
15 permit that you put up this morning, whatever
16 that permit ten -- you put up the ten points of
17 the permit.

18 A: Okay, the emergency order ---

19 Q: --- and put it up again ---

20 A: --- conditions.

21 Q: --- 1, 2, 3, 4, 5.

22 A: Yeah, I remember.

23 Q: It said there's something about erosion control
24 structures cannot be covered. Is that in the
25 statute? What statute are you referring to?



1 A: I'd have to look, I think it's in the statute
2 or the regulations for minor renourishment,
3 when you're trucking in sand that you cannot
4 cover an erosion control structure.

5 Q: I can pull it up and we can see it says nothing
6 about it except for scraped sand.

7 A: Maybe that's what I'm thinking of, that it's
8 with scrape sand that you cannot ---

9 Q: Yeah. Which -- which you would agree would
10 make sense, right? If you got a big emergency,
11 which you testified with, scraped sand, and
12 someone had an erosion control structure, you
13 don't need to put sand -- waste the scraped
14 sand in an emergency in front of their house,
15 you want to put it in front of homes are not
16 protected. So, that makes sense. What doesn't
17 make sense is the position y'all have taken
18 that after Idalia, I offered to bring in sand
19 to put back in front of my erosion control wall
20 that y'all are calling, that was a retaining
21 wall, that was seven feet, and you all know
22 that, a seven-foot wall is not an erosion
23 control structure by any definition. I asked
24 for it. We had requested a permit from the
25 City because that would be a City permit. The



1 City said, your Department denied it, and we've
2 yet to find a statute. I've had two different
3 lawyers looking for it and we can't find it.
4 Okay. By the same token, I want to ask you,
5 are you familiar with 122 Ocean, two homes down
6 from me?

7 A: What is -- do you have -- do you know the
8 property owners' names?

9 Q: Steins. Steins.

10 A: I think I am.

11 Q: Are you familiar with some of the stuff, the
12 discussions that went on, that I believe you
13 were involved with, where they took these big
14 bags and filled them with, like, I don't know,
15 concrete or something like that, and then put
16 some sand and did something. They got some
17 huge, big contraption there. Are you -- are
18 you familiar with that?

19 A: I'm vaguely familiar with that. Our compliance
20 and enforcement staff, who you'll have a chance
21 to question later, are more familiar than I am.

22 Q: Who is that?

23 A: Jacques Prevost.

24 Q: Oh, Jacques.

25 A: I think he'd be the appropriate -- I mean, I



1 can provide some testimony. I mean, I'm aware
2 of what you're referring to.

3 Q: Okay, good. So, do you -- do you realize that
4 those -- would you call those erosion control
5 structures, those big bags filled with some
6 form of concrete or rocks?

7 A: If they're filled with concrete or rocks,
8 absolutely. I don't know what they're filled
9 with.

10 Q: What if they're not filled with concrete or
11 rocks, let's say, even if they're filled with
12 sand, are those big bags allowed?

13 A: No, and I think that they're in a compliance
14 and enforcement process similar to what you are
15 in.

16 Q: However, all those bags have been covered by
17 sand.

18 A: Not through any authorization from our
19 Department.

20 Q: Have y'all made them take the sand out, like
21 y'all are making me take my ---

22 A: Like I said, our ---

23 Q: --- wall down?

24 A: --- compliance and enforcement staff can
25 probably address that better than I can.



1 Q: Okay. How about Wild Dunes, do they have some
2 erosion control structures there?

3 A: Along part of Wild Dunes, I know there's a
4 grandfathered rock revetment that spans several
5 properties, if that's what you're referring to.

6 Q: No, talking about erosion control structure
7 that's covered in sand.

8 A: Nothing's jumping to the top of my mind. If
9 you could ---

10 Q: It's there, just they -- might -- they actually
11 fixed it. And, of course, we have the old one
12 in Hilton Head, which you all are trying to
13 suppress by not letting us enter it into as not
14 relevant. All five walls beautifully covered
15 and vegetated. So, let me ask you, everything
16 else put aside, since you were involved in both
17 situations, do you feel somehow in your heart
18 that I am being treated differently than some
19 of these other folks?

20 A: I don't.

21 Q: So, your testimony is that five homeowners who
22 have a seawall built with no vegetation in
23 sight 80 feet from their homes, 30 feet deep,
24 is a mistake that went on for a year and a half
25 or two years and still hasn't been corrected,



1 while my home that's 20-some feet landward of
2 the setback line, originally seven feet long,
3 70-some feet from my house, is going to get a
4 \$300,000 penalty versus a \$3,000 penalty, and
5 you think that's fair?

6 A: I don't come up with the penalty calculation in
7 my role. I can't really speak to how that was
8 derived.

9 Q: Just asking you, comparable. They got the
10 wall, \$3,000 fine, the wall is covered. Y'all
11 are coming after me with all guns blazing. Do
12 you -- do you -- can -- do you feel like any --
13 outside of any of this, that this is political?

14 A: I -- I don't know. I'm not in a position to
15 speak about whether it political or not. I do
16 know that in the Piping Plover situation, that
17 those property owners approached the Department
18 early on and tried to coordinate, tried to seek
19 guidance, and figure out what the right thing
20 to do was, and that we made a mistake in that
21 situation. Whereas ---

22 Q: And you were corrected?

23 A: Whereas when we tried to work with you and
24 tried to figure out a solution and provide
25 guidance, you ignored that and proceeded



1 several times.

2 Q: I'm sorry, Matt. Are you saying that I ignored
3 that when you all tried to give me something,
4 I ignored it, is that your testimony? Or are
5 -- you just don't know, and you're echoing what
6 the fake news reports?

7 A: I'm just speaking from my knowledge of the fact
8 that you received documents not from my section
9 of the Department, but from our compliance and
10 enforcement section. So, I really can't speak
11 of the details about details about that. I'm
12 not knowledgeable enough. But I know that
13 there was formal documents sent to you
14 explaining our position in these matters. And
15 ---

16 Q: Would you ---

17 A: --- rather than ceasing and decisting, you
18 continued on with your work. That's all I'm
19 saying.

20 Q: Okay. Do you -- are you aware of the fact or
21 you're just not in the loop, if you're not in
22 the loop, just say I'm not in the loop, because
23 I'm one of the guys out in the field, are you
24 in the loop that every cease and desist order
25 that we ever received was responded to promptly



1 by my attorney, who repeatedly advised me that
2 I was outside of any jurisdiction he has ever
3 seen? And that attorney was my long term
4 corporate attorney who I have a lot of
5 confidence in, it's not some guy just came in,
6 from Nelson Mullins, who happens to have one of
7 your ex-employees working there. Do you know
8 him? Jack Smith?

9 A: I know Jack Smith.

10 Q: Good. You know he worked with Merritt Abney of
11 Nelson Mullins?

12 A: Yes.

13 Q: And do you know -- have you seen the -- this
14 word that's used with the fake news that I
15 ignored, everything that you keep using, that's
16 actually put out there constantly. Is it your
17 testimony that you are not aware that my
18 attorney responded to every notice we have ever
19 received and with the same wording that he told
20 me, he just told exactly that. He said you are
21 outside the jurisdiction. You're not aware of
22 that?

23 A: I'm aware that you had attorneys representing
24 you all along in these matters, and that as
25 these things go, that that correspondence was



1 sent from our attorneys to your attorneys, and
2 there was likely some response, but there was
3 no ceasing and desisting. It was a response
4 from attorneys with their legal opinions, but
5 you, as a property owner, did not choose to
6 cease and desist while those were being worked
7 out and resolved.

8 Q: So, you're saying when I have -- you, now,
9 Jessica -- I had this guy, Jacques, climbing
10 into and out of my yard without permission, and
11 all these people coming and going as they
12 please, who claim my private property, and I
13 asked my long term ten-year-plus attorney who's
14 helping me run a company, I should listen to
15 you and not him, is that what you're saying?
16 Is that your testimony that you know better
17 than even the corporate attorney who happens to
18 have your own DHEC person working there?

19 **OBJECTION:**

20 **MS. PHELAN:** Objection, Your Honor, argumentative.

21 **THE COURT:** Do you wish to respond?

22 **MR. REDDY:** Your Honor, if they will just stop
23 making comments for the press. Counsel just
24 made a comment yesterday, which I notified you,
25 that my wall was built on public beach. These



1 people are coming down there, these -- these
2 social media groups, they threaten to burn my
3 wall down. We have to file a police report.
4 I'm just trying to say is no one aware of the
5 fact that they are openly lying about these
6 things to get the sympathy and maybe the tax
7 funded dollars going in there, or is this real?
8 They just don't know that I responded. I'm a
9 business guy.

10 **OBJECTION:**

11 **MS. PHELAN:** I'm going to object on behalf of my
12 esteemed colleague.

13 **THE COURT:** Well, I'm not -- by the way, I don't
14 know what all is going on with the press,
15 because I don't read it, and if you sent me
16 something about the press, I'll stay out of
17 those arguments. My job is to be a judge, so,
18 and I rule on what comes in front of me here
19 today. So, I can't -- I have no knowledge of
20 any of that. But ---

21 **MR. REDDY:** Your Honor ---

22 **THE COURT:** I've got a rule on this objection. I do
23 have to do that. And from what I've heard,
24 based on your response, I sustain the
25 objection. So, you need to move on to another



1 question.

2 **MR. REDDY:** Your Honor, I do -- I do think, though,
3 that I am going to ask him ---

4 **THE COURT:** You can ask him another question.

5 **MR. REDDY:** I'm going to ask him another question,
6 which is ---

7 Q: Do you believe that you are telling me that you
8 are still under oath, continuing to say words
9 like I ignored this thing as was done this
10 morning in the opening statement by counsel, I
11 ignored it, and you continue to peddle this
12 type of stuff. Do you believe it's fair when
13 it endangers my family that I am bound to
14 protect?

15 A: I don't know if I used the word that you
16 ignored it. I said you did not cease and
17 desist. My testimony would be that in the
18 matters that I've been involved in, when our
19 attorneys start talking with other attorneys
20 representing property owners, they usually try
21 to work out the legal arguments and figure out
22 sort of where each party stands on the matter.
23 That there's not sort of this response, but I'm
24 going to tell my client to go ahead and do
25 whatever he wants to do. That's just been my



1 experience. I'm not saying you're ignoring
2 anything. I acknowledge that your attorneys
3 did respond on your behalf, and to the extent
4 that your family is being, you know,
5 intimidated or threatened, I think that's a
6 shame, and that shouldn't happen.

7 Q: Thank you, Matt. I will also say the reason
8 they said that is they couldn't find any
9 enforcement, any, other than Summer House.
10 Like I said, the regulation was changed the
11 year after that. And they couldn't find any
12 enforcement. And we all talked about the fact
13 that if you start interpreting this thing the
14 way you all are threatening to do it now going
15 forward, this will be the biggest confiscation
16 of property. That's why they responded the way
17 they did.

18 **MR. REDDY:** I -- I've kept you, Your Honor, I
19 apologize for that, much longer than I intended
20 to. I've kept this Court much longer. I
21 promise I will not do -- take that long in the
22 future. We are done with this witness.

23 **THE COURT:** Any ---

24 **MS. PHELAN:** Yes, Your Honor, briefly.

25 **MR. SLAGEL - RE-DIRECT EXAMINATION BY MS. PHELAN:**



1 Q: Mr. Slagel, I'd like to just run quickly
2 through a couple things with the seawall he's
3 been questioning you about.

4 A: Okay.

5 Q: In what stage of permitting did you get
6 involved?

7 A: Are we referring to Hilton Head?

8 Q: Yes.

9 A: I got involved in that matter after staff site
10 visits with those property owners had already
11 occurred, after preliminary discussions had
12 already been held about jurisdiction, etcetera.
13 I got involved sort of at the eleventh hour.

14 Q: And when was the -- when was this time period,
15 what year, do you remember?

16 A: It was ear- -- I think these discussions
17 started in late 2017 and then I came back to
18 the agency, January 2nd, 2018, so it was soon
19 after that that I started getting involved in
20 that matter.

21 Q: Did you visit and personally assess the site?

22 A: No.

23 Q: Did you have an understanding that they had
24 already assessed the site?

25 A: Yes.



1 Q: Have you reviewed the file recently?

2 A: I think in -- not the full file, but just
3 becoming refamiliarized with some of the
4 photographs, etcetera, yes.

5 Q: Is the Hilton Head site similar to the Reddy
6 site?

7 **THE COURT:** What?

8 **MS. PHELAN:** The Hilton Head site similar to the
9 Reddy site.

10 **THE COURT:** Oh, Reddy. Okay.

11 A: The Hilton Head Piping Plover site is in a
12 standard erosion zone, not an unstabilized
13 inlet erosion zone, like the Reddys' property
14 is.

15 Q: And can you tell us the significance of that,
16 again?

17 A: An unstabilized inlet zone is more susceptible
18 to a dynamic shoreline because of those inlet
19 processes that occur at those adjacent beaches,
20 the formation of sand bars, the ebb and flow of
21 the currents through an inlet, it just causes
22 those shorelines adjacent to an inlet to be
23 more dynamic than a standard zone away from an
24 inlet.

25 Q: Can you please continue with your descriptions?



1 A: At Hilton Head, they -- the own of Hilton Head
2 has a longstanding beach renourishment program
3 that's entirely locally funded. They have a
4 tremendous amount of accommodations taxes that
5 can fund renourishment projects. They had
6 recently completed one after Hurricane Irma in
7 2017 at the Piping Plover site. And because of
8 that large amount of sand that was placed,
9 there was -- there was no public access issue
10 throughout the duration of that installation.
11 And, as I mentioned before, those property
12 owners had approached the Department trying to
13 obtain guidance about how to complete the
14 project that they wanted to do.

15 Q: And I think though the word ignored was used,
16 did the Reddys -- did the Reddys stop doing
17 what they were doing when you wrote the letter
18 in early September when it came to your -- your
19 notice that they may be attempting to alter the
20 critical areas?

21 A: It turns out they had already done that work,
22 so, no.

23 Q: And what about when the October notice to
24 comply was issued, did the Reddys stop what
25 they were doing?



1 A: Not to my knowledge.

2 Q: How about after the first cease and desist?

3 A: Not to my knowledge.

4 Q: After the second cease and desist?

5 A: I think they kept working.

6 Q: And the third cease and desist?

7 A: I think they continued the work that they
8 wanted to complete.

9 Q: No further questions.

10 **THE COURT:** Any redirect?

11 **MS. LENHARDT:** Oh, no, sir.

12 (Laughter)

13 **THE COURT:** Okay.

14 **MR. REDDY:** I don't get a second shot?

15 **THE COURT:** You can ask any questions based on new
16 issues that she has brought up.

17 **MR. REDDY:** Excellent.

18 **THE COURT:** That's your narrow window box.

19 **MR. SLAGEL - RE-CROSS EXAMINATION BY MR. REDDY:**

20 Q: So, she just brought up this unstabilized
21 inlet. Isn't this stabilized inlet and
22 unstabilized inlet really in the statute for
23 the sake of setting the baseline and setback
24 line, not for jurisdictional purposes? She
25 keeps -- she keeps bringing up this



1 unstabilized versus stabilized inlet. I read
2 the statute, but I only had two days to do it,
3 and -- and I read the statute. I don't see any
4 connection to jurisdiction, which is what we're
5 talking about here. They used to set -- just
6 in an unstabilized versus a stabilized, you use
7 different methods to set the baseline and
8 setback line, would you agree with that?

9 A: You use different methods. So, within an
10 unstablized inlet zone, the baseline is set at
11 the most landward point of erosion in the last
12 40 years ---

13 Q: Correct.

14 A: --- instead about the primary dune, like it is
15 in a stabilized inlet zone or standard zone.

16 Q: Correct.

17 A: So, it recognizes that over that 40-year
18 window, that 40-year period, because of those
19 dynamics, I would argue that that's why there's
20 that different method. It's because you're
21 supposed to look at 40 years to figure out
22 where has erosion gotten because of this inlet
23 process.

24 Q: I agree. I agree with everything you said. My
25 question, though, is, why -- in what context is



1 she bringing up Hilton Head versus this? The
2 lines -- it's used to set lines. The lines are
3 set and the lines are supposed to basically
4 depict, wherever they're set, whatever
5 methodology they're set with, regardless of how
6 she phrased it, they are set to determine those
7 -- how those lines are set. They're set
8 differently for the different inlet zones, but
9 then they remain that way till the legislature
10 comes back seven or ten years later and spends
11 a whole lot of taxpayer money to redo those
12 lines. And until then, they remain, right?

13 **OBJECTION:**

14 **MS. PHELAN:** Object, Your Honor. This exceeds my
15 redirect. I mean, we didn't talk about the
16 juris- -- setting of jurisdictional lines.

17 **THE COURT:** You did talk about ---

18 **MS. PHELAN:** Just said there was a distinction
19 between -- that one was a standard and one was
20 a stabilized -- unstabilized.

21 **THE COURT:** He's taking it further with, I think
22 it's 280 about how that setback lines are a
23 component of the erosion, whether it's a
24 standard area or one that's stable or not. So,
25 I'm gonna allow him to proceed on that.



1 Q: So, that's all I have to say. Is this -- this
2 -- I don't have any issue with classifying them
3 differently, like she did on redirect, or -- is
4 that what it's called, redirect? But I'm just
5 saying it has nothing to do with jurisdictional
6 lines. Those are lines the legislature is
7 supposed to come back every seven to ten years
8 and determine if there's erosion or accretion
9 or wherever, and move the lines. It is not
10 intended to be a day-to-day thing. That's all
11 I wanted to say. Thank you.

12 **THE COURT:** You may step down.

13 A: Thank you.

14 **THE COURT:** Can we call another witness? Dare I
15 ask?

16 **MR. CHURDAR:** Your Honor, we'll go as long as you
17 will.

18 **THE COURT:** Oh, that's ---

19 (Laughter)

20 **THE COURT:** Might not want to say that.

21 **MR. CHURDAR:** Okay.

22 **THE COURT:** But if the parties are up for it, I'd
23 like to just try maybe one more witness.

24 **MR. CHURDAR:** Okay. I'd like to call Mr. Jacques
25 Prevost.



1 **THE COURT:** Okay. Of course, I mean, we went one
2 witness for the whole day, so, I'm not gonna go
3 to 2:00 o'clock in the morning. We can at
4 least get started.

5 **COURT REPORTER:** Spell your name for me.

6 **MR. PREVOST:** J-A-C-Q-U-E-S is my first name. Last
7 name is P-R-E-V, as in victor, O-S-T.

8 **COURT REPORTER:** Raise your right hand for me,
9 please.

10 (Witness complies.)

11 **COURT REPORTER:** Do you solemnly swear the testimony
12 you're about to give in this matter is the
13 truth, the whole truth, and nothing but the
14 truth, so help you God?

15 **MR. PREVOST:** I do.

16 **COURT REPORTER:** Thank you.

17 **THE COURT:** Mr. Churdar.

18 **JACQUES PREVOST,** being first duly sworn, testifies as
19 follows:

20 **MR. PREVOST - DIRECT EXAMINATION BY MR. CHURDAR:**

21 Q: Good afternoon. You are Jacques Prevost?

22 A: Yes.

23 Q: And Mr. Prevost, can you please tell the Court
24 where you're employed?

25 A: I'm employed at the Department of Environmental



1 Services, Bureau of Coastal Management for
2 South Carolina.

3 Q: And how long have you been employed by DES?

4 A: Coming up on two and a half years now.

5 Q: Okay. Now, before we get into your duties and
6 responsibilities with the Department, I'd just
7 like to get some background information from
8 you. Could you please tell the Court when and
9 where you graduated from college?

10 A: I graduated from the University of Connecticut
11 in 2019 with a Bachelor of Sciences degree in
12 biological sciences, with a minor in ecology
13 and evolutionary biology.

14 Q: All right. And can you also please tell the
15 Court your work history since you graduated in
16 2019?

17 A: Following my graduation, I worked from 2020 to
18 2021 or the end of '21 with a company called
19 Geotonics, and this was back in Connecticut.
20 And with that company, I worked a position that
21 was an environmental field technician. And
22 there I would conduct pre and post activity
23 inspections, as well as document with field
24 notes, as well as remotely and on-site monitor
25 for compliance, mainly to do with vibrations in



1 construction and blasting projects.

2 Q: Okay. And what did you do after that?

3 A: After that, I moved down to Charleston at the
4 beginning of 2022 and I started a position with
5 a company called Pathlight Pro. And there I
6 worked for a year as a compliance field
7 consultant, and I would do weekly and monthly
8 compliance inspections, mainly for stormwater
9 and slip inspections. And I would follow-up
10 with developers and builders on issues that
11 might -- I identified on sites, as well as
12 advise them if there's any discharges of those
13 sites.

14 Q: All right. And then beginning -- what was your
15 position after that? You came to DES at what
16 point?

17 A: I started my work history with the Department
18 at the beginning of 2023, and I started as a
19 compliance project manager.

20 Q: Okay. And what currently is your position with
21 the DES or BCM?

22 A: I'm currently a coastal zone consistency or CZC
23 project manager.

24 Q: Okay. As a compliance project manager, can you
25 just give the Court a general overview of what



1 your responsibilities were?

2 A: Yes. So, as a compliance project manager, I
3 would often do compliance inspections, as well
4 as follow-up on complaints, as well as follow-
5 up with clients or property owners on the
6 compliance assistance process if there was
7 critical area violations that I identified on
8 site. I would also regularly consult with
9 other DES staff, such as critical area
10 permitting project managers.

11 Q: Okay. And what about -- Mr. Slagel talked
12 about collecting the data with the GPS, did you
13 -- did you also -- is that one of your
14 responsibilities, as well?

15 A: As a compliance project manager, I would also
16 collect survey data using a variety of GPS or
17 GNSS, known as Global Navigation Satellite
18 System, equipment to essentially create
19 visualized exhibits of the data that I did
20 collect.

21 Q: Before we get into your responsibilities with
22 the Reddy enforcement action specifically,
23 could you please tell the Court the training
24 that you've had in order to perform your duties
25 as a project manager? And specifically, you



1 had mentioned just a moment ago, RTK ---

2 A: Yes.

3 Q: So, first of all, what is that? What is RTK?

4 A: RTK stands for Real Time Kinematics, and
5 essentially, it's a technique to gather survey
6 data that uses a mobile station that connects
7 to a fixed base station, and it communicates
8 with satellites to give you accurate centimeter
9 level location and elevation data.

10 Q: Okay. And have you -- what type of -- well,
11 you just answered that question.

12 A: As for the training that is associated with
13 that, I can get into some of my background on
14 that with the Department. There was Department
15 internal training that I have taken part of
16 that included a classroom portion, as well as
17 an outdoors hands-on portion. I've personally
18 used the equipment over 15 times. I've also
19 gotten external certification from our
20 authorized Trimble supplier, Duncan Parnell.

21 Q: Okay. And that -- was that the same training
22 that Mr. Slagel was talking about?

23 A: It may be, I believe it is.

24 Q: Okay. And so, getting a certification from the
25 authorized Trimble supplier, does that give you



1 -- does that give you the skills and abilities
2 to collect this data?

3 A: I would say it supplements them, yes.

4 Q: Okay. So, let's talk about training with
5 spotting and identifying critical area
6 vegetation. Have you had that kind of
7 training?

8 A: Yes, I've taken part in multiple sessions of
9 critical area vegetation training, and that
10 would also consist of indoor portions, going
11 over the different types of critical area
12 vegetation we can see in our direct regulatory
13 authority areas, i.e., the critical areas.
14 We've also had outdoor portions where we go on-
15 site to identify those specific types of
16 critical area vegetations that we would see in
17 our regulatory jurisdiction.

18 Q: Okay. So, let's now turn to the Department's
19 enforcement action with the Reddys. What
20 compliance and enforcement duties have you done
21 related to the Reddys' property?

22 A: Well, I visited the site many times, at least
23 18 times. I've also issued three cease and
24 desists for continuing activity. I've also
25 issued a notice to comply ---



1 Q: Okay.

2 A: --- for non-beach compatible materials at the
3 site.

4 Q: So, let's discuss what you found on those site
5 visits. First of all, I'd like to talk about
6 your October 5th, 2023 site visit. And before
7 we get into the details, would it help you to
8 refresh your recollection to look at the
9 inspection report for each site visit?

10 A: Yes, it would, given the number of times I've
11 been out there.

12 Q: Okay. So, if I could get your attention and --
13 -

14 **MR. CHURDAR:** Janet, if you could pull up Joint
15 Exhibit 98, please.

16 Q: And if you want to look, yeah, in that book,
17 Jacques.

18 A: Uh-huh.

19 Q: It's your October 5th inspection report.

20 A: Yes.

21 **(Joint Exhibit Number 98 was referenced at this**
22 **time.)**

23 Q: So, looking up at the screen, that's the
24 inspection report that you produced as a result
25 of your October 5th and 6th, 2023, inspection



1 -- site visits?

2 A: Yes.

3 Q: Okay. What information did you receive that
4 prompted you to go out to 118 Ocean Boulevard?

5 A: I received an email, as in the Compliance and
6 Enforcement Section, received an email from
7 Matt Slagel about the complaint of non-beach
8 compatible materials at the site.

9 Q: Okay. And ---

10 A: And marine debris.

11 Q: So, what'd you do when you got there?

12 A: When I got there, I documented the site
13 conditions by taking multiple photographs, as
14 well as taking field notes. Also, on the date
15 of October 5th, 2023, I collected survey data
16 using one of the RTK equipments that we use at
17 our office to measure the edge of the erosional
18 escarpment at the site, which was also the
19 extent of the non-beach compatible materials
20 that were there.

21 Q: Okay. Well, as far as the collection of the
22 data, what does that handheld device -- well,
23 just describe it, if you would, please.

24 A: Yes. So, the device that I used there was an
25 RTK R12i. So, it's a pole-mounted device that



1 on the top of the device -- it's about a six-
2 foot pole. On the top, there's a data receiver
3 and also a data collector about halfway down
4 the pole. And I can use that to collect data
5 point by point in which it collects at the very
6 base of the pole. So, wherever I'm positioning
7 it, I can collect accurate survey grade level
8 data on the location and elevation.

9 Q: Okay. So, when you did that, you did that on
10 October 5th, correct?

11 A: That is correct.

12 Q: Okay. Can you tell the Court about your --
13 well, you already said it. You collected along
14 the seaward extent of the erosional escarpment?

15 A: Yes.

16 Q: Okay. And which was also the seaward extent of
17 the non-beach compatible material?

18 A: Yes. When I was out there collecting data, I
19 believe we can probably look at a photograph
20 for a better look at it, but when I collected
21 that data, it was along that erosional
22 escarpment, which was also just landward of
23 some recently added sand that had been brought
24 to the site. So, I can better show you with a
25 red line showing exactly where I collected that



1 data, but it was in between there. So, I would
2 mention that, because the elevation data does
3 vary, because I was only able to collect at
4 where the non-beach compatible material was,
5 but there was sand not letting me get downfall
6 down to the same beach grade, per se, in that
7 case.

8 Q: Does that elevation -- change in elevation
9 based on where the pole is mounted, have any
10 bearing on the location of the pole?

11 A: No. And I will also say it's very important
12 that the day I collected data there, it was not
13 in regards to elevation. It was purely to
14 collect the location, as in the seaward extent
15 of the non-beach compatible materials of the
16 site.

17 Q: Okay. So, we are looking at -- so, this is the
18 -- this is the picture that -- well, what is
19 this picture that we're looking at?

20 **(Joint Exhibit Number 124 was referenced at this**
21 **time.)**

22 A: Yes, this photograph here was one of the
23 photographs I collected on October 5th, 2023,
24 when I was out at the site. And it shows the
25 edge of the erosional escarpment, as well as



1 the edge of the non-beach compatible materials,
2 as in the seaward extent of them. And I can
3 draw in here to better show you what I'm
4 speaking of. And that red line there is
5 approximately where I collected that data, to
6 the best of my ability (indicating).

7 Q: Okay. And when you were out there, what did
8 you see?

9 A: When I was out there, I also observed these
10 non-beach compatible materials as photographed
11 here, and I can go into detail on some of them
12 here, what they are are. Some -- some of the
13 material here is some non-beach compatible
14 material that is geo grid, some plastic mesh
15 material, also some geotextile fabric here.
16 Landward, you can see some gravel/rock. There
17 also is some concrete materials here. And
18 there's some metal fencing debris here -- or
19 metal fencing that had been set up here. And
20 I would also point to this amount of artificial
21 turf at the rear of the site, as well as some
22 pavers here.

23 Q: Okay. And was this material that you were just
24 using the -- the line -- drawing lines around,
25 was all this done within the beaches critical



1 area?

2 A: Yes, it was.

3 Q: Okay. And how do you know that this was
4 beaches critical area compared to the
5 beach/dune system?

6 A: I know this was beaches critical area -- well,
7 first, just observing this photograph, you can
8 see in the background, if you look closely,
9 there might be a better photograph that has a
10 more zoomed out view of it, but you can see the
11 extent of the vegetation at the next property
12 over. I would also add that previous data
13 collections at the site in -- prior to this, in
14 September, as well as June, showed that there
15 was an erosional escarpment or vegetation
16 landward of this area where there's non-beach
17 compatible materials as here.

18 Q: Okay. Let's -- let's go to -- so, I'd like to
19 have you look at Bates number 804 in Joint
20 Exhibit 124. Never mind, you already mentioned
21 that about ---

22 A: This photograph does better show a zoomed out
23 view of what I was describing before, where you
24 can see the adjacent neighbors' vegetation is
25 significantly landward of where those non-beach



1 compatible materials were placed.

2 Q: Okay. So, using the data that you collected
3 with the RTK, were you able to determine how
4 much area of the beaches critical area was
5 covered by unauthorized fill and non-beach
6 compatible material?

7 A: Yes, using the data from this date, October
8 5th, 2023, I was able to compare it to previous
9 data from September to see that approximately
10 1,255 square feet of beaches critical area now
11 had this non-beach compatible fill of such
12 materials in it.

13 Q: Okay. I'd like to take you to your October 6
14 site visit. So, you went back out the very
15 next day?

16 A: Yes, I did.

17 Q: Okay. And why -- why is that? Why did you go
18 back out the next day?

19 A: I was in the area for inspections on emergency
20 orders that were issued, and I had followed up
21 at the site while I was there.

22 Q: Okay.

23 A: To document the site conditions.

24 Q: And tell -- tell us what you saw on the 6th?

25 A: Well on the 6th, sand had been flattened out at



1 the site, and more of it may have been added
2 seaward of this photograph.

3 Q: Okay. Now, is this -- is this the photo that
4 you took on the October 6 site visit?

5 **(Joint Exhibit Number 125 was referenced at this**
6 **time.)**

7 A: Yes.

8 Q: And when you were talking about the sand being
9 flattened out, that's what you're talking
10 about?

11 A: Yes. Seaward of this non-beach compatible
12 material, this sand had been flattened out, as
13 compared to the last photos that we just looked
14 at, as well as some potentially more sand had
15 been added.

16 Q: So, after these two site visits, what
17 compliance and enforcement action did you take?

18 A: I issued a notice to comply on October 20,
19 2023, for the non-beach compatible
20 fill/materials that had been placed in the
21 beaches critical area.

22 Q: Okay.

23 **THE COURT:** What was the notice of -- to comply?
24 What were they to comply with?

25 **MR. CHURDAR:** Your Honor, we're going to put that up



1 on the screen here ---

2 **THE COURT:** Oh, okay. Go ahead.

3 **MR. CHURDAR:** --- just ...

4 A: But to touch on that, it was in regards to the
5 non-beach compatible materials. And it's
6 further described as in the materials that were
7 identified in that notice, placed in the
8 beaches critical area.

9 **THE COURT:** All right.

10 Q: Mr. Prevost, if you could look at this, what
11 has been marked as Joint Exhibit Number 4, is
12 this what you're talking about?

13 **(Joint Exhibit Number 4 was referenced at this time.)**

14 A: Yes, it is.

15 Q: Notice to comply. Okay. And I was kind of
16 trying to get the exhibit up when the Judge
17 asked you, did you -- did you -- did you give
18 -- just testify as to what the notice to comply
19 was telling him to do?

20 A: Yes, and I will go ahead and highlight that
21 this specific notice to comply points out the
22 approximately 1,255 square feet of that non-
23 beach compatible fill and other materials, and
24 then it goes into more detail of what those
25 materials were, such as clay, gravel, rock,



1 artificial turf, the fencing, filter fabric, or
2 geotextile fabric, geo grid, and also wood and
3 also marine debris as pointed out here, as
4 well.

5 Q: Okay. Let's go to the December 6 site visit,
6 your inspection report, it's at -- if you want
7 to look at it, Joint Exhibit 131.

8 **(Joint Exhibit Number 131 was referenced at this**
9 **time.)**

10 Q: So, what prompted you to go out to the site
11 again on December 6th?

12 A: So, similar to October 6, I was following up on
13 emergency orders that had been issued in the
14 area by the City, as well as other properties,
15 and documented site conditions while I was out
16 there. Also following up on that issuance of
17 the notice to comply from October to see if any
18 additional work had been done.

19 Q: And what did you see?

20 A: So, what I saw that was different from my last
21 visit in October was some additional
22 landscaping work had been done, kind of on the
23 border of the not artificial turf gra- -- the
24 artificial turf grass that had been added. So,
25 specifically, what I observed was some pine



1 straw that had been added, dirt, as well as
2 some plantings.

3 Q: Okay. And that -- that was new. That was not
4 something you had seen before?

5 A: That was new.

6 Q: Okay. So, I'd like to let you look at Joint
7 Exhibit 132, and Bates number 853. Did you
8 take this picture on December 6th?

9 **(Joint Exhibit Number 132 was referenced at this**
10 **time.)**

11 A: Yes, I did.

12 Q: Can you point to the new non-beach compatible
13 material added to the beaches critical area
14 that you just spoke of?

15 A: Yes. So, right now I'm circling in red some of
16 the dirt material that is non-beach compatible
17 that was added, as well as over here, you can
18 observe some of that pine straw material down
19 here, as well, and you can see the plantings
20 that were also in line with some of that pine
21 straw that had been added (indicating). So,
22 this was new.

23 Q: Okay. All right. I'd like to next take you to
24 your December 13th site visit. And if you
25 would like to turn to Joint Exhibit 134, that's



1 the inspection report from that date. Can you
2 tell us what prompted the December 13th site
3 visit?

4 **(Joint Exhibit Number 134 was referenced at this**
5 **time.)**

6 A: So, on December 13th, I had followed up at the
7 site to see if any additional work had been
8 done, but was in the area to document site
9 conditions for emergency orders.

10 Q: Okay. And tell the Court what you saw on -- on
11 this site visit.

12 A: Yes, if you go to the next photos in this
13 exhibit, I can further explain, but there were
14 some of the same materials in that first one.
15 This shows a seaward side of taking of the
16 photograph of the property here. And also the
17 next photograph would better show some of the
18 marine debris that I observed on site that day.

19 Q: Okay.

20 A: Which is going to be Bates number 863, right
21 here. So, I will circle this marine debris
22 that I observed on site that day. So, here in
23 the bottom left there is a large clay ball,
24 clay debris here, I observed. Here's some sand
25 bag debris. And then basically the entirety of



1 the seaward portion of beach had gravel rock
2 scattered throughout it.

3 Q: Okay.

4 A: That came from the property.

5 Q: And did you -- did you take the picture from --
6 that we're looking at from the December 13th
7 site visit?

8 A: Yes.

9 Q: Okay. And how did you determine that the
10 marine debris originated from the Reddys?

11 A: Yeah, so, the clay debris, I am aware that
12 there had been discussions for clay to be
13 installed at this site, and also in my notice
14 to comply, I highlighted that clay debris was
15 one of the non-beach compatible materials
16 there. Also the gravel/rock scattered here had
17 been placed in line with the extent of the non
18 beach compatible materials towards the top in
19 my previous site visits. I will also add that
20 this clay debris that is observed bottom left
21 here where I'm going to circle again, I
22 observed it many, many times following this
23 visit, in a very -- varying forms attached to
24 the soon to be exposed erosion control
25 structure, landward of it and to the sides of



1 it, as well, up and down the beach.

2 Q: Okay. And the rocks that you saw out there,
3 you had seen the rocks that were part of the
4 landscaping?

5 A: Yeah.

6 Q: And did they appear to be the same rocks?

7 A: Oh, they appeared to be, yes.

8 Q: Okay. All right. So, Mr. Prevost, we have up
9 here Joint Exhibit 99. Did you take this
10 picture on this site visit?

11 **(Joint Exhibit Number 99 was referenced at this**
12 **time.)**

13 A: Yes, I did.

14 Q: Okay. And can you please explain to the Court
15 what it is that you observed?

16 A: Yes. So, in this photograph, you can see some
17 other marine debris, consistent of either the
18 clay or gravel/rock seaward of the site.

19 Q: Now, let's go on to the December 20th site
20 visit, please. And if you want to look at the
21 inspection report at Joint Exhibit Number 100.

22 **(Joint Exhibit Number 100 was referenced at this**
23 **time.)**

24 Q: First of all, what prompted you to do the site
25 visit on December 20th?



1 A: Well, once again, I was in the area evaluating
2 nearby emergency orders to -- and also
3 following up on compliance at the site.

4 Q: Okay. Tell us what you saw when you were there
5 on December 20th.

6 A: So, on December 20th, this was my first full,
7 clear view of the exposed erosion control
8 structure at the site. So, this was a --
9 approximately 92 linear foot wide structure,
10 about four feet tall from beach grade, and that
11 means with beach sand in this case, on that
12 day, as well as some landward extending wing
13 walls on the ends of the structure,
14 approximately eight linear feet, as well. And
15 I will also add that the thickness of the
16 structure was about two to three feet at that
17 time. And also, I observed a significant
18 amount of marine debris that day, consisting of
19 clay materials, as well as gravel rock, to name
20 a couple.

21 Q: Artificial turf, did you see that?

22 A: Oh, yes, non-beach compatible materials
23 consisting of artificial turf had remained at
24 the site, and you can actually see some of it
25 had been disturbed from recent tidal and wave



1 action.

2 Q: I'd like to go to Joint Exhibit 101, and, in
3 particular, look at Bates number 230, 232, and
4 234, and have you tell the Court what we're
5 looking at here with these three pictures.

6 **(Joint Exhibit Number 101 was referenced at this**
7 **time.)**

8 A: Yes. So, in this photograph here, Bates number
9 000230, this shows the right/north side of the
10 erosion control structure. Here, you can see
11 there was a significant amount of erosion or
12 scour that had -- or wash out that had gone
13 around and even landward of the structure. You
14 can see some of this non-beach compatible
15 material as in the artificial turf grass that
16 had been affected by that -- that activity.
17 There's also other materials at the edge of
18 this, as well. And I will also highlight here
19 that the non-beach compatible materials that
20 comprise the erosion control structure were not
21 just concrete, but also geotextile fabric to
22 see here on the side, at least on the right.
23 And you can see plenty of other non-beach
24 compatible materials here landward of the
25 structure consisting of gravel rock.



1 Q: Can you go to 232, next, please? And what are
2 we looking at here? This is on the same site
3 visit, correct?

4 A: Yes, this is on the same day, December 20,
5 2023. This shows the left side, or south side,
6 of the erosion control structure. Here, again,
7 in the foreground, you can see some recently
8 moved sand. But what I'm looking at here is
9 the edge of the erosion that reached landward
10 of the structure. Here, I will highlight the
11 erosion control structure so you can see it.
12 But here, on the left side, you can see that
13 non-beach compatible materials are becoming
14 marine debris, such as this metal fencing, as
15 well as more and more of this gravel and rock
16 and that artificial turf. And go to 234.
17 Okay. What are we looking at here? Same site
18 visit, right?

19 A: Yes, it is. So, this photograph here was a
20 seaward view of the structure. Seaward of the
21 concrete erosion control structure, there was a
22 lot of marine debris, consisting of clay,
23 gravel, rock. There's also some plastic mesh
24 material here.

25 Q: That big circle that you -- the first one that



1 you drew ---

2 A: Yes.

3 Q: --- you say that's -- is that all clay, or
4 mostly clay, other than ---

5 A: Mostly clay debris just seaward of the
6 structure.

7 Q: Okay.

8 A: And you can also see just landward, some
9 similar materials still up on site -- on the
10 site, that wall.

11 Q: What is that little build up of sand? It looks
12 like it's kind of surrounding the clay. What
13 is that all about?

14 A: Yes, so I will just follow the top of this
15 little sand that was at the site. This is
16 likely remnant from some sand scraping activity
17 or renourishment activity.

18 Q: Okay.

19 A: At adjacent properties, or may have fallen onto
20 this property, as well.

21 Q: All right. Let's go to the December 28th,
22 2023, site visit. And Mr. Prevost, the
23 inspection report, is it Joint Exhibit 102, if
24 you'd like to refresh your memory of that.
25 What prompted you to do the site visit on



1 December 28th?

2 (Joint Exhibit Number 102 was referenced at this
3 time.)

4 A: Well, I recall that the City had informed us of
5 some unauthorized backfill in critical area, as
6 well as extension of the wing walls. And also
7 I was following up on the unauthorized erosion
8 control structure that had been installed at
9 the site. So, when I went out there that day,
10 it was to document the site conditions again,
11 as well as collect survey data to figure out
12 exactly the survey location of the wall. So,
13 on that date, I collected survey data along the
14 seaward extended top of the wall with the RTK
15 unit that I described earlier.

16 Q: Okay. We'll get to that in just a second. Can
17 you -- looking at Bates number 880, can you
18 tell the Court what it is that you observed
19 that day? What do you see there?

20 A: Yes, so, once again, we can see the wall, and
21 I'll just highlight this is the corner of the
22 wall. So, firstly, in the foreground, you can
23 see marine debris scattered, such as concrete
24 debris and clay debris, and a significant
25 amount here on the left side here. You can see



1 those wing wall extensions that the City had
2 mentioned here, which is in the form of wooden
3 paneling or plywood. And next photo, I could
4 probably look at some more materials that I saw
5 at the site.

6 Q: Before we turn to that, that -- that pole, see
7 right there, that pole?

8 A: Yes.

9 Q: Is that the RTK device that you have been
10 talking about?

11 A: Yes, it is. Right there, it was placed where
12 I took some photographs.

13 Q: Okay. So, can you please go to 890? Thank
14 you. And what are we looking at here?

15 A: So, here is the right side, or north side of
16 the structure, looking just landward of the
17 corner of it. So, this is the inner corner of
18 the concrete erosion control structure. Here,
19 on this side, you can also see additional
20 wooden components that had been added to the
21 site, all unauthorized, as well as a
22 significant amount of riprap debris or riprap
23 that had been added, which is larger granite
24 rocks consisting of about approximately six
25 inches, maybe a foot in diameter. They can



1 vary. And you can also see that on both this
2 photograph, as well as the last one, that
3 significant erosion had gone all the way around
4 the structure and on the landward side.

5 **THE COURT:** You said the wood, is that what you're
6 referring to as the wings?

7 A: So ---

8 **THE COURT:** Or is this different?

9 A: Wing walls, I would classify as this landward
10 extending portion of the concrete structure.
11 These wing wall extensions, as I'm circling
12 right now, were called out by the City in a
13 complaint email as wing wall landward
14 extensions (indicating).

15 **THE COURT:** Okay.

16 Q: And you mentioned, I think you said you used
17 your -- the RTK to collect survey data on this
18 site.

19 A: Yes, I did.

20 Q: Okay. And why were you collecting survey data
21 on this site visit?

22 A: It was to document the location of the seaward
23 extent of the erosion control structure that
24 had been recently uncovered. Since I was there
25 on December 20th, I had not collected it, so I



1 came out following then to collect it.

2 Q: And the placement of the RTK device, I think
3 you said that the collection of data shows to
4 the centimeter, the precision is very high
5 with this device?

6 A: It is a very accurate piece of survey grade
7 equipment. So, when I use it, I'm able to put
8 the very base or a spike at the bottom of it at
9 the seaward extent of the concrete erosion
10 control structure to capture exactly where that
11 lies.

12 Q: Okay. And that -- you said you're able to, but
13 that's what you actually ---

14 A: That is what I did, yes.

15 Q: Okay. All right. Let's go to the January
16 11th, 2024, site visit that you made. And if
17 you want to look at the inspection report,
18 that's at Joint Exhibit 105. So, what
19 prompted you to do a site visit on January the
20 11th?

21 **(Joint Exhibit Numbers 105 and 106 were referenced at**
22 **this time.)**

23 A: So, on this day, or prior to this site visit,
24 we received a complaint for additional riprap
25 installed at the site. So, in this photograph



1 here taken on that day of January 11th, 2024 I
2 will go ahead and circle some of that new
3 installed riprap rock, as well as some other
4 new non-beach compatible materials that have
5 been added to the site, which is that plastic
6 tarping and plastic sheeting there. And I will
7 very clearly see that this wall was now leaning
8 significantly seaward as if it was going to
9 fall due to waves and tidal action.

10 Q: Okay. Can you go to 204, please? And at the
11 same visit, is this one of the other pictures
12 that you took on this site visit?

13 A: Yes, it is. So, this photograph here more
14 clearly shows the amount of washout or scour
15 that happened on the north/right side of the
16 structure. So, this is where I was circling
17 the riprap that had been newly added. But here
18 you can see just how significantly it's been
19 eroded by wave and tidal action on the right
20 side.

21 Q: And then 208. And what are we looking at --
22 this is the same site visit, this picture?

23 A: Yes, it is.

24 Q: Okay.

25 A: So, this photograph here shows more of an



1 overview of the structure. I'll just point out
2 that there is marine debris, consistent of
3 gravel rock, as well as clay and riprap found
4 seaward of the structure, a significant amount
5 found on the left side. And I believe there's
6 another picture showing a significant amount of
7 erosion that happened on the left side of the
8 structure.

9 Q: Okay. Can you go to 210, please?

10 A: And here's that photo that I was describing.
11 You can see some other marine debris, such as
12 this clay debris, large clay balls riprap.
13 Concrete debris, metal fencing that had been
14 falling, wooden paneling, to name a couple of
15 the non-beach compatible materials and marine
16 debris that I observed on that date.

17 Q: Okay. And 214. And what are we looking at
18 here?

19 A: So, here's another photograph from that day,
20 just showing the landward side of the erosion
21 control structure, which was leaning. So,
22 here, there have been some wooden plywood that
23 had been added, as well as some loose
24 artificial turf grass material, as well as some
25 more clay debris and riprap that appears to be



1 in there. And it was.

2 Q: Okay. Now, the next site visit that you made
3 was on January 25th, is that correct, 2024?

4 A: Yes.

5 Q: Okay. If you would please look at Joint
6 Exhibit 107 just to refresh your memory.

7 **(Joint Exhibit Number 107 was referenced at this**
8 **time.)**

9 A: Yes.

10 Q: So, what prompted you to do a site visit on
11 January 25th, 2024?

12 A: There was a new complaint that there was
13 unauthorized work occurring in the beaches
14 critical area at the site.

15 Q: Okay. And when you went out there, what did
16 you see?

17 A: So, what I did observe, as photographed here,
18 was some heavy equipment consisting of a bobcat
19 skid steer, as well as a larger excavator on
20 the upper part of the property there. So, what
21 they were doing was installing metal screw
22 piles, so some foundational elements on the
23 seaward side of the structure. I believe I
24 also have some photos that more closely show
25 the tops of those components that were



1 installed. You can, of course, see some other
2 marine debris, consistent of the riprap that
3 was there. And up here, you can kind of see,
4 this is some of the metal screw pile segments
5 that they were installing that we can look at
6 in the next photograph.

7 Q: Okay. And then if you could go to 313. And
8 what are we looking at here?

9 A: Here are the tops of those metal screw piles
10 that I was describing. There's one of them.
11 Here's another one of them. Here's another.
12 There's another here, it appears. But multiple
13 of these structures were installed as some sort
14 of foundational support for the seaward side of
15 this erosion control structure.

16 Q: And then go to 319, please. And what are we
17 looking at in Bates number 319?

18 A: So, here, this is where that larger excavator
19 had been excavating some of the material
20 landward of the structure. And here towards
21 the top right, you can see some of that heavy
22 equipment where they were still doing the
23 installation on that seaward side. But on the
24 landward side, you can see some of the
25 components that were part of the erosion



1 control structure, such as the geotextile
2 fabric.

3 Q: And all that area that you just circled, that's
4 in beaches critical area?

5 A: Yes, it is.

6 Q: Okay. So, did you talk to any contractors that
7 day or any of the workers?

8 A: Yes, I did. And when I spoke to them, they
9 said they were installing 14-foot deep metal
10 screw piles on the seaward side of the
11 structure.

12 Q: Okay. So, what action did you take after that
13 January 25th site inspection?

14 A: I issued a cease and desist for unauthorized
15 work in the beaches critical area consistent of
16 this installation of the metal screw piles.

17 Q: So, this is -- is this the -- we've heard
18 testimony earlier that there were three cease
19 and desist directives. Is this the first one
20 that you drafted?

21 A: Yes, this is the first of three cease and
22 desists that I had a hand in creating. And
23 this one here calls for the cease and desist of
24 all work in the beaches critical area or -- or
25 and -- or on that active beach, that is in



1 violation of the Act.

2 Q: Okay. And that was first cease and desist
3 directive was sent to Mr. Reddy and his
4 attorney, Merritt Abney?

5 A: Yes, his attorney at the time.

6 Q: Okay. Let's move on to the January 29th, 2024,
7 site visit.

8 **THE COURT:** So, we'll be moving toward the next cease
9 and desist.

10 **MR. CHURDAR:** Yes, sir.

11 **THE COURT:** Well, then I think I'm going to take a
12 break now, today.

13 **MR. CHURDAR:** Oh, okay.

14 **THE COURT:** We got through the first cease and
15 desist, and now you've got three -- two more?

16 **MR. CHURDAR:** Yes, sir.

17 **THE COURT:** Okay. If they're gonna take the same
18 length of time, then I think we'll start
19 tomorrow.

20 **MR. CHURDAR:** Okay.

21 **THE COURT:** What time? Anybody ---

22 **MR. REDDY:** 9:00?

23 **THE COURT:** 9:00 is fine with me.

24 **MR. CHURDAR:** I'm good with that.

25 **THE COURT:** 9:00 it shall be. Thank y'all. The



1 hearing's adjourned for today.

2 **(The hearing was adjourned at 6:12 p.m.)**

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1 **DAY TWO - WEDNESDAY, MAY 7, 2025**

2 **THE COURT:** So, Mr. Churdar, you're handling the
3 current witness, right?

4 **MR. CHURDAR:** Yes, sir.

5 **THE COURT:** Okay. You can step back up. You're
6 still under oath.

7 You by yourself over there?

8 (Laughter)

9 **MR. PREVOST - CONTINUED DIRECT EXAMINATION BY MR.**
10 **CHURDAR:**

11 Q: Good morning, Mr. Prevost. I just want to
12 start with a housekeeping matter. Yesterday I
13 had mentioned the first cease and desist, and
14 I directed your attention to Joint Exhibit 6,
15 which what we have today is Joint Exhibit 5, is
16 that the cease and desist that you were -- that
17 you issued on the site visit that we were
18 talking about yesterday in January 2024?

19 **(Joint Exhibit Number 5 was referenced at this time.)**

20 A: Yes, this is the cease and desist, as in the
21 first of three, cease and desists that I issued
22 for that property, this one specifically on
23 January 25th, 2024.

24 Q: Okay. Thank you. And what, in particular, did
25 you tell Mr. Reddy to cease and desist from



1 doing?

2 A: So, this cease and desist was regarding all
3 activity in the beaches critical area that's in
4 violation of the Act. Specifically, it also
5 called out the materials, as in the non=beach
6 compatible materials on the site, such as the
7 92 linear foot erosion control structure, the
8 metal screw piles that were being installed on
9 the seaward side of the structure, and some of
10 that scattered clay and riprap debris.

11 Q: Okay. All right. So, now, Mr. Prevost, I
12 would like to talk with you about the January
13 29th site visit that you made, and to refresh
14 your recollection, if you would just take a
15 look at Joint Exhibit 108 (sic), which is your
16 inspection report. You there?

17 A: Yes.

18 **(Joint Exhibit Number 8 was referenced at this time.)**

19 Q: Okay. So, what prompted you to do the site
20 visit on January 29th, 2024?

21 A: So, following the issuance of the first cease
22 and desist on the 25th of January, 2024, I
23 followed back up at the site to document the
24 site conditions and to see if any additional
25 work had been done, or if they actually did



1 cease and desist the work that had been called
2 out.

3 Q: Okay. And what -- what did you see?

4 A: Well, as photographed here, this is what I
5 observed on that day of January 29th, 2024 and
6 what I observed was, and I'll highlight it
7 here, the same equipment on the beach as in the
8 Bobcat and skid steer here, as well as in the
9 background, the larger excavator here.
10 Specifically what I observed them doing on site
11 this day was installing metal screw piles
12 again, but this time on the landward side of
13 the structure, to fortify or create some
14 foundational support for it from that side.

15 Q: Just a second, would that be on the next photo?

16 A: There would be a better view of them installing
17 on the landward side in the next photo, but I
18 can also call out as seen here, those metal top
19 screw -- tops of the screw piles that were
20 installed that I observed during my last visit,
21 you can kind of see them here, here, and those
22 are the exposed tops of those 14-foot deep
23 metal screw piles as described by the
24 contractor on site.

25 Q: Okay.



1 A: The next photo and I can show you what else I
2 observed on site.

3 **MR. CHURDAR:** Can you go to 341?

4 A: So, this photo here shows the landward side of
5 the structure. And compared to my last visit,
6 this area has been significantly modified, as
7 in excavated, more than my last visit. And
8 this is some of those components that were
9 being installed on the landward side of the
10 structure, those metal screw pile segments,
11 while I was out on site.

12 Q: Okay.

13 A: And you can see some more of that debris here.
14 And I will also add that it was important to
15 know, and there is photographs following this
16 one, where there was water landward of the
17 structure, and also evidence of erosion that
18 had gone around the structure.

19 Q: And is all this work taking place in beaches
20 critical area?

21 A: Yes.

22 Q: Okay. Now, when you are out there on this site
23 visit, did you talk to the contractor or
24 workers about stopping work?

25 A: Yes, I -- I did.



1 **OBJECTION:**

2 **MR. REDDY:** I object to hearsay.

3 **THE COURT:** Any response?

4 **MR. CHURDAR:** Well, I mean, they haven't said
5 anything yet. I just asked him if he talked to
6 the workers, but ...

7 **THE COURT:** Okay. I overrule the objection at this
8 point.

9 A: Well, I did speak to the contractors on site
10 that day.

11 Q: Okay. And ---

12 A: And I can elaborate on that.

13 Q: Well, let me -- let me ask it this way, how did
14 they respond? And what I'm talking about is
15 what they did as far as stopping work or not as
16 a result of the directive?

17 A: So, I had told them that there was a cease and
18 desist for work in the beaches critical area at
19 the site ---

20 **OBJECTION:**

21 **MR. REDDY:** Your Honor, this is -- this is
22 continuing to be the same thing. They're just
23 going around the same thing. I object to all
24 of this ---

25 **THE COURT:** Well, you can object to the event of any



1 statements that they made to him, because that
2 is hearsay.

3 **MR. REDDY:** That -- that is my objection.

4 **THE COURT:** He's asking -- he's asking about the --
5 the actions ---

6 **MR. CHURDAR:** Right.

7 **THE COURT:** --- as I understand.

8 **MR. CHURDAR:** All I'm asking ---

9 **THE COURT:** What actions did they take.

10 **MR. REDDY:** As a result of his statement?

11 **THE COURT:** I can't answer questions.

12 **MR. REDDY:** Well, that's what he's saying. He's
13 saying they -- they took some actions as a
14 result of his statement. Does he have any
15 proof of what statement he made?

16 **THE COURT:** See, that -- I don't want to get too
17 much into explaining things for them, but I
18 have to -- I am ruling the way I'm ruling
19 because he can testify to personal observations
20 that he has made himself.

21 **MR. REDDY:** Your Honor, he is testifying to what the
22 contractors did ---

23 **THE COURT:** That ---

24 **MR. REDDY:** --- as a result of his conversation and
25 the contractors, they absolutely did not listen



1 to some guy running around the beach. Why
2 would they? I don't know where we're going
3 with this line of questioning, is my point.

4 **THE COURT:** You have the right to cross examination
5 based on what is -- the evidence that comes
6 out. Proceed.

7 **MR. CHURDAR:** Okay.

8 Q: So, you -- I think we're clear on this, but I
9 just want to re-ask the question, did you --
10 you talked to the contractors or the workers
11 about stopping work?

12 A: Yes, I told them about the cease and desist for
13 the work at the site in the beaches critical
14 area.

15 Q: Okay. And how did they behave in -- in
16 response to that directive you told them about?

17 **THE COURT:** I tell you what, rather than how did
18 they behave, he can testify to what did they
19 do, what did he observe them to do.

20 **MR. CHURDAR:** Right.

21 **THE COURT:** Behave ---

22 **MR. CHURDAR:** Okay. Thank you.

23 **THE COURT:** --- make it into a nuance that I don't
24 care to step into.

25 **MR. CHURDAR:** Fair enough, Your Honor, thank you.



1 Q: What did they do?

2 A: Well, they refused to stop work. They refused
3 to elaborate on the work being done at the
4 site. They refused to state who they were. So
5 ---

6 **OBJECTION:**

7 **MR. REDDY:** Your Honor, we're just continuing to go
8 down this path of what they refused to do. How
9 is he saying that? Did they -- did they --
10 does he have a statement from someone that they
11 refused to do it, refused to do that, refused
12 to stop work? It's all hearsay.

13 **THE COURT:** Mr. Churdar?

14 **MR. CHURDAR:** Your Honor, I mean, they're not -- I'm
15 not -- I've not elicited any out of court
16 statements from -- from these workers. I just
17 asked Mr. Prevost what he -- what he saw, what
18 did they do. I don't believe that's hearsay.

19 **THE COURT:** Right.

20 **MR. CHURDAR:** It's not hearsay.

21 **THE COURT:** I think you're mostly correct. When he
22 starts saying they refused to do something,
23 now, that gets into my -- the nuance that I
24 said about behavior. Sir, I just want you to
25 testify to what you observed.



1 A: Yes, and ---

2 **THE COURT:** What you saw.

3 A: Yes, sir.

4 **THE COURT:** Don't com- -- make comments about your
5 characterization of -- of how the behavior was
6 conducted, okay.

7 A: Yes, sir.

8 **THE COURT:** All right.

9 Q: Okay. So -- so, what did you -- what did you
10 see? What did they do?

11 A: Well, on -- on screen here, this is a detailed
12 account of my on-site interactions from that
13 date. And I will go ahead and underline some
14 of my interaction with the on-site supervisor
15 while I was there toward ---

16 **THE COURT:** This has been admitted in the evidence?

17 **MR. CHURDAR:** Yes, sir.

18 **THE COURT:** Okay.

19 A: So, towards the end, and I will try to
20 underline it so ...

21 Q: And just before you do that, just let me lay --
22 lay one foundation ---

23 A: Okay.

24 Q: --- question. Did you make this file memo
25 contemporaneously with the interaction that you



1 had with the workers?

2 A: As soon as I got back to my office, I typed
3 this up so I had it fresh in my mind to be as
4 detailed as accurate as possible, to the best
5 of my ability.

6 Q: Okay. You can go ahead and underline or
7 whatever you were going to do.

8 A: Yes. So, I would say to start from this red
9 line here and reading to the end here
10 accurately accounts to how I -- my interaction
11 with the on-site supervisor went. So, I will
12 go ahead and even more closely look at where
13 the supervisor said he was aware of the January
14 25th, 2024, directive, but he claimed the
15 activity was a subject -- that was subject of
16 that directive was already completed. I asked
17 what they were doing, and they said I would
18 have to speak to attorneys on the activity and
19 anything else. And they would also not
20 identify themselves (indicating).

21 Q: Okay. So, let's -- could you please tell the
22 Court about the survey data that you collected
23 this date with your RTK?

24 A: Yes. So, following the first cease and desist
25 that was issued on January 25th, 2024 I



1 followed back to the site on this date, on the
2 29th, so, that I could capture more survey data
3 along the seaward extent of the structure. So,
4 what I did specifically that day was take the
5 same RTK survey grade equipment and measured
6 from beach grade, where the pole was at equal
7 to the seaward extent of the concrete erosion
8 control structure, and captured that data along
9 the seaward side. And I could further -- this
10 is a following visit, but if we go back to the
11 other photos, I can show you exactly where I
12 collected that data.

13 **(Joint Exhibit Number 142 was referenced at this**
14 **time.)**

15 Q: Okay. Let me just say, we have the photos up
16 there with the -- with the screw piles showing.

17 A: Yes.

18 Q: Is that the -- is that the new data that you
19 collected as a result of taking the RTK data
20 points that day?

21 A: Yes. So, on the 29th I collected the data
22 along the seaward extent of the concrete
23 erosion control structure, as well as collected
24 data at the seaward metal screw pile tops, as
25 I circled them in the last set of photos.



1 Q: Okay.

2 A: To get their location in the beaches critical
3 area.

4 Q: Okay. So, next, let's go -- I'd like to talk
5 to you about the site visit on February 1st,
6 2024. And if you would turn to Joint Exhibit
7 110 that's your inspection report, if you want
8 to ---

9 A: Thank you.

10 Q: --- refresh your memory on that.

11 **(Joint Exhibit Number 110 was referenced at this**
12 **time.)**

13 Q: So, tell us what -- what you saw when you went
14 out on February 1st?

15 A: On February 1st, when I went back out to the
16 site, I saw continued work in the beaches
17 critical area. This time, they had two
18 excavators out on site. And in the following
19 photo, it better shows some more of the work
20 that was taking place during that visit, and
21 also it better shows some of the other details
22 I'd like to get at the wall during this visit.

23 Q: Okay. What was the tide cycle when you were
24 out there on this February 1st site visit?

25 A: Yes, I'd say it's important to mention that on



1 this date, when I went out to the site, it was
2 during a high tide. And I will also mention
3 that it was a lower than average high tide at
4 approximately four feet according to the tides
5 chart app that I used during that visit and
6 that -- that tides chart app relies primarily
7 on NOAA data ---

8 Q: Okay.

9 A: --- to get the tide information.

10 Q: Okay. I'm sorry, did you say what the -- what
11 the number of the high tide was?

12 A: It was approximately four feet.

13 Q: Okay. And -- and what is that in relation --
14 you said it was a lower than average high tide,
15 what would -- what would an average high tide,
16 not talking about a king tide, but just an
17 average high tide at this location of Isle of
18 Palms be?

19 A: An average high tide, I don't have a specific
20 set range of dates, but approximately can get
21 up to five to five and a half feet at times.

22 Q: Okay. All right. What else -- what else did
23 you see on this site visit?

24 A: Well, just in this photograph here, you can see
25 some more of that marine debris, consisting of



1 clay debris, riprap and some other non-beach
2 compatible materials that had been added, such
3 as these orange mesh fencings that they set up
4 on the sides of the structures, likely to
5 protect the large areas of excavation or
6 erosion on the sides. And I would like to go
7 to the next photo to show you what else I'd
8 seen.

9 Q: Okay. Is that -- is that the one you're
10 looking for?

11 A: I'm not sure what the ---

12 **MS. DEBRUHL:** Tell me when to stop.

13 **MR. CHURDAR:** Okay. Hang on just a second.

14 A: These are all good photos, but in the sake of
15 efficiency ---

16 Q: Well, can you ---

17 A: This is a good photo right here. I'd like to
18 go over this one. So, this photograph here
19 shows the seaward side of the structure, and I
20 would really like to draw your attention to
21 this area here (indicating). This area here
22 shows water breaching underneath the structure,
23 and this actually went through and -- and on
24 the landward side. So, in the following photo,
25 you'll actually see where this water is getting



1 through to the landward side.

2 **MR. CHURDAR:** Can you go to Bates number 462,
3 please?

4 A: Okay. So, here's another photograph, but this
5 is of the landward side of the structure, as
6 well as on the western/left side of the
7 structure, if you're standing at the beach.
8 And I would first like to show you the circled
9 area here, this is some new, non-beach
10 compatible materials that they added to the
11 beaches critical area, some wooden forms that
12 they put down in preparation to install
13 concrete or concrete slab or the first -- or a
14 portion of the concrete foundation for the
15 second wall that they added (indicating). And
16 also, I would like to draw your attention to
17 these structures that line the entirety of the
18 inside of the original erosion control
19 structure. Those are exposed or unprotected
20 rebar pieces. So, that would be some
21 foundational support for newly added concrete
22 when it is added, but it also poses a
23 significant safety hazard during that time.
24 And also, I'd also point out this area here is
25 much lower than the top of the structure, and



1 there's water here. And then I would also like
2 to go back to when I mentioned the water
3 rushing through the seaward side, this area
4 right here is where it's coming through on the
5 landward side of the structure, so you can see
6 where the water is disturbed and more clear.
7 And then outside of that area, this is more
8 white and foamy water that had settled
9 (indicating).

10 **THE COURT:** Hold one moment before you clear that.

11 A: Uh-huh.

12 **THE COURT:** Thank you.

13 **MR. CHURDAR:** Okay. Can you go to BCM 516?

14 Q: Okay. And what are we looking at in BCM Reddy
15 000516?

16 A: This is another photo of the seaward side of
17 the structure with the waves and tidal action
18 reaching the wall. I'll also add that during
19 this inspection, I was not able to traverse the
20 seaward side of the structure without water
21 coming up and overtopping my eight-inch tall
22 work boots and soaking my feet.

23 Q: Now, did you post a second cease and desist on
24 site that day?

25 A: I posted a cease and desist on site this day in



1 a couple different -- or a few different
2 locations.

3 Q: Okay. So, I'd like to go to Bates number 509,
4 and ask you, you just mentioned posting a cease
5 and desist. Is this a photo of that cease and
6 desist that you posted that day?

7 A: Yes, this is a photo of one of them, and I'll
8 circle it here for your attention.

9 Q: Okay.

10 A: That was posted on an existing wooden stake
11 that they installed for that orange plastic
12 fencing there.

13 Q: Okay. And what follow-up action did you take
14 after posting the cease and desist?

15 A: I helped prepare a formal cease and desist
16 letter for continued work in the beaches
17 critical area.

18 Q: So, this was the second?

19 A: The second of three, yes.

20 Q: Okay. All right.

21 **MR. CHURDAR:** Can you go to Joint Exhibit 6? Thank
22 you.

23 Q: So, Mr. Prevost, is this the cease and desist
24 letter that was issued on February 3rd, 2024?

25 **(Joint Exhibit Number 6 was referenced at this time.)**



1 A: Yes, this cease and desist was the second of
2 three, and it was issued on that date. And it
3 further calls out continued work in the beaches
4 critical area, specifically this one also
5 mentions excavation in the beaches critical
6 area, installation of rebar, wooden forms and
7 supports, newly poured concrete immediately
8 landward of the unauthorized erosion control
9 structure.

10 Q: Okay. Was there any response to the cease and
11 desist posted on site on February 1st, 2024?

12 A: There was public response, as in after I posted
13 those on site postings, I received multiple
14 calls, as well as some other staff at the
15 Department in the following days, as in on
16 February 2nd and 3rd, and I have a log of that.

17 Q: Okay.

18 **MR. CHURDAR:** Janet, can you go to Joint Exhibit
19 113, please?

20 Q: Okay. And can you -- is this the log that you
21 kept of the calls?

22 **(Joint Exhibit Number 113 was referenced at this**
23 **time.)**

24 A: Yes.

25 Q: Okay. And what was the -- what was the gist of



1 it?

2 A: Well, almost every one of those calls was
3 regarding continued work in the beaches
4 critical area, and calling for the stop of the
5 work. Some of them also pointed out that
6 concrete was being added to the site after I
7 had those postings put up. So, those are
8 accounted for here.

9 Q: Okay. I'd like to next talk to you about the
10 February 13th, 2024 site visit.

11 **MR. CHURDAR:** And, Janet, if you could pull up
12 Joint Exhibit 147, please.

13 Q: And Mr. Prevost, if you want to refresh your
14 memory with your inspection report, that's at
15 Joint Exhibit 148.

16 **(Joint Exhibit Numbers 147 and 148 were referenced at**
17 **this time.)**

18 A: Thank you.

19 Q: Did you take photos of the site during your
20 February 13th, 2024 site visit?

21 A: Yes.

22 Q: Okay. So, I'd like to show you a couple of
23 photos, and have you tell the Court what --
24 what violations we're looking at.

25 **MR. CHURDAR:** Can you go to 2240?



1 A: Yes. So, this photograph here shows the newly
2 added second erosion control structure, at
3 least the seaward portion here. You can also
4 see the top of the added wing wall here, so,
5 that is new since my last visit. And you can
6 also see some other non-beach compatible
7 materials that are exposed due to the erosion,
8 such as this wooden form on the side here, some
9 of that remnant marine debris. There was also,
10 which we'll see in a following photo, some
11 steel mending plates that had been added to the
12 seaward side, which we'll further describe in
13 the next photograph.

14 Q: I think you -- what you circled is kind of a
15 distant photo, but in the middle of that circle
16 that you did, in the middle of that picture?

17 A: Uh-huh. Yes.

18 Q: Is that what you're talking about?

19 A: Yes. I'll circle again here.

20 Q: Okay.

21 A: That is one of the steel mending plates that
22 had been added to cracks that were in the
23 structure.

24 Q: Okay. If you could ---

25 A: On the seaward side.



1 **MR. CHURDAR:** And, Janet, go to 2247, please.

2 Q: Okay. And is -- are these amending plates that
3 you were talking about just a moment ago?

4 A: Yes, right now, some of them are partially
5 buried in the sand, but these are the steel
6 mending plates that were added to cracks in the
7 structure. And as you can see, along the
8 cracks, some foam injection material was also
9 added. In an attempt to repair the wall,
10 likely.

11 Q: Okay.

12 **MR. CHURDAR:** And can you please go to 2255?

13 Q: Now, what are we looking at here?

14 A: This photograph is more of the landward side of
15 the newly added erosion control structure here.
16 I'll just circle the seaward portion here, as
17 well as the landward extending wing walls that
18 were also added. So, these were concrete
19 structures added since my last visit.

20 Q: Okay. And, again, this activity was in the
21 beaches critical area?

22 A: Yes.

23 Q: Okay. I'd like to next talk to you about ---

24 **THE COURT:** Wait. Is there any indication of
25 periodic inundation in these photos?



1 A: Yes, the area has been heavily modified. And
2 you can see, if we go back to photograph, to
3 where we were looking before. You can see --
4 that's this photo here, shows that the erosion
5 had gotten past the seaward extent of the wall,
6 and also you can see the wet sand here.

7 **THE COURT:** It looks like it's white right in front
8 of the wall itself. Does that indicate that
9 that's where the inundation stopped, or is
10 there ---

11 A: I could not ---

12 **THE COURT:** --- 'cause it's showing me -- on one
13 hand, I see the white looking sand there, which
14 looks dry, but then on the other hand, you're
15 referencing over here to the right where there
16 was ---

17 A: The erosion, yes.

18 **THE COURT:** --- water came up a lot higher than
19 that.

20 A: The erosion did reach landward of the
21 structure. And following this visit, on
22 subsequent visits, the erosion went even more
23 landward, and I could show you those in the
24 next visit ---

25 **THE COURT:** Okay.



1 A: --- significantly.

2 Q: Okay. So, next I'd like to talk to you about
3 the February 1st (sic), 2024 site visit.

4 **MR. CHURDAR:** Can you pull up Joint Exhibit 149,
5 please?

6 A: And did you mean February 21st?

7 Q: February 21st and your inspection report is at
8 Joint Exhibit 150.

9 **(Joint Exhibit Numbers 149 and 150 were referenced at**
10 **this time.)**

11 A: Okay.

12 Q: Okay. And why were you out at the site on
13 February 21st, 2024?

14 A: To document the site conditions, to see if any
15 additional work had been done while I was in
16 the area.

17 Q: Did you take pictures ---

18 A: Yes.

19 Q: --- during that site visit? And I'd like to
20 show you some pictures we have. 149, Bates
21 number 602, what are we looking at here?

22 A: The main thing to point out from this visit was
23 additional marine debris. If you recall the
24 last photos, there was a significant amount of
25 hanging geo textile, fabric off the seaward



1 extent of the wall, which is not visible now,
2 but here is now in the beaches critical area as
3 it has fallen off, and there's also other
4 materials such as clay debris and concrete
5 riprap, as well.

6 Q: Okay. And then let's move on to the February
7 26th site visit in your Joint Exhibit 152 is
8 where you'll find your inspection report.

9 **(Joint Exhibit Number 152 was referenced at this**
10 **time.)**

11 A: Thank you.

12 **MR. CHURDAR:** Janet, if you could go to Joint
13 Exhibit 151?

14 Q: Did you take pictures -- or, excuse me, why
15 were you out at the site on February 26th?

16 A: While I was in the area, I documented site
17 conditions there.

18 Q: Okay. And did you -- and documenting would
19 include taking photographs?

20 A: Yes.

21 Q: Okay. So, I would like to look at 151. Bates
22 number 638, and ask you to describe what new
23 thing you see out there.

24 **(Joint Exhibit Number 151 was referenced at this**
25 **time.)**



1 A: Yes. So, in this photograph, there is a
2 significant amount of non-beach compatible
3 marine debris, consisting of clay debris,
4 riprap debris that appears to be new or
5 recently exposed. And during this visit, I
6 will add that I saw concrete debris, gravel
7 rock debris scattered throughout the beach, all
8 the way to Breach Inlet, so multiple properties
9 beyond this with the same marine debris that
10 I've only observed on site here. So, another
11 thing to point out so no one gets confused,
12 this -- this -- this thicker floorboard here
13 was for surveying purposes, and is not marine
14 debris (indicating).

15 Q: How -- so, you said all the way to Breach
16 Inlet, how far to Breach Inlet are you talking
17 about?

18 A: All the way to approximately the Hunley Bridge,
19 which is the connector between Isle of Palms
20 and Sullivan's Island. So, if you look beyond
21 this photograph, it went all the way around the
22 bend of this area to about the end of the beach
23 (indicating).

24 Q: In ---

25 **THE COURT:** Well, I don't imagine that was rock



1 debris. What kind of debris was it?

2 A: Smaller debris. And I can circle some of that
3 here. You can see it here, this is gravel
4 rock, similar to the material that had been
5 installed originally at the extent of the non-
6 beach compatible materials that I observed back
7 in October (indicating).

8 **THE COURT:** So, it was rocks. It's just smaller
9 rocks ---

10 A: Yes.

11 **THE COURT:** --- that move with the tide?

12 A: There was also some clay debris and some
13 concrete debris that I observed at the
14 properties between here and the -- the end of
15 the beach there (indicating).

16 Q: And when you -- you mentioned all the way down
17 to the Hunley Bridge, do you have any idea the
18 distance from 118 Ocean Boulevard to the Hunley
19 Bridge, how far away you're talking about?

20 A: I'm not sure of the exact geographical
21 distance, but approximately a half mile, if I
22 needed to give a number. I'm not really sure.

23 Q: Okay. So, and just to loop it back around,
24 you're saying that the debris that you saw here
25 was scattered down the beach ---



1 A: Yes. It ---

2 Q: --- all the way to the bridge?

3 A: It wasn't consistent of all this larger riprap
4 debris, which is more on site and adjacent to
5 the property, but it was the smaller rock and
6 clay debris, as well as some concrete debris
7 that I observed down the beach.

8 Q: Okay. Let's look at -- let's talk about the
9 February 9th (sic), 2024 site inspection.

10 A: Is that February 29th?

11 Q: I'm sorry, yes, what -- I don't know what I
12 said, but I meant February 29th, 2024.

13 **MR. CHURDAR:** Janet, can you go Joint Exhibit 154.

14 Q: And you'll -- just for your refreshing your
15 memory, your inspection report is at Joint
16 Exhibit 154.

17 **(Joint Exhibit Number 154 was referenced at this**
18 **time.)**

19 A: Thank you.

20 Q: And so, why were you out on site on February
21 29th, 2024?

22 A: I was on site on February 29, 2024 because the
23 day prior, the Department received a complaint
24 of potential more unauthorized riprap added to
25 the site. So, I was there to document site



1 conditions.

2 Q: Okay. And part of that documenting was taking
3 pictures ---

4 A: Yes.

5 Q: --- on the 29th? Okay. So, we have pulled up
6 Joint Exhibit 153. And can you please tell ---

7 **MR. CHURDAR:** Janet, can you go to 727?

8 Q: Can you please tell the Court what we're
9 looking at in Bates number 727?

10 **(Joint Exhibit Number 153 was referenced at this**
11 **time.)**

12 A: So, on this date, as well, I observed scattered
13 rock, clay debris and riprap debris at the
14 site, scattered all the way from about
15 approximately 122 Ocean Boulevard to Breach
16 Inlet again. And some more of that other
17 adjacent riprap and clay debris here, as well
18 as some of the exposed wooden forms and some of
19 the same materials I observed on site.

20 Q: Okay. Was there any reason other than the
21 complaint that you received that prompted you
22 to go out on the 29th? Did you see any active
23 work going on?

24 A: Yes, actually, when I was at -- at the site, I
25 observed contractors installing artificial turf



1 grass in fabric rolls just landward of this
2 second wall structure in beaches critical area,
3 or where it was previously identified.

4 Q: Okay. And what action did the Department take
5 after you saw the contractors working on site
6 that day?

7 A: After that, we issued our third cease and
8 desist for continued work in the beaches
9 critical area, specifically for that
10 installation of artificial turf and fabric
11 rolls.

12 Q: Okay. So, Janet is pulling up Joint Exhibit 8.
13 Is this the third cease and desist that you
14 just made mention of?

15 **(Joint Exhibit Number 8 was referenced at this time.)**

16 A: Yes, it is.

17 Q: Okay. And can you -- I was paying attention to
18 her, so, I don't know if I heard you say, what
19 -- whether you said what they were directed to
20 be -- to cease and desist from doing.

21 A: Similar to the other two issued cease and
22 desists, they were directed to immediately
23 cease and desist all work in the beaches
24 critical area, specifically this one here, the
25 third one called out installation of fabric



1 rolls and underlay, rock gravel landward of the
2 erosion control structure in beaches critical
3 area.

4 Q: Okay. And did the work cease and desist?

5 A: Not that I'm aware of.

6 Q: Okay. Let's go to the next -- talk about ---

7 **THE COURT:** Well ---

8 Q: --- the next site visit on March 4th.

9 **MR. CHURDAR:** I'm sorry.

10 **THE COURT:** Could you go back to one exhibit, 154 I
11 think, the one you were at?

12 **MS. DEBRUHL:** For the pictures?

13 **THE COURT:** Was it 153.

14 A: 153.

15 **THE COURT:** The last photograph you testified about.

16 **COURT REPORTER:** That would be Bates 727.

17 **MR. CHURDAR:** Correct.

18 **THE COURT:** Go down ---

19 A: I think ---

20 **THE COURT:** All right. Just -- that photo right
21 there. if I'm trying to determine what is the
22 critical area, it looks like there's a sand
23 wall, it's not -- because it's not a dune, I
24 don't think, to the right and the left of the
25 structure. So, how would I discern what is



1 critical area?

2 A: Well ---

3 **THE COURT:** Because it looks to me like the -- and
4 just layman looking at it really quickly, that
5 the wall is barely in the critical area. So,
6 explain ---

7 A: Yes.

8 **THE COURT:** --- that to me.

9 A: Yes, sir. So, I would point to the wet sand
10 being equal to the extent of the wall. in this
11 photograph, at least, as well as this
12 escarpment, yes, being about equal to the
13 second wall during this visit.

14 **THE COURT:** So, what would the depth is what I'm
15 trying to figure out here. If I'm looking at
16 that concrete wall, what's the depth of the --
17 from your understanding of the critical area,
18 of the incursion of this wall into the critical
19 area?

20 A: Well, other than just the periodic inundation
21 that had been taking place at various points
22 throughout my inspections, I would point to the
23 lack of vegetation on the adjacent properties,
24 as well, signifying that it has not had enough
25 time for the vegetation to establish in those



1 areas. So, that's one way I would point to
2 this still being critical area that had been
3 heavily modified, manipulated as such due to
4 the -- the addition of these non-beach
5 compatible materials.

6 **THE COURT:** Well, when you say hasn't had enough
7 time, I mean, where do I -- you know, that's a
8 transition period, hasn't had enough time. How
9 would I discern whether or not this is indeed
10 a critical area -- looking at a larger time
11 frame?

12 A: To the best of our ---

13 **THE COURT:** 'Cause I just don't want to -- I just -
14 - when you say, haven't had enough time, y'all
15 -- the previous testimony was we should give it
16 at least six months to -- to establish
17 vegetation, or there should be some period of
18 time. So ---

19 A: I don't ---

20 **THE COURT:** --- I'm trying to figure this out right
21 here.

22 A: I don't have a period of time to give you for
23 the establishment of vegetation in this case.
24 I will say this area was heavily manipulated,
25 and there has been a lot of emergency work to



1 restore the area since the erosion had been
2 happening so often. So, the sand that you see
3 here was often added by the City, or scraped by
4 the City in the area, 'cause they were using
5 temporary measures to restore lost sand.

6 **THE COURT:** Okay. Well, then, again, looking at
7 that sand that's just been installed, is there
8 a way to determine the depth of the incursion
9 of the sea wall into the -- or the concrete
10 wall, into the critical area, based on your
11 understanding of what critical area is?

12 A: Based on my understanding, the best data we had
13 to collect the critical area or the extent of
14 critical area over time, was using the
15 historical vegetation lines, as well as survey
16 data that I previously collected, as well as
17 other staff, since there was recently added
18 sand at multiple different points.

19 **THE COURT:** So, what's the depth again?

20 A: The depth, I don't have a number to provide
21 about the total seaward extent in feet of the
22 structure at this time, since the beach was
23 dynamic. I will say that following this visit,
24 there will be photos that show significant
25 landward erosion on the sides of the structure



1 exposing some more non-beach compatible
2 material.

3 **THE COURT:** Okay.

4 A: I did not collect survey data at this point.

5 **THE COURT:** Can you go further down on the exhibits?
6 There we go.

7 A: This photograph here I would -- this is what I
8 want to look at here. This shows some of the
9 materials that were being added just landward
10 of the structure. You can see the -- the lack
11 of vegetation on this side, as well as some
12 newer vegetation that -- or some remaining
13 vegetation from this property. And you can see
14 this kind of archway at the neighboring
15 property, and that is the extent of the
16 neighboring property's vegetation that's
17 remaining.

18 **THE COURT:** So, if I was to go straight -- we're
19 almost directly facing the vegetation, one to
20 the furthest left, that would go ---

21 A: So, these small trees ---

22 **THE COURT:** --- if that one would go straight across
23 toward us.

24 A: I'm circling right now these are the trees on
25 the site's property, but this line here is



1 equal or is an interpolation of the extent of
2 the vegetation at the adjacent properties
3 (indicating).

4 **THE COURT:** Why would it not be the one that's
5 circled rather than the line?

6 A: That was not natural vegetation; it was added.

7 **THE COURT:** Okay. All right. Thank you.

8 A: You're welcome.

9 Q: Okay. Let's talk about next, the March 4th,
10 2024, site visit in your inspection report is
11 at Joint Exhibit 156. Hold on just a second.

12 **(Joint Exhibit Number 156 was referenced at this**
13 **time.)**

14 Q: All right. Why were you out at the site on
15 March 4, 2024?

16 A: So, I was out at the site on March 4th, 2024,
17 since this was following issuance of that third
18 cease and desist for continued work in the
19 beaches critical area. Specifically, we had
20 not received -- as in the Department had not
21 received a response to that third cease and
22 desist for three days. So, I went back out to
23 the site to document the site conditions, see
24 if they did cease and desist the work, and see
25 if anything else had additionally happened at



1 the site.

2 Q: Okay. Did you have any interaction with anyone
3 at the site on March 4th?

4 A: On March 4th, there was -- well, on March 4th,
5 I informed Mrs. Reddy at the time that there
6 was a cease and desist and I also informed
7 contractors on site, as seen here, that there
8 was a cease and desist.

9 Q: Okay.

10 A: So ---

11 Q: Sorry, go on. I was just going to say, did
12 they say anything to you?

13 A: They ---

14 **OBJECTION:**

15 **MR. REDDY:** Excuse me. I'm gonna object again.

16 **THE COURT:** I ---

17 A: They ignored me.

18 **THE COURT:** I sustain that objection. You said did
19 they say anything to you, the contractors?

20 **MR. CHURDAR:** Okay.

21 A: They did not.

22 **THE COURT:** Strike that answer. Yeah, I get that
23 you said ---

24 **MR. CHURDAR:** Right.

25 **THE COURT:** --- you didn't give any hearsay answer,



1 so, I get that, but you're getting close enough
2 where I don't want to ---

3 **MR. CHURDAR:** Okay.

4 **THE COURT:** --- skate on the thin ice.

5 **MR. CHURDAR:** Your Honor, I can reframe the
6 question.

7 **THE COURT:** No, you're fine. Go ahead.

8 **MR. CHURDAR:** Okay.

9 Q: So, what did you do at that point?

10 A: I explained to the contractors on site that
11 there was a cease and desist. They ignored me.

12 Q: And -- and what did you do at that point?

13 A: So, I returned to the site and posted on-site
14 cease and desist postings in reference to my
15 third cease and desist that was issued earlier,
16 the three days.

17 Q: Okay.

18 **THE COURT:** What happened to the other postings?
19 Were they there?

20 A: No, every time that I had posted on-site cease
21 and desists, they had been removed in some way.
22 I'd never returned to the site to see them
23 there, to the best of my memory.

24 Q: Okay. Could you look at -- well, first of all,
25 did -- was this -- did -- you took pictures on



1 this site visit on March 4th?

2 A: Yes, I did.

3 Q: Okay. And is this one of the pictures that
4 we're looking at right here, Joint Exhibit 155,
5 Bates number 739?

6 **(Joint Exhibit Number 155 was referenced at this**
7 **time.)**

8 A: Yes. Here, they're installing some of the
9 artificial turf grass, as well as some of those
10 fabric rolls, landward of that second erosion
11 control structure.

12 Q: Okay. And is that installation in beaches
13 critical area?

14 A: Yes.

15 Q: Let's go to the April 3rd site visit, and if
16 you want to refresh your memory by looking at
17 your inspection report at Joint Exhibit 158.
18 So, why were you out at the site on April 3rd,
19 2024?

20 **(Joint Exhibit Number 158 was referenced at this**
21 **time.)**

22 A: I was out at the site while in the area for
23 emergency orders, and I visited the site to
24 document the site conditions and you can see
25 the significant erosion that had happened at



1 the site since my last visit here.

2 Q: Okay. And this is one of the pictures that you
3 took during your April 3rd site visit?

4 **(Joint Exhibit Number 157 was referenced at this**
5 **time.)**

6 A: Yes.

7 Q: Okay.

8 A: I would like to bring your attention to this
9 right side of the structure now, which was
10 exposed due to periodic inundation, tidal and
11 wave action. There's also some other non-beach
12 compatible materials here, some exposed wooden
13 forms that were likely used to create that
14 second- -- secondary erosion control structure,
15 at least the wing wall portion, as well as some
16 of that seaward facing portion. And there's
17 also some concrete debris here, if you can see
18 where I'm circling, kind of floating there,
19 being supported by a small piece of wood.
20 There was also additional non-beach compatible
21 materials added to the site since my last
22 visit. And there's a better photograph that we
23 can look at following this one where I can
24 point those out (indicating).

25 **THE COURT:** What is ---



1 A: And I would also point out one other detail in
2 this photo ---

3 Q: Mr. Prevost ---

4 A: Sorry.

5 Q: The judge wants to ask you a question.

6 **THE COURT:** I didn't want to interrupt him. I'll
7 ask my question, but I didn't want to interrupt
8 you. What's the depth of the periodic
9 inundation there in feet, just based on your
10 estimate?

11 A: I'm going to see if I wrote a specific number
12 in my report. I don't believe I did. But
13 looking at this photograph on the right side,
14 approximately 25 feet. I couldn't give a
15 specific number, but to the best of my abil- --
16 25 maybe -- approximately 25, I'd say, feet
17 landward of the seaward portion, as in this
18 approximately 20 -- 25 feet.

19 **OBJECTION:**

20 **MR. REDDY:** Your Honor, can I object to this again?
21 What he's -- this guy is -- he's talking about
22 the beach path, that's the public beach path.

23 **THE COURT:** You can object, yes. The bottom -- or
24 my response to your objection would be that you
25 have a position in your case, that this is not



1 within the Department's jurisdiction. They're
2 presenting their side of the case and I'm gonna
3 -- I will allow them to present their evidence.

4 **MR. REDDY:** It's not my land. It was donated to the
5 City. Three -- all this stuff is circling with
6 the red is donated to the City. The six feet
7 from that -- that form is the City's property.
8 We donated it.

9 **THE COURT:** Well, you can cross examine him on that.

10 **MR. REDDY:** Okay.

11 Q: All right. So ---

12 A: Next photo, I can point out some of the non-
13 beach compatible materials that had been added.

14 Q: Before we go there, you had talked earlier
15 about the -- it's kind of a yellowy looking ---

16 A: This?

17 Q: --- substance of foam ---

18 A: Uh-huh.

19 Q: --- foam ---

20 A: Yes.

21 Q: --- injection in between the cracks where the
22 mending plates were.

23 A: Yes.

24 Q: Did you -- did you see that foam in there?

25 A: On this date, that foam injection material that



1 had been in those cracks was mostly, if not
2 all, missing.

3 Q: Okay.

4 A: On the seaward side.

5 Q: All right.

6 **MR. CHURDAR:** Can you go to 796 on the same exhibit,
7 please?

8 Q: And what are we looking at here in Bates number
9 796 on Joint Exhibit 157?

10 A: This photograph shows that since my last visit,
11 they had completed installing some additional
12 artificial turf grass material, some pavers, as
13 well as more landscaping, were consistent of
14 pine straw and plantings.

15 Q: And all ---

16 A: Lining the border of the structure.

17 Q: And all of this was in the beaches critical
18 area?

19 A: Mostly, if not all.

20 Q: Okay. Let's go to your June 6th site visit and
21 your inspection report, it's at Joint Exhibit
22 161.

23 **(Joint Exhibit Number 161 was referenced at this**
24 **time.)**

25 Q: Are you there?



1 A: Yes.

2 Q: Okay. So, why were you out at the site on June
3 6th?

4 A: On June 6, 2024, I was in the area to document
5 sites for emergency orders, so I went to this
6 site to also document site conditions.

7 Q: Okay. And you took pictures on June 6 at your
8 site visit, that was one the ways you
9 documented?

10 A: Yes.

11 Q: Okay. And so I have Joint Exhibit 160 up.

12 **MR. CHURDAR:** Can you go to 1687?

13 **(Joint Exhibit Number 160 was referenced at this**
14 **time.)**

15 Q: And what -- what new -- new -- what did you
16 observe that was new on this site visit?

17 A: I'm circling to bring your attention to the
18 newly added flag plus flag pole (indicating).

19 Q: Okay. And, again, that was in the beaches
20 critical area?

21 A: Yes.

22 Q: Okay. That's all the questions I have.

23 **THE COURT:** All right.

24 **MS. MILTON:** I have nothing, Your Honor.

25 **THE COURT:** Mr. Reddy?

