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SC Court of Appeals

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

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 6 OF 16
(pp. 2016-2499)

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MR. PREVOST - CROSS EXAMINATION BY MR. REDDY:

Q: You know, Jacques, I was gonna be nice to you, but ... can you put that exhibit back, please, the one they just had up there? The Joint Exhibit 160.

(Joint Exhibit Number 160 was referenced at this time.)

THE COURT: Can you put -- can y'all put Exhibit 160 ---

MS. PEREZ: She's doing it.

THE COURT: Oh, she's doing it, okay.

MS. MAPLES: It always takes it a minute. There it is. Thank you.

Q: So, I want to be clear, I want to ask you a question on 160.

MR. REDDY: Can you enlarge that so we can see it better?

Q: You see what's going on in 160? I want to point out a couple of things. One is these plates, which we'll go to later, that you said earlier, plates were added. They were not added. They were put up there when we straightened up this wall, because the wall is going to kill someone. And I'll explain why that is later. But you notice all the bottom



1 plates are covered. This wall is getting
2 covered up. When's the last time you've been
3 to that beach, Jacques?

4 A: It's probably been over six months now.

5 Q: Six months. So, you were removed ---

6 A: I have a different position now.

7 Q: --- from this fine deal you were doing. No,
8 you are removed. So, if you come now, you
9 don't even see any plates. Why do you think
10 that is? With all this fake news that you've
11 been promoting? Why do you think that is?

12 **OBJECTION:**

13 **MS. PHELAN:** I'm going to object, Your Honor.

14 **MR. REDDY:** I'm asking a question.

15 Q: Why do you think ---

16 (Inaudible due to simultaneous speakers.)

17 **MS. PHELAN:** --- not appropriate.

18 Q: --- that these plates are getting covered up?

19 A: I ---

20 **THE COURT:** You can't -- wait a second. You can't
21 characterize it as fake news. That's getting
22 argumentative.

23 **MR. REDDY:** Okay. I'll ask it ---

24 **THE COURT:** I know that may be your position.

25 Q: I'll ask this question, here, why do you think



1 these plates are getting covered up?

2 A: I haven't been to the site personally in a
3 significant amount of time, so it could be
4 various reasons. It could be new sand was
5 added.

6 Q: We didn't add any new sand. It's accreting.
7 It is -- this -- this is what's going on here.
8 Do you see this over here? You pointed to a
9 lot of pictures. You see that little -- little
10 umbrella and stuff over there? Who is that?

11 A: I have no idea who that is.

12 Q: Would you agree -- have you been up and down
13 the beach? Do you see those blue umbrellas on
14 the beach? You've been there many times,
15 right?

16 A: I've seen blue umbrellas on the beach.

17 Q: That's a rental company. So, this -- all of
18 this property ---

19 **MR. REDDY:** By the way, I built that house, Your
20 Honor.

21 Q: --- all of this property that was a beautiful
22 private property is now all being used by the
23 public. So, let's, start at the beginning --
24 beginning, Jacques. We spent a substantial
25 amount of this Court's time going through all



1 the things that we did on the wall. So, what
2 is your position on this? What is your -- what
3 is your definition? Is it beach preservation?
4 Is that the goal of this agency, beach
5 preservation? Is that -- I thought you used
6 those words many times.

7 A: I don't believe I ever said beach preservation.

8 Q: Well, so, what are y'all doing?

9 A: I am documenting site conditions.

10 Q: Okay. So, you're documenting site conditions
11 on private property, is that your testimony?

12 A: I am documenting site conditions at the beaches
13 critical area.

14 Q: Did you -- did you come into my yard many
15 times? How many times were you there?

16 A: I did not come into your yard many times.

17 Q: Were you not climbing into my yard ever?

18 A: I had arrived at the site to document site
19 conditions, and I had also documented survey
20 data.

21 Q: I didn't ask you what you were documenting. I
22 said, were you ever inside my yard.

23 A: I had -- had an interaction with Mrs. Reddy at
24 one point when I was collecting survey data on
25 the wall.



1 Q: Why are you talking in circles? Were you ever
2 inside my yard?

3 A: I was in the beaches critical area.

4 **MR. REDDY:** Your Honor, can he answer the question?
5 I said, were you -- okay.

6 Q: Were you ever landward of the wall?

7 A: I have been landward of the wall, yes.

8 Q: And you were very careful to make sure that you
9 were in that 1,255 square feet. You never
10 stepped out of that because you had somehow
11 marked it.

12 A: I'm aware that we were contacted to communicate
13 with you or your attorneys if we planned to be
14 out on site, and we did follow-up with that
15 after that point.

16 Q: Did you always inform us, or did -- that you
17 were going to be on site?

18 A: If we were going to be accessing any of the
19 landward portion closer to the house, we had
20 contacted you.

21 Q: I disagree. So, you -- we had to notify your
22 attorney. Do you agree we had to notify your
23 attorney that you had to inform us?

24 A: Can you please say that again?

25 Q: Do you agree that we have to notify your



1 attorney, because I have a 14 year-old girl in
2 my house, and I don't want people climbing into
3 my yard without my knowledge?

4 A: I believe I said that after there was a
5 communication to notify you that we are going
6 to be accessing the site, that we followed up
7 as such.

8 Q: And prior to that?

9 A: Prior to that, it was the one visit.

10 Q: One?

11 A: I have been ---

12 Q: Is this -- you're under oath. There's only one
13 visit prior to that?

14 A: I can recall one visit where I had an
15 interaction, and then it followed up with that
16 attorney communication.

17 **MR. REDDY:** Your Honor, I might call my wife as a
18 witness, so I'd like to add her to this list,
19 because we had many interactions with this
20 gentleman, and he's -- and he's perjuring
21 himself.

22 Q: So I want -- I want to ask you a very simple
23 question. Matt testified yesterday that no
24 sand to his memory was added to this beach in
25 many years. Are you aware of scraping that was



1 going on on the beach?

2 A: I am aware of scraping.

3 Q: And do you think that the City was always
4 following all the rules when you were there?

5 A: I had followed up with the City if there was
6 ever a compliance issue identified.

7 Q: Did you ever -- you know that little notes you
8 put up, where you made little notes? Have you
9 ever had notes that the City was not complying?

10 A: Define notes.

11 Q: The thing you put up, the -- where you said you
12 went back to your office and you wrote down
13 that memo about whatever you saw, whatever you
14 interacted, was there ever a memo like that
15 where you actually documented that during your
16 visits, that -- that there was issues with the
17 City complying with the scraping issue?

18 A: I have had notes regarding compliance issues
19 with sand scraping. I'm not sure if there was
20 a specifically created exhibit for an on-site
21 memo regarding City sand scraping.

22 Q: So, you're admitting that there was some
23 compliance issues with sand scraping?

24 A: Yes.

25 Q: Do you -- were you aware that the City was



1 scraping two or three times a day?

2 A: I was not aware.

3 Q: Okay. Were you -- are you -- do you believe
4 that sand scraping is damaging to the beach
5 from the knowledge of it?

6 A: I believe it is used as a temporary emergency
7 measure to protect properties.

8 Q: So, like the judge asked about time frame, what
9 is your definition of temporary emergency
10 measures?

11 A: Well, emergency orders are issued for a one-
12 time sand scraping per emergency order.

13 Q: For how long? When you say an emergency
14 measure, is there a start time where you take
15 an emergency measure, like you go to the
16 emergency room, right? Okay. So, emergency,
17 you go to the emergency room if you have to do
18 something in a certain quick time frame. So,
19 an emergency measure, the start time you take
20 an emergency measure, and a stop time you take
21 -- you stop an emergency measure, or no?

22 A: Emergency orders have their own conditions.
23 Sand scraping specifically in the conditions is
24 sand scraping typically one time per emergency
25 order, and then multiple emergency orders, if



1 emergency conditions are reached, can be
2 issued, either by our Department or the City.

3 Q: So you, all are issuing these orders, but you
4 don't, obviously, follow-up on them, because
5 Matt testified yesterday, he wasn't really
6 aware of the fact that for many times, 24/7,
7 they were scraping two and three times a day.
8 He wasn't aware of it. You're not aware of it.
9 Is that right?

10 A: I testified that I was in the area for
11 emergency orders, inspecting for them.

12 Q: Uh-huh.

13 A: I couldn't be out on the beach 24/7 to document
14 every instance of it. To the best of my
15 ability, I was out there numerous times. If
16 there was ever a complaint on sand scraping, I
17 was out there to the best of my ability to
18 document exactly what was going on, as well as
19 follow-up through the compliance assistance
20 process with the City, if needed.

21 Q: So, I only had one interaction, I think -- I
22 don't think -- I don't know if it was you or
23 not. If it was not, you can tell me it wasn't.
24 So, we had put up a sand fence, and the sand
25 fence was, I think, twelve feet, and your



1 standard was ten feet, and y'all sent us a
2 notice saying we had to comply. Were you
3 involved with that?

4 A: No.

5 Q: You weren't. Because there was a follow-up
6 inspection on that, including pictures taken
7 and all that when we went from twelve to ten.
8 Yet, by his testimony, y'all signed permits for
9 five, six million dollar projects yesterday to
10 put sand. Y'all don't do it. You issue sand
11 scraping permits. There's no real monitoring
12 of how many times it's happening and how
13 frequently. There is Matt's own communication,
14 which we talked about in his testimony
15 yesterday, that sand scraping actually pulls
16 the water in. So, essentially, if you're
17 reflecting the Department's position, the
18 Department's position is, I will not do
19 anything to this beach, possibly harm it, and
20 we will not let you do anything to protect your
21 property. And all we're going to do is keep
22 coming and saying it's -- it's ours, is that
23 what you're saying from all that testimony
24 you're giving?

25 **OBJECTION:**



1 **MR. CHURDAR:** Your Honor, the -- all of this line of
2 questioning on -- on sand scraping and these
3 things are far afield of what Mr. Prevost has
4 been testifying about on direct examination.
5 I understand the Court has given some latitude
6 yesterday, but I would object on relevance
7 grounds.

8 **THE COURT:** Okay. How about -- is it relevant
9 regarding sanctions?

10 **MR. CHURDAR:** The -- I don't -- I don't believe it
11 is. I mean, this is -- this is ---

12 **THE COURT:** Explain to me why not.

13 **MR. CHURDAR:** Well, because the sand scraping is
14 something that was -- that was a permitted
15 activity, and what we are -- what we are here
16 about today is the -- these -- these days, is
17 the enforcement order. And it's -- while it is
18 -- it is certainly activity that's happening on
19 the beach, that is not the purpose of what
20 we're here to prove. We have the burden of
21 proof to ---

22 **MR. REDDY:** Can I respond to that?

23 **THE COURT:** Let him get through it. Or are you
24 through?

25 **MR. CHURDAR:** Well, just the burn the proof to



1 demonstrate that activity took place without a
2 permit in beaches critical area.

3 **THE COURT:** Okay. Any response?

4 **MR. REDDY:** Your Honor, their definition of beaches
5 critical area is if water comes in, it's
6 beaches critical area. If it takes your house,
7 your house is beaches critical area, which is
8 the point I brought up yesterday. It's
9 unlimited jurisdiction. So, beaches critical
10 area directly relates to sand scraping. The
11 more you scrape, the more it becomes Beach
12 Critical Area. The more sand you put in, and
13 the better you take care of the beach, and for
14 -- God forbid you have a dune, there is no
15 Beach Critical Area. So, we are handing over
16 basically jurisdiction of a private homeowner
17 to these people who have no idea what they're
18 talking about.

19 **THE COURT:** But your questioning was not about
20 whether sand scraping creates critical area or
21 not. Your questioning was regarding whether
22 they were violating provisions of the permit.

23 **MR. REDDY:** Your Honor, I was getting there before
24 he stopped me. If they're -- if they're not
25 overseeing the permit, and they're violating



1 this permit, they're creating more Beach
2 Critical Area. How is that not -- those are
3 directly related.

4 **THE COURT:** I tell you what, I'll let you rephrase
5 your question. But it sounds to me like -- it
6 sounded to me that his objection is -- should
7 be sustained based on your line of questioning
8 at the time.

9 **MR. REDDY:** Yes, Your Honor.

10 **THE COURT:** But you can pursue your further
11 questioning.

12 Q: So, your testimony ---

13 (Inaudible due to simultaneous speakers.)

14 **MR. CHURDAR:** Your Honor, I mean, I think one other
15 matter that -- that is relevant to the
16 objection, Mr. Reddy has essentially testified
17 as to a cause and effect relationship. And I
18 believe that that is something that is ---

19 **THE COURT:** Well, you say he's essentially
20 testified. He is making narrative comments in
21 -- in his question, those narrative comments
22 are not evidence. You do have the right to
23 object to those narrative comments. So, but I
24 will not take those as essential testimony, and
25 I would tell Mr. Reddy, the comments that you



1 make before you -- the state- -- the factual
2 statements that you make, they're not under
3 oath, so, basically, they are meaningless to
4 the Court.

5 **MR. REDDY:** Yes, Your Honor.

6 **THE COURT:** The only thing right now that is
7 meaningful is the testimony that I hear. So,
8 if that resolves anything ---

9 **MR. CHURDAR:** Well, I didn't quite finish. What I
10 was going to say is that if -- if there is no
11 expertise, no expert testimony, making the
12 cause and effect relationship that he is kind
13 of testifying/asking a question about, then the
14 underlying basis, without that expert, makes
15 the -- makes the issue irrelevant, because we
16 would -- we would need -- the Court would need
17 an expert for the foundation ---

18 **THE COURT:** I haven't heard him ask him an opinion.
19 He's just specifically asked about the
20 knowledge of the witness regarding whether
21 they're violating the permit, of which, at this
22 point in time, I sustain your objection on
23 relevancy grounds. Doesn't mean he can't keep
24 asking questions.

25 **MR. CHURDAR:** Thank you.



1 Q: So, Jacques, so let me ask the question, your
2 testimony that you went through, very elaborate
3 testimony, is that every time water comes into
4 someone's property, you make the determination
5 that that is pretty much critical area?

6 A: I don't make the determination. I document
7 site conditions. If the determination needs to
8 be made, I would consult with other staff on
9 that.

10 Q: However, you've said many times it's critical
11 area, critical area, critical area. Used that
12 in your testimony. He was putting a pine straw
13 in a critical area. What's your basis for
14 that?

15 A: The area was heavily modified by artificial
16 means, and, as you can see in this photograph
17 here from one of my last site visits, the
18 periodic inundation had reached significantly
19 landward of a majority, or, if not, all this
20 landscaping that had been added, such as the
21 pine straw you just mentioned.

22 Q: Well, no, I don't -- I don't -- I don't
23 understand it. You're saying, I don't see any
24 period- -- there's beautiful vegetation there.
25 Why do you say that? So, you're saying, In



1 your estimation, if I didn't protect my
2 property, then I would not have had vegetation,
3 and then it would have been critical area, and
4 then it would -- where does it stop? So, let's
5 say -- let's say we didn't do that in your
6 estimation. So, now we're getting into a
7 hypothetical situation, because I see
8 vegetation here. You're saying, well, there
9 can't be vegetation there. How dare you? So,
10 you're saying you shouldn't have done anything
11 to protect your property, because then there
12 wouldn't be vegetation, and then I can look and
13 figure out what's critical area. So, my
14 question to you is, where does it stop? Let's
15 say the water keeps coming and inundating
16 because there's nothing protecting it. We've
17 already talked about the fact that the direct
18 correlation between water coming in and the
19 beach levels going down, either because of no
20 sand or whatever. So, where does it stop in
21 your estimation? So, you say you are
22 documenting the site conditions. So, you're
23 walking down the beach and you look at the site
24 condition that is all the way, no vegetation to
25 the back porch. So, would you say that's all



1 critical area?

2 A: I wouldn't just take one snapshot in time to
3 make that consideration, but I will also say
4 you can protect your property through various
5 Department permitted means.

6 Q: Oh, so, you would not take a snapshot with one
7 -- with one observation that there's no
8 vegetation, so, you would wait for, like, Your
9 Honor asked him, you would wait for six months?
10 Or is it -- oh, wait, your board said 30 days.
11 Which is it?

12 A: You're referencing an RFR board decision that
13 is not related to this.

14 Q: Why not? It's three homes down. They said,
15 we'll plant vegetation. You can even put
16 irrigation, and then in 30 days, if that
17 vegetation takes, we will move the critical
18 line. So, you're saying you're going to treat
19 that neighbor differently than me now?

20 A: I believe that 118 was not included in that ---
21 (Inaudible due to simultaneous speakers.)

22 Q: It wasn't. But you don't have any right to do
23 this. You -- do you know the law doesn't allow
24 you to treat that neighbor differently than me.
25 So, how are you saying 118 wasn't -- I'm just



1 trying to understand where does it stop in your
2 estimation? So, I'm gonna let's take -- let's
3 say this Department is successful in this
4 action. And the Honorable Judge says, take it
5 down. Tear it all down. Of course, my
6 neighbors, as you know, you've been to the site
7 many times, does my neighbor have an in ground
8 pool?

9 A: I believe there is a in ground pool, or there
10 was a pool at the adjacent property to the
11 right, as in 120.

12 Q: Do you believe there was an in ground pool to
13 the left?

14 A: I'm unsure.

15 Q: You were there talking to Jorgensen.

16 A: I don't recall that site conditions at the
17 adjacent property at this time.

18 Q: Okay. So, there's in ground pools -- there
19 happen to in ground pools in both. So, those
20 in ground pools, would you -- by the way, you
21 talked about erosion control structure, you
22 were very definite, it's an erosion control
23 structure. What's you definition of erosion
24 control structure?

25 A: There's three types of erosion control



1 structures. There's seawalls, bulkheads and
2 revetments.

3 Q: And what ---

4 A: And they are defined in statute.

5 Q: What would you say this original one --
6 original one that you put up pictures about
7 that -- that you first looked at in December,
8 what do you think that was?

9 A: I would say, by definition in the statute, that
10 this could be a bulkhead and a seawall.

11 Q: A bulkhead and a seawall. So, you -- your
12 testimony under oath, is that a seawall with no
13 structural engineering at seven feet deep is a
14 seawall?

15 A: It could be.

16 Q: It could be. Would you agree that a seawall
17 should be water facing? Should be able to
18 withstand water?

19 A: I believe that is one of the reasons for them.

20 Q: Okay. So, how long did this seawall withstand
21 water? This so-called seawall you're talking
22 about.

23 **THE COURT:** Can I understand which one you're
24 talking about? You said the original one ---

25 **MR. REDDY:** The original wall -- the original wall,



1 Your Honor, which is where this whole thing is
2 starting.

3 **THE COURT:** Okay. I just want to know are we
4 talking about one in the picture or the
5 original one?

6 **MR. REDDY:** The original wall.

7 **THE COURT:** Okay,

8 **MR. REDDY:** So, the original wall ---

9 **THE COURT:** Go ahead.

10 **MR. REDDY:** --- as they document ---

11 **THE COURT:** I'm fine. I just wanted to understand.

12 **MR. REDDY:** Yeah, the documented pictures was inside
13 my fence, until this big washout happened with
14 the nor'easter, and they started calling it a
15 seawall.

16 Q: So, I'm saying any definition of a seawall
17 means it can face the sea, right? And it faced
18 the sea for how long? Because you -- you went
19 through that narrative with them.

20 A: It faced the sea since it was installed, I'd
21 say.

22 Q: It has never seen the sea. You -- the first
23 time it saw water, by your own testimony, you
24 discovered it on December 16th, because there
25 was 30 feet of dunes and fence in front of it.



1 So, the first time it saw water ... So, how do
2 you all change this? Is this like a conspiracy
3 to make this all look like something bad? I'm
4 not getting it. First time it saw water, all
5 of y'all said that, never saw it, was December
6 the 17th -- 16th, the nor'easter. Then you
7 testified.

8 **THE COURT:** So, you ask him questions.

9 **MR. REDDY:** Yeah, I'm asking, was it -- well, he
10 testified to that, when his narrative with the
11 pictures.

12 **THE COURT:** Ask him questions now.

13 Q: Did you testify when he put all the pictures up
14 yesterday that you went out there on December
15 16th and saw the seawall?

16 A: No, I went out there on the 20th.

17 Q: Okay. I'm sorry, Matt testified to that, that
18 that's the first time they were aware of the
19 seawall. So, then, you testified, which I saw
20 today, that on January 14th, when you went
21 there and you took the picture, it was leaning
22 dangerously forward.

23 A: I was not there on January 14th.

24 Q: What was the picture you testified to then
25 today?



1 A: What picture?

2 Q: The picture that was put up. We can pull it up
3 if you want.

4 **MR. REDDY:** Can you pull it up\, the picture that he
5 talked about with the wall leaning forward. I
6 think it was January the 14th.

7 **MR. REDDY:** You walk through -- you walked through
8 the narrative. Your Honor, we're going to pull
9 the picture up in a second. We went through
10 this narrative, and it's going to show that on
11 December the 16th, when the nor'easter came
12 along, which is we've covered in great detail,
13 the -- the -- the wall was standing and then he
14 -- the picture we're going to put up right now
15 that he testified to, on January the 14th, the
16 wall was leaning at a dangerous angle.

17 **THE COURT:** Mr. Reddy, I understand you're pro se.
18 So, let me try to explain, the narrative you
19 just gave, that's -- sounds almost like a
20 closing argument, doesn't it.

21 **MR. REDDY:** I'm sorry. Can we pull up the picture?

22 **THE COURT:** And -- but you can ask questions. I
23 don't want to restrict you from doing that.

24 **MR. REDDY:** Yeah, can we pull up the picture? Do
25 y'all know which one it is with the leaning



1 wall that y'all put up? That's the joint
2 exhibit. I'm sorry, what'd you say?

3 **MRS. REDDY:** We got it.

4 **MR. REDDY:** You got it, okay. Put it up. Do we
5 need to do something?

6 **MS. PEREZ:** Hers just takes a while. It's
7 connecting.

8 Q: Ah. So, that -- what date was that?

9 **(Joint Exhibit Number 106 was referenced at this**
10 **time.)**

11 **MRS. REDDY:** January.

12 Q: January 11th, sorry. Was off. You ever seen
13 that?

14 A: I've seen that.

15 Q: Okay.

16 **MR. REDDY:** So, can we back up to December 16th,
17 after the nor'easter, and show him that wall?
18 16th.

19 **MRS. REDDY:** 17th.

20 **MR. REDDY:** 17th. 16th, 17th. Sorry, Your Honor.
21 That's fine. That's fine. No. So, while
22 they're pulling it up, I'll keep going in the
23 interest of time.

24 Q: You testified multiple times about debris all
25 over the beach. Are you attributing all debris



1 on the beach to me?

2 A: I know a significant amount of debris had
3 originated from the site due to the same non-
4 beach compatible materials observed there
5 multiple times.

6 Q: Really. Are you aware that my immediate
7 neighbor had artificial turf?

8 A: Yes.

9 Q: Let me ask you, do you know how artificial turf
10 is installed?

11 A: I have some idea, but I'm not an expert.

12 Q: What is your idea of how it's installed? What
13 are the -- what are the layers that go ---

14 A: Yeah, so there is a substrate, and then a
15 gravel/rock dust layer, and then a fabrical
16 layer, and then artificial turf layer.

17 Q: Excellent. If I had known that, I would have
18 hired you. So, let's -- let's just talk about
19 that, my immediate neighbor, actually the house
20 I built and owned at one time, would you agree
21 they had artificial turf on it?

22 A: They had turf at one point in time, at least.

23 Q: Correct. Is it your testimony that -- you walk
24 the beach, right, you're not just assigned to
25 my house?



1 A: I've walked the beach many times.

2 Q: Are you -- are you saying -- are you aware of
3 anyone else north of me -- would you also
4 agree, by the way, that my house is pretty
5 south and the water moves north to south?

6 A: I'm not aware of all the dynamics of the water
7 over there.

8 Q: Fair. Would you agree -- I'm -- I'm on the
9 southern end of that ocean?

10 A: I'd say you're towards the southern end of the
11 island, yes.

12 Q: And generally this -- what is the flow of water
13 there, from north to south? You walk it many
14 times. You see the direction of the waves?

15 A: I haven't always documented water dynamics in
16 the ocean or where it's moving.

17 Q: What is your opinion of that? I mean, your
18 observation of that?

19 A: Regarding what?

20 Q: The flow of water.

21 A: I've seen water periodically inundating the
22 area multiple times.

23 Q: No, that's not what I'm asking. I'm saying the
24 flow of water. Would you agree Breach Inlet is
25 south of me?



1 A: It is.

2 Q: Okay. Would you agree that the Wild Dunes is
3 north of me?

4 A: Yes.

5 Q: And that a predominant amount of Isle of Palms
6 is north of me, almost all of it is north of
7 me?

8 A: Yes.

9 Q: Yes. So, are you saying -- is it your
10 testimony that any debris you see on the beach
11 is related to me?

12 A: No.

13 Q: Okay. But that's what you seem to imply. You
14 kept pointing out debris. So, I'm going to go
15 ...

16 **MR. REDDY:** Are y'all still trying to find that?
17 Any picture after December 17th. Between --
18 any picture in December, second half of
19 December.

20 Q: So, I'm going to -- once we get done with this
21 picture, then I need to pull up some more of
22 these things. Sorry, we have a amateur crew on
23 it. You mentioned marine foam.

24 A: I mentioned ---

25 Q: A yellow foam.



1 A: Foam injection material.

2 Q: Do you know what that is?

3 A: Not exactly, no.

4 Q: Are you familiar with marine foam that's used
5 in docks and walk -- walkways and the stuff
6 that's used all over the place?

7 A: I'm not familiar. I have not -- I cannot
8 recall seeing foam material in all the
9 inspections I've done besides this one.

10 Q: So, why do you classify it non-beach
11 compatible?

12 A: Because that is material that our beachfront
13 permitting section would allow under
14 permittable activity.

15 Q: So, every dock -- every -- any place in the
16 water, they use marine foam, and are you saying
17 that they're all violating the law?

18 A: I'm not saying that.

19 Q: Okay. And are you aware of the fact that a lot
20 of your communications that you put out there
21 was from one Mr. Jimmy Carroll, would you deny
22 that you've been -- you were texting with him
23 a lot?

24 A: I do not recall texting with him a lot. I do
25 recall one phone call that I've had with him,



1 and he requested info. I told him he had to
2 FOIA it.

3 Q: He posted your text on social media. Are you
4 aware of that?

5 A: I'm not aware of that.

6 Q: He did, many times, and -- and -- and so my
7 question to you is this, are you aware that
8 Jimmy Carroll is being sued right now for
9 slander?

10 A: Yes.

11 Q: You are aware of that?

12 A: I'm aware that ---

13 Q: You're aware that a lot of the stuff you were
14 putting up about these so called people are
15 connected with him and his Facebook group.

16 A: I don't know anything about the Facebook stuff.

17 Q: The names you put up there that you were
18 talking about, the public, they originate from
19 him.

20 A: That was just a document of phone calls of me
21 and the Department ---

22 Q: I get it. I get what -- what y'all are doing.
23 So, I'm going to ask you another question along
24 those lines. You referred in your testimony
25 yesterday, to heavy equipment on the beach.



1 Are you a construction expert?

2 A: No.

3 Q: So, why would you use that word as opposed to
4 describe it? A bobcat is not -- I am -- I
5 actually ran construction companies, I know
6 something about that. No one would say a
7 bobcat is heavy equipment.

8 A: Machinery used to accomplish activity on the
9 beach that's not just hand tools is how I would
10 refer to heavy equipment.

11 Q: Well, you're wrong. That's -- that's -- that's
12 not referred to as heavy equipment, not a
13 bobcat. And then in another one of the slides
14 he put up, you said there were two excavators,
15 and you circled it with your little red pen,
16 whereas one was on the foreground and one was
17 on the background. Are you testifying those
18 were two excavators?

19 A: There was two different excavators, one smaller
20 mini excavator that was orange/red, and one
21 larger yellow one.

22 Q: The second one was a bobcat. There was never
23 two excavators on that site. So, you took a
24 distant photograph and just circled it and
25 called it an excavator. Why -- why is that?



1 Why is this whole thing here -- you know, we
2 didn't object to any of your attachments going
3 in there. It's part of the reason I had to
4 fire my lawyers. And yet, all of this stuff is
5 geared towards this negative view of what
6 happened, you know, like making it look worse
7 than it is. So, I'm just asking -- I'm going
8 to ask you another question on debris. If you
9 want me to go back to debris, I can, because
10 one of the debris pictures, which I believe was
11 -- I have it here somewhere, Joint Exhibit 134,
12 if you want to see it. You said -- you circled
13 it and you said, debris that was from sandbag.
14 You know, I was not allowed sandbags. Do you
15 know why I was not allowed sandbags?

16 **(Joint Exhibit Number 134 was referenced at this**
17 **time.)**

18 A: I don't know the specifics of that.

19 Q: Oh, you don't know the policies of your
20 Department?

21 A: I know the policies.

22 Q: Okay. But we archaic citizens have to
23 understand it. The policy was that sandbags
24 were put north of me, can probably see some of
25 it down there. Can you see those sandbags in



1 front of Theresa's property?

2 A: Yes.

3 Q: Yes. Good. So, that debris you circled
4 yesterday, you see that debris down there, the
5 white stuff ---

6 A: Yes.

7 Q: --- that you circled and said, debris, implying
8 it's me. That's from her sandbag. And you
9 know why she's allowed sandbags, and I'm not?

10 **THE COURT:** Do you want to ask him a question.

11 Q: So, you think that sandbag debris came from me?

12 A: I believe that that sandbag debris circled here
13 is not the same material that is over here.

14 Q: But you attributed it to me. Do you have any
15 reason to attribute it to me?

16 A: I said I observed marine debris within the
17 extent of property lines.

18 Q: What is the implication?

19 A: I further described the clay debris and ---
20 (Inaudible due to simultaneous speakers.)

21 Q: So, you're saying now that that's not really
22 me?

23 A: I'm not saying that.

24 Q: Okay. So, you think that I'm allowed sandbags
25 when your Department denied me sandbags because



1 they classify a pool a habitable structure?
2 So, apparently, if it's a pool, it's a
3 habitable structure, and they're allowed
4 sandbags 20 feet. Because I don't have a pool,
5 I'm not allowed. Do you know what that does,
6 since you ob- -- since you're talking about
7 critical areas?

8 A: It means you have more space between your
9 habitable structure and where that erosion is
10 happening.

11 Q: How many people you know that habitate in a
12 pool?

13 A: It's classified as such for our documentation
14 reasons.

15 Q: Another random rule. So, you know what it does
16 in situation like that, because I built both
17 houses, I really built that one, and I bought
18 this one, that habitable structure with those
19 sandbags, and this thing you just implied was
20 mine, it funnels the water into my property,
21 and you will then claim it's more critical
22 area. Does that make any sense to you?

23 A: I'd say that is what is going on at the subject
24 property here at 118 in some cases where that
25 water is being funneled to adjacent properties.



1 **THE COURT:** I don't understand your answer.

2 A: He had pointed out that the pool adjacent
3 property over at 120 was funneling water to his
4 property. But that is exactly what's going on
5 here at 118 with the hard erosion control
6 structures that were installed.

7 Q: Oh, you think I'm funneling something
8 somewhere?

9 A: I'm saying water can breach the sides of it ---

10 Q: Really?

11 A: --- and impact the adjacent properties.

12 Q: And do you know then -- so, you must not be
13 aware that both of those neighbors testified to
14 the City of Isle of Palms, it's public record,
15 that that structure helped them both?

16 **OBJECTION:**

17 **MR. CHURDAR:** Your Honor, this -- this is hearsay.

18 I mean, even though there's a question
19 somewhere in there, this is ---

20 (Inaudible due to simultaneous speakers.)

21 **MR. REDDY:** There is a question. I said, do you
22 know that those two -- he's telling me that
23 water is being funneled. I'm saying both
24 neighbors testified to the City of Isle of
25 Palms on -- its public record, that that



1 structure is what saved their homes and is
2 helping them?

3 **THE COURT:** Now, that's his question. Your
4 objection is that his question has hearsay in
5 it?

6 **MR. CHURDAR:** That's correct.

7 **THE COURT:** Any response or evidence of this
8 testimony?

9 **MR. REDDY:** Your Honor, this -- this is -- this is --
10 - they're accusing me of things. He has no
11 business making a statement that my structure
12 some way funneled water. How is that not
13 hearsay?

14 **THE COURT:** I need to understand from a Rules of
15 Evidence, why are you allowed to ask, in this
16 instance, to phrase your question with
17 statements of whether individuals testified in
18 a prior proceeding?

19 **MR. REDDY:** No, I said, is he aware that there's a
20 public record of these neighbors talking --
21 testifying to the City of Isle of Palms.

22 **THE COURT:** All right. So, now, his response is he
23 did not include hearsay, he just asked if they
24 were aware of the statements. So, what's your
25 response to that?



1 **MR. CHURDAR:** My -- I wasn't writing it down, but I
2 thought he was saying and that those neighbors
3 said X, Y and Z.

4 **MR. REDDY:** Did not. No.

5 **THE COURT:** Thought he did, but I'll tell you what,
6 I'll sustain the objection about what the hear-
7 -- neighbors said. But now he's asked -- he's
8 rephrased the question.

9 **MR. CHURDAR:** Okay.

10 **THE COURT:** Any objection on the rephrasing of the
11 question?

12 **MR. CHURDAR:** Just if they -- if they were aware
13 that neighbors made statements to the City, I
14 don't have any objection to that.

15 **THE COURT:** Okay. Proceed on that question.

16 Q: Are you aware? Same question I asked you
17 before.

18 A: I'm not aware of any statements made to the
19 City by the adjacent property owners, but I
20 personally observed significant washout and
21 scour getting onto the adjacent properties next
22 to the erosion control structures.

23 Q: Oh, you did?

24 A: And we looked at those photographs earlier.

25 Q: Oh, can you pull them up, please? I don't know



1 which photographs you're talking about, because
2 I didn't see that. You didn't point it out.
3 As a matter of fact, there's -- what I was
4 pointing out to you in the first photograph is
5 that sand's accreting. Let's keep that up
6 there because this came up earlier.

7 **MR. REDDY:** I want to ask him, because he kept
8 implying that we kept doing work on it.

9 Q: You see those wooden things, you pointed them
10 on the other side, and over here?

11 A: I see them.

12 Q: What are those?

13 A: Those are wooden form boards used for concrete
14 pouring to keep concrete in a certain shape
15 while it solidifies.

16 Q: And do you know why they're there?

17 A: Because they weren't removed after the concrete
18 was solidified.

19 Q: Do you know why?

20 A: I don't know why.

21 Q: So, you don't know -- you're not aware of the
22 fact that the Department filed a emergency
23 injunction order to stop doing work, and we
24 com- -- simply complied with that?

25 A: I would say you did not simply comply to stop



1 doing work.

2 Q: So, you're saying we did not simply comply by
3 not putting out -- I'm talking about the forms
4 now.

5 A: I'm not sure about specifics regarding the
6 forms, but I know three cease and desists were
7 issued and work had continued after that.

8 Q: Yeah, we're gonna get to the cease and desists,
9 don't worry about that. I'm going to get
10 there. I'm asking you about the forms, since
11 you brought them up, on the other side. Yeah.
12 Yeah, you did say I violated it with a American
13 flag on the critical area. Very nice. Yeah,
14 that's a hill, good hill to die on. So, you're
15 saying -- your testimony basically is that to
16 your knowledge, there is no limit to critical
17 area. It is going to be upon your judgment, or
18 equally, someone as -- someone else in the
19 Department, none of who have -- have any
20 training on this that is consistent from person
21 to person, that they will decide anywhere from
22 one month, that your board said, to six months
23 that Matt testified, to your observation, to
24 whatever, as to what critical area is with
25 really no limitation.



1 A: What's the question?

2 Q: That's the question is that your testimony?

3 A: I wouldn't say there's no limit to beaches
4 critical area.

5 Q: What is your limit?

6 A: The area that's periodically inundated by tidal
7 and wave action such that no nonlittoral
8 vegetation is established.

9 Q: That's right.

10 A: And I will say that this area has been multiple
11 times artificially manipulated in beaches
12 critical area.

13 Q: Well, we'll come back to that. I'm just asking
14 -- answer the question. So, you walk down the
15 beach and you don't see nonlittoral vegetation.
16 At that point, that's critical area?

17 A: Where it's periodically inundated, or there's
18 an escarpment, is a good sign to see if there's
19 no vegetation markers. But we're looking for
20 vegetation. We're looking where water is
21 reached. We're looking at multiple conditions
22 of the site. But we have to document the site
23 conditions and use the best information that we
24 have to determine that area.

25 Q: Is there any limitation?



1 A: To what?

2 A: To what y'all can claim. Let's -- let's take
3 a -- you know what? Let's -- to make it
4 simple, let's take an extreme example.
5 Something like Hugo happened. There was a
6 massive wave uprush in Hugo, all of these
7 properties were actually gone. They were
8 covered in sand. The road was covered in sand.
9 So, you all walk out there, it's one big sand
10 covered expanse. You can barely tell where the
11 road is, where the lot is, where the beach is.
12 What is your assessment at that -- at that
13 point in time?

14 A: After a situation like that, we would deploy
15 damage assessment teams and also any kind of
16 consultation on beaches critical area or
17 follow-up permits or emergency orders would be
18 discussed with the rest of the Department,
19 including beach -- Beaches Permitting.

20 Q: I get that. But what is the criteria? Is it
21 going to be no nonlittoral vegetation?

22 A: I couldn't speak on that right now, but it
23 would be something that would be discussed.

24 Q: So, basically, you're saying -- well, let me
25 ask a different question. You know, like I've



1 been characterized in the press, some wealthy
2 homeowner, I decide I'm going to be -- go down
3 -- walk down the beach, there's five homes for
4 sale. I want to buy a home. How would I know
5 -- in your estimation, how would I know those
6 five homes on that beachfront, how would I know
7 where I actually have jurisdiction on that
8 property? I can -- my wife can plant a rose
9 bush, her favorite rose bush. She loves rose
10 bushes. So, how would I know where I can do
11 that? Would I have to ask you?

12 A: That would be a very good way to determine it,
13 yes. Not me, but asking the Department.

14 Q: So, I have to ask the Department where the home
15 line is, and then that Department's judgment
16 determines where my wife can plant a rose bush?

17 A: You can seek permits for various activities,
18 and you can also ask the Department for advice
19 on where the beaches critical area is.

20 Q: Are you -- are you familiar with the
21 Declaration of Independence?

22 A: Yes.

23 Q: Okay. Can you tell me what it says?

24 A: No.

25 Q: You cannot?



1 A: I don't know it by heart.

2 Q: Let me -- let me -- let me start the sentence
3 and see if you can finish it. Our Creator has
4 ---

5 A: I cannot finish it because I don't have it
6 memorized.

7 Q: It's unfortunate. I'm going to ask you ---

8 **MR. REDDY:** This is a question, Your Honor, so let
9 me ask. I'm going to make it a question.

10 Q: Do you believe that the rights of United States
11 citizens come from God or from government?

12 **OBJECTION:**

13 **MR. CHURDAR:** Your Honor, this is so far afield of
14 the enforcement action. I just object on
15 relevance grounds.

16 **MR. REDDY:** Your Honor, what they're saying is that
17 we have to seek government's permission for
18 what George Washington said, life, liberty,
19 property. They are -- they are -- they are --
20 they are -- these unelected bureaucrats are
21 basically hitting the -- with pompous testimony
22 like this, hitting at the foundation pillars of
23 freedom. Only you can stop this, Your Honor.
24 It can't go on like this.

25 **THE COURT:** Response?



1 **MR. CHURDAR:** Your Honor, Mr. Prevost obviously
2 testified as to his qualifications, but he is,
3 in that point, acting as a compliance project
4 manager, and I would just say asking him about
5 the Constitution is just very far afield of
6 what his role is in this process, and I don't
7 think it's relevant.

8 **THE COURT:** Mr. Reddy ---

9 **MR. REDDY:** So, I ---

10 **THE COURT:** I sustain the objection regarding his
11 role in the process.

12 **MR. REDDY:** All right, so ---

13 **THE COURT:** That doesn't mean that the Constitution
14 is not -- is irrelevant for this proceeding.
15 It just means you're questioning along this
16 line to him is irrelevant.

17 Q: So, Joint Exhibits 66 to 68, I would like to
18 pull up Exhibit B on that.

19 **(Joint Exhibit Numbers 66, 67, and 68 were referenced**
20 **at this time.)**

21 **MR. REDDY:** And I would like for him to read it.

22 Q: Matter of fact, I can -- I can give it to you
23 to make it simple.

24 A: I got mine.

25 Q: Oh, you got it?



1 A: Yeah.

2 Q: Okay.

3 A: So, 66?

4 Q: Yeah, that one.

5 **THE COURT:** The phrase is, you wish for him to
6 publish ---

7 **MR. REDDY:** No, not yet.

8 **THE COURT:** --- a portion of the exhibit?

9 **MR. REDDY:** Exhibit B, disclosure.

10 **THE COURT:** Just a minute. Mr. Reddy?

11 **MR. REDDY:** Yes.

12 **THE COURT:** The phrase would be, you wish for him to
13 publish a portion of the exhibit and let him
14 know what portion of the exhibit you wish for
15 him to publish.

16 **MR. REDDY:** Ah, yes.

17 Q: I wish you to publish a portion of this
18 exhibit, and that is the portion I wish you to
19 publish. So, please, read it.

20 A: Which part, please?

21 Q: The whole thing.

22 **THE COURT:** It's on the screen in front of you, too.

23 A: Okay. I didn't know if it was up. It's at the
24 last -- so, "Exhibit "B" Disclosure. Because
25 of the proximity of this property to the



1 Atlantic Ocean, its use and enjoyment are
2 regulated by the Coastal Zone Management Act,
3 Code of Laws of South Carolina for 1976
4 (Section, 48-39-10" "as amended. Depending on
5 the location of the base line and setback line,
6 the construction, repair, reconstruction and
7 modification of habitable structures,
8 improvements and erosion control devices may be
9 prohibited or severely restricted."

10 Q: Okay. Can you stop there? So, as a citizen,
11 when I bought the house and I read that,
12 somehow that seems to tell me that the location
13 of the base line and setback line should tell
14 me that I own my property. Is that not how you
15 read it?

16 A: I read it as it's referring to just the base
17 line and setback line. It doesn't talk about
18 beaches critical area, at least not in that
19 passage right there.

20 Q: So, I'm gonna read it to you again. I'm gonna
21 ask you a specific question.

22 A: Okay.

23 Q: "Depending on the location of the base line and
24 setback line, the construction, repair,
25 reconstruction and modification of habitable



1 structures," improvement "and erosion control
2 devices may be prohibited or severely
3 restricted. The location of the property in
4 proximity to the setback line, the baseline and
5 the seaward corners of all habitable
6 structures" referred "to the South Carolina
7 State Plane Coordinate System and the erosion
8 rates are subject to change and may be
9 determined by a survey of the property." So,
10 basically, it's saying the setback line and the
11 base line govern this. And it's saying to me,
12 the citizen, that that setback line and base
13 line could change from time to time, because
14 beaches are dynamic areas and all the different
15 things that people talk about. So, doesn't it
16 mean that I have some certainty in buying my
17 property, that I'm governed by the base line
18 and setback line, and that I, in fact, can buy
19 or sell my property knowing that the
20 legislature is going to update that
21 jurisdiction every seven to ten years? Not you
22 jumping in there and telling me from day-to-day
23 where my property line is, isn't that how you
24 read it?

25 A: I'm not a property lawyer, so, I couldn't say



1 the exact meaning of this language, but it does
2 reference the setback line and base line, which
3 are two jurisdictional lines of the Department.

4 Q: And the last paragraph says, "The foregoing is
5 reasonably calculated to call attention" the
6 homeowner -- "to call attention to the
7 existence of" base line, "setback line, the
8 velocity" -- rate -- "zone and" "erosion rate,
9 and the location of the seaward corners of
10 habitable structures." Does it say anywhere in
11 here about all this mumbo jumbo you guys are
12 coming up with, beach critical, vegetation,
13 nonlittoral? You have to come walk the ocean
14 with me to tell me where my property line is?

15 A: I underline the -- a word that I'm keying in on
16 here, or two words, erosion rate. That's what
17 I would be looking at.

18 Q: Oh, that's what you would be looking at. But
19 that's not for you to determine, my friend.
20 This is saying the base line and setback line
21 determine it, and that's decided by the General
22 Assembly, not by you. It doesn't say on that
23 Jacques will come look for vegetation.

24 A: The General Assembly -- Assembly granted us
25 regulatory authority over the beaches critical



1 area.

2 Q: Regulatory authority is different than
3 authority over my property. You're taking --
4 you're telling me -- you're taking jurisdiction
5 in an unlimited fashion on my property. Isn't
6 that what you're saying ---

7 **MR. CHURDAR:** Your Honor, ---

8 Q: --- when you say that ---

9 **OBJECTION:**

10 **MR. CHURDAR:** I object. I mean, this is
11 argumentative. Several objections. This is
12 argumentative. The Exhibit B Disclosure is not
13 what the General Assembly said. This was on
14 the closing documents.

15 **THE COURT:** Is -- is this something that's published
16 by the Department, or is it -- you say just on
17 the closing documents. What do you mean by
18 that?

19 **MR. CHURDAR:** I mean this -- this is an attachment
20 to the -- to the deed. And I'm -- what I'm
21 saying is, you know ---

22 **THE COURT:** Was it created by the Department or not?

23 **MR. CHURDAR:** No, sir.

24 **THE COURT:** There you go. Mr. Reddy, if it's not a
25 statement by the Department, how can they be



1 impeached by the statement?

2 **MR. REDDY:** Your Honor, I'm simply saying that, to
3 me, when you buy your property, gives you some
4 certainty that what you're buying -- what he
5 just testified to is he says, if you're buying
6 a property, it is a good idea for you to talk
7 to the Department and ask where the line is.

8 **THE COURT:** Well, I think you could ask about this
9 line of question -- questioning to him, but
10 this particular document doesn't necessarily --
11 it's not something that would impeach him. So,
12 I would find this document to be irrelevant.

13 **MR. REDDY:** Okay.

14 **THE COURT:** The line of questioning that you're
15 doing regarding the setback lines, you can
16 certainly ask about.

17 **Q:** So, do you believe that when the General
18 Assembly set up a setback line and a base line,
19 and then every seven to ten years decides that
20 they're going to spend a lot of taxpayer money
21 to re-evaluate that setback line and base line
22 and see where it moves, do you believe they do
23 that for what reason?

24 **A:** I couldn't tell you for sure. I'm not one that
25 determines policies.



1 Q: Okay. Are you trained on the statute? Like,
2 when you -- when you joined DHEC, did they make
3 you read the statute?

4 A: I did read it.

5 Q: No, I didn't ask you that. I said, are you --
6 did someone train you on it? Like, hey, you
7 know, this is the law. This is how you follow
8 the law. Don't break the law. None of that?

9 A: I was provided the statute; I've read through
10 it; I've referenced it multiple different times
11 with the Department. I've also looked at
12 different parts of the statute with different
13 staff members at different times.

14 Q: The reason I ask you that is this statute seems
15 to be applied differently to different people.
16 Are you -- are you aware -- let me ask you the
17 question a different way. Are you aware of
18 anyone under any circumstances other than a
19 consent order that was signed in Hilton Head by
20 the same Myra Reese to sign mine, other than
21 that, and I'll come to that in a second. Maybe
22 it's not with you. Are you aware of anyone
23 that has been fined for, say back to 1999,
24 let's go back 25 years. Okay, whatever 25,
25 maybe 2000 whatever year you want. Let's take



1 25 years. Are you aware of anyone that has
2 been fined or sanctioned for doing anything
3 landward of the setback line like building a
4 wall or a structure or anything?

5 A: I'll just start with, I'm a compliance project
6 manager. There is a counterpart, enforcement
7 project managers, that deal more with the
8 enforcement penalties. So, I'm not aware of
9 all the fines and cases that may have happened
10 in the past.

11 Q: So, the answer is no, it's fine. You don't
12 have to go into the explanation. Just say no.
13 So ---

14 **THE COURT:** Wait a second. Let him -- are you aware
15 of it or not? 'Cause he's asking you ---

16 Q: It's yes or no.

17 A: I'm unaware.

18 Q: Good. Thank you.

19 A: I can't recall at this time if there was ---
20 (Inaudible due to simultaneous speakers.)

21 **MR. REDDY:** Can we get Joint Exhibit number 22 up?

22 Q: Go ahead. It's nice, long letter, but what the
23 heck, read it.

24 **(Joint Exhibit Number 22 was referenced at this**
25 **time.)**



1 A: Are you asking me to read this aloud or ---

2 Q: Yeah, could you read it?

3 A: From where?

4 Q: Read the whole thing and we'll stop at some
5 point, but start reading it.

6 A: Okay, so, this is an email from January 30,
7 2024, from Mr. Merritt Abney, one of Mr.
8 Reddy's previous counsels. And this is sent to
9 our Department attorneys in BCM. "Sallie -
10 This email responds to your letter of January
11 25, 2024 and your email below. As you know
12 from my prior correspondence, we disagree that
13 the Reddy's retention wall was erected within
14 the critical area. The wall is located in the
15 Reddy's yard, which is not "beach" as defined
16 in S.C. Code Ann. Sec. 48-39-10(H), and the
17 recent work that OCRM observed on January 25
18 occurred underneath and landward of the wall.
19 OCRM therefore lacks jurisdiction over the
20 structure or the work for which the agency has
21 issued a cease and desist directive. That work
22 at issue in your letter of January 25 was
23 necessary to secure the retention wall. That
24 work is complete, such that the directive is
25 now moot. I will also note that this work was



1 necessitated only because OCRM directed the
2 Town not to place sand seaward of the Reddys'
3 property and to refuse the Reddy's request to
4 be allowed to place beach-compatible sand in
5 front of their property at their own expense.
6 We are aware of no authority for OCRM to deny
7 the Reddys the ability to place beach-
8 compatible sand in front of their property. As
9 a result of these OCRM directives, the Town has
10 refused to place seaward of the Reddys'
11 property, or to allow the Reddys to do so, and
12 has left large gaps between the sand placed on
13 either side of the Reddys' property and the
14 retention wall, threatening the integrity of
15 the wall. As shown on the attached photo taken
16 today, the retention is located landward of the
17 line of artificial dunes placed by the Town.
18 The Reddys could place sand along this line
19 without impeding beach access, which I
20 understood from your prior correspondence to be
21 an issue of concern for the agency. "We
22 therefore" "request that OCRM inform the Town
23 that it may permit this to occur. The Reddys
24 did not tell any contractor not to identify
25 themselves or not to disclose the work they



1 were doing. However, we decline" to "your
2 request to name workers who were onsite.
3 Finally, that day we received your January 25
4 letter, Mr. Reddy was approached by a news
5 outlet which had obtained a copy of the letter
6 and asked Mr. Reddy to confirm its
7 authenticity. The Town assured us that he did
8 not supply the letter to any news outlet.
9 Please let us know if OCRM did supply it and
10 provide any Freedom of Information Act requests
11 that may have been called for its production.
12 Best regards, Merritt."

13 Q: So, does this end the narrative that has been
14 going on, you said it a couple of times,
15 everyone says it, they've said it to the fake
16 news media, does this end the narrative that we
17 ignored the cease and desist? Can -- can we at
18 least say our attorneys responded to every
19 cease and desist and questioned jurisdiction,
20 which I have the right to do. Why are you
21 accusing me, including in your own testimony,
22 we ignored it? They wouldn't listen to me.

23 A: I don't recall saying ignored it, but ---

24 Q: Yes, you did.

25 A: --- if you ---



1 Q: Look up your testimony. You said it last
2 night.

3 A: If I said ignored it, it's in reference to the
4 activity did not cease and desist.

5 Q: You know, all this wordsmithing is great, but,
6 you know, I'm gonna ask you this question. Why
7 are y'all trying to make it sound like we or my
8 wife and I did something wrong? Everything is
9 geared towards that. The comments you made
10 about debris is you're attributing any debris
11 you see to me. The comments you made about the
12 -- we ignored the cease and desist, we didn't
13 stop. You talked to the workers. All of this.
14 Why is it every single time we've done what we
15 should do, don't you -- don't you agree? Don't
16 you think that if my attorney responds the very
17 next day saying that jurisdiction is not yours,
18 that that is not ignoring?

19 A: Well, reading the date of this email, it was
20 January 30th, which is five days after the
21 first cease and desist was issued.

22 Q: Yeah, whatever. Yeah, we responded. I think
23 there was some phone calls before that. You
24 also testified yesterday, there was a lot of
25 testimony that was made between October and



1 December with a bunch of different pictures
2 that sand was added. You imply -- were you
3 implying that after the original repair of the
4 wall that was done after Idalia, which no one
5 disputes, we don't dispute it, that between
6 that time and December nor'easter, are you
7 implying that we continued to add sand?
8 Because you repeatedly kept saying, I walked
9 over there and there was additional sand added
10 and then additional non-beach compatible
11 material. Was it your testimony yesterday or
12 was it just -- or was this just a show you were
13 putting on, was it your testimony or do you
14 have knowledge to say that between -- between
15 the September Idalia storm, when that property
16 was repaired that Matt testified yesterday, the
17 repair was complete before they even came out
18 there under the instructions of the City,
19 between that day, which is September the 8th,
20 and the December nor'easter, which was either
21 the 16th or 17th. I think it was 16th of
22 December. That you went through a series of
23 things that actually kept us here till 6:30
24 last night, talking about, here's a picture of
25 additional sand. Here's a picture of



1 additional beach-compatible material. Is it
2 your testimony that we continue to add stuff
3 between September the 8th and December the
4 16th?

5 A: I testified yesterday that on October the 6th,
6 2023, that sand was flattened and there may
7 have been sand added. That's what I said.

8 Q: Yeah. No, you said sand was added twice. I
9 can pull it up. We can pull up -- this is all
10 circle talk. You said yesterday, sand was
11 added. You didn't say -- the implication of
12 what you said, even I listening as a third
13 party, was we did something, we added sand.
14 Then you said several times, I have it noted
15 here, that you went out there with your camera,
16 unauthorized by us, and kept taking pictures
17 and additional debris on the beach between
18 September the 8th and December the 16th
19 nor'easter. My question is simple, having gone
20 to the beach that much, are you simply saying
21 you are unaware or were you trying to mislead
22 the Court that that sand was added by the City,
23 not by us?

24 A: I said sand may have been added. I didn't
25 insinuate or try to say that you had added it.



1 I was documenting site conditions.

2 Q: Don't make me go back. That's not what you
3 said that sand may have been added. You said
4 sand was added from the previous visit you had
5 been there. You said it twice.

6 A: Sand may have been added. It was flattened,
7 that's for sure.

8 Q: That's ---

9 **THE COURT:** What was that date? It may have been
10 added after what date?

11 A: So, on October 5th, I went out to the site,
12 2023, as well as October 6th, 2023. And
13 October 6, 2023, the sand that was there the
14 day before had been flattened, and sand may
15 have been added seaward of that.

16 Q: What was the reason that he spent an hour going
17 through all this stuff between September the
18 8th, again, I'm being very clear -- not
19 September the 8th -- September -- yes,
20 September the 8th, when the -- when -- when the
21 when the correction was made for the Idalia
22 storm on August 30th, and December the 16th
23 nor'easter. There was a three-month period
24 there. He spent 45 minutes last night going
25 through one after the other, after the other,



1 after the other picture. My question is very
2 simple, was it because you believe in your
3 testimony where you had all this -- these
4 pompous comments you were making, did you
5 believe that anything was done on the property
6 that had not already been done on September the
7 8th -- by September the 8th?

8 A: Between which dates, please?

9 Q: September the 8th, which was the day the
10 remediation was complete after Idalia, December
11 the 16th, which is the day the nor'easter hit
12 and washed everything out, between those two
13 days, y'all went through a series of pictures
14 last night, over and over and over and over and
15 over again. And every time you'd comment, I
16 went out to the beach and I saw a beach-
17 compatible material. I went out to the beach
18 and I saw sand added. I went out to the beach
19 ... this was this constant litany of stuff, as
20 if we kept doing something after something was
21 issued. So, my question is very simple. Do
22 you believe or is it your testimony or do you
23 have any knowledge that anything was done after
24 that first time that we were informed on
25 September the 8th or September 11th, when they



1 came out to the site, about the repair we did
2 after Idalia, and December the 16th, which was
3 the nor'easter?

4 A: Yes, a significant amount of non-beach
5 compatible material was added, and that was
6 documented in my October 5th, as well as 6th,
7 site visit from 2023.

8 Q: Are you saying -- when you say it was added,
9 you're saying it was added after the Idalia
10 repair?

11 A: If you're referring to the date of September
12 6th, yes.

13 Q: Okay. Can you tell me what was added?

14 A: Artificial turf grass, gravel rock, metal
15 fencing, to name a couple.

16 Q: Okay. So, artificial turf that was added
17 inside my yard, that I just -- that was
18 restored inside my yard right after Idalia, I
19 believe all of -- all of the artificial turf
20 installation was done literally within four
21 days of everything else being done. Are you
22 saying water coming in now, and because there's
23 nothing happening on the beach and scraping
24 continues to happen 24/7, going back to my
25 original question, pulling water in, creating



1 more water coming into the property, and you're
2 saying we added something? We didn't add
3 anything. It just keeps taking our property.
4 Eventually, my house will be in there, and that
5 would be non-beach compatible, I can tell you
6 that for sure. There is no end to this
7 madness, is there? Is there an end to this
8 madness? There is no end to this madness. We
9 have turned this over it seems like to a bunch
10 of unelected bureaucrats to say unlimited
11 jurisdiction. Water comes in and you will then
12 be the inspector, right, that goes out there
13 and says non-beach compatible material is
14 added. Very soon, it will be someone's sofa.
15 So, I'm going to ask you the cease and desist,
16 since you brought it up many times. Why did
17 you issue -- on what basis did you issue a --
18 let's start with the third one. You issued a
19 cease and desist on artificial turf. Did you
20 cease and desist on -- the artificial turf went
21 all the way to my back yard -- to my back
22 porch. Did you issue a cease and desist order
23 just for that 1,255 square feet that -- that
24 was -- that you're deeming as Beach Critical
25 Area from one data point, that someone came up



1 with that I thought was Matt, he said, no. I
2 don't know who it is. But from that one data
3 point, y'all came up with 1,255. Did you issue
4 artificial turf cease and desist for that 1,255
5 or did you just say artificial turf for your
6 whole yard, because, in your mind, if you took
7 the wall down, the whole yard was going to be
8 beach critical?

9 A: So, I'd like to make the distinction and
10 clarification here that my original notice to
11 comply that was issued on October 20, 2023
12 called out the non-beach compatible materials
13 that were observed on my prior site visits on
14 the 5th and 6th. The following cease and
15 desists are after multiple new additions and
16 work had been done at the site, and also the
17 final enforcement action that had been taken
18 included more than just my notice to comply
19 non-beach compatible materials.

20 Q: I have no idea what you're talking about.
21 Please answer the question.

22 A: What's the question, please?

23 Q: Cease and desist number three. If you'll only
24 listen, you will understand the question, not
25 go into this -- whatever you've been trained to



1 say. Cease and desist number three. When you
2 issued cease and desist number three, which was
3 for the artificial turf, I believe issued in
4 March sometime -- well, it was on the screen
5 earlier.

6 A: March 1st, 2024.

7 Q: Okay. March 1st, cease and desist number
8 three. Did you issue a cease and desist number
9 three just for that 1,255 square feet that
10 y'all claimed as Beach Critical Area or did you
11 just issue a general cease and desist for
12 artificial turf, which was my whole yard up to
13 my back porch? I was going to ask a compounded
14 question, but I learned from yesterday, so I'll
15 stop there.

16 A: So, once again, that original notice to comply
17 was prior to that erosion control structure, as
18 in the first one being exposed, so that wasn't
19 identified when that original notice to comply
20 was issued. So ---

21 A: This is circle talk.

22 A: I'm not done.

23 Q: No, no. I don't understand what you're saying.
24 Answer the question on number three.

25 **MR. CHURDAR:** Your Honor, if he could just complete



1 his -- his ---

2 **THE COURT:** Honestly, I didn't think he was
3 answering the question.

4 A: I was getting to the third one.

5 **THE COURT:** If you could just answer the question.

6 Q: Just answer the question. We'll be able to
7 wrap this thing up. I'm hungry too.

8 A: The third cease and desist does not call out a
9 specific square footage of area where non-beach
10 compatible materials were added. It does,
11 however, call out continued work in the beaches
12 critical area, and that you are hereby directed
13 to immediately cease and desist all work in the
14 beaches critical area. And it also does
15 specifically call out installation of fabric
16 rolls/underlay and rock gravel landward of
17 erosion control structure in the beaches
18 critical area.

19 Q: So, let me just understand this. Was that you
20 issued a cease and desist for all of the turf,
21 which went all the way to my back porch because
22 of what? Because you anticipated that if I
23 didn't have the wall, you could now have the
24 whole yard? The entire thing is beach
25 critical? Why would you simply say, hey, dude,



1 you have to stop three feet, not 80 feet. The
2 -- the -- the -- the turf was installed for
3 almost 72 feet. Some five, six, maybe less
4 than that, was because it was not installed all
5 the way to the wall, even it was like inside,
6 so maybe three or four feet, by your
7 calculation of that one data point, may have
8 been critical area, you could have just said,
9 y'all need to stop at the critical -- what I
10 call critical area. Instead, you said, stop.
11 And if -- theoretically, if they -- if they had
12 listened to you, as opposed to my attorney, and
13 they had stopped, they would have had to
14 demobilize, correct? They would have to go
15 home.

16 A: If they followed the cease and desist
17 directive, they would have stopped work.

18 Q: And they would have stopped work, and so my
19 entire yard would have been torn up when --
20 because, why? You assumed that -- this is the
21 thinking I'm trying to get to. If I didn't
22 have the wall, the entire yard would be in
23 critical area, and you would have jurisdiction,
24 so, you just jumped the gun, didn't you? And
25 say, you know, why should I wait? I'll just



1 claim the whole yard right now.

2 A: I didn't claim the whole yard. I was calling
3 out the activity that was taking place and
4 calling for it to cease and desist.

5 Q: You had him stop ---

6 **THE COURT:** Wait, were you through?

7 A: Yes.

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

9 Q: Why would you have them stop work? You should
10 have said, you needed to stop here. Draw the
11 line wherever you think is the critical area.
12 So, now I'm going to ask you a second question.
13 I was gonna ask you the first time, and it'll
14 be a compounded question, and I got reprimanded
15 for that. So, now there is two concrete walls.
16 One of them was -- the final one was there for
17 over a month, as you testified, was completed
18 earlier. So, you now claim all of that is
19 still Beach Critical Area. Now, what criteria
20 were you using there again? Was that
21 periodically inundated behind two concrete
22 walls?

23 A: It was heavily manipulated beaches critical
24 area that doesn't just not become beaches
25 critical area due to that activity. So, the



1 area that was previously identified as such was
2 what I was talking about, where they were doing
3 work landward of that wall.

4 Q: But according to your board, it was at least a
5 month. So, I had that month to establish my
6 yard, isn't it?

7 A: That was not for your property.

8 Q: What do you mean? They're going to give a
9 different directive to the next property,
10 saying you have a month, but I have a year?
11 This is -- you can't do that, Jacques, not in
12 this country.

13 A: I think that's speculating ---

14 Q: Speculating?

15 A: --- what they ---

16 Q: I'm not speculating. You're the one
17 speculating. You're saying it could be one
18 month for one property, and you're saying --
19 your testimony is it would be one month for
20 one, six months for another, a year for
21 another. I'm simply saying, at the time that
22 you issued the cease and desist number three,
23 was there any periodic inundation or not?

24 A: Where?

25 Q: Where you issued the cease and desist for with



1 the artificial turf. Was the artificial turf
2 being periodically inundated?

3 A: No, because there was a significant artificial
4 -- two erosion control structures, hard
5 concrete structures, installed bounding the
6 area where they were installing.

7 Q: So, now, we're getting to it. So, you're
8 saying, in your estimation of potential
9 periodic inundation, if I had not had any
10 structures, then it would have been
11 periodically inundated, and in your fine
12 judgment, you said guilty anyway, because in my
13 judgment, you would have been inundated if you
14 didn't have protection, even though you were
15 not inundated. And by the way, you would have
16 been inundated all the way to your back porch.
17 Because that's what the cease and desist
18 applied to. Is that the conclusion?

19 A: That's not what the cease and desist says. It
20 does not call out a specific area like that.

21 Q: Well, what -- how would you read it? So, my --
22 those guys read it that way, they -- they --
23 there's nothing in there that says you have to
24 stop three feet. It stop -- it said you cannot
25 install turf in your back yard. And there was



1 no inundation, was there? You just testified
2 there wasn't any inundation. You testified
3 that there was no inundation because there was
4 a wall. This is all -- isn't this all crazy
5 stuff? Can anyone live with this? Can this
6 population be subject to this? This is why I
7 went back to the Constitution.

8 **MR. REDDY:** Your Honor, this is a hoax.

9 Q: All right. So, now, I'm going to pull up
10 another question, because I was told by Mr.
11 Matt in his testimony yesterday that you are
12 the compliance guy. Are you aware of the 122
13 Oceans Boulevard, the Stein's property?

14 A: Yes.

15 Q: Are you aware that they have big old, massive
16 bags filled with something?

17 A: Yes.

18 Q: Would you call that an erosion control
19 structure?

20 A: I would call it a certain type of one, yes.

21 Q: Okay. Would you agree that those are covered
22 in sand?

23 A: I know they were covered in sand at one point,
24 yes, at least.

25 Q: One point, they're still covered in sand. You



1 didn't ---

2 A: Okay.

3 Q: ---- go and look at it?

4 A: I don't need to look at it, but ---

5 Q: Oh, you don't need to look at it, but you do
6 need to look at mine, all the -- all -- every
7 day with your camera. So, their's is covered.
8 Are you aware of a Wild Dunes property with an
9 erosion control structure?

10 A: Would I be able to comment on 122 Ocean
11 Boulevard?

12 Q: Well, I'm gonna ask you both at one time. Are
13 you aware of a Wild Dunes property with a --
14 with an erosion control structure?

15 A: No, I am not aware of that.

16 Q: You're not aware that there is a erosion
17 control structure in what is called beach --
18 beach west or whatever?

19 A: Oh, Beachwood East, are you referring to?

20 Q: Yes, Beachwood East or West.

21 A: What property are you referring to?

22 Q: Any property? Does any property in Beachwood
23 East or West have an erosion control structure?

24 A: I know there's a revetment out there, at least.
25 And also a bulkhead at one point.



1 Q: I'm asking about a wall.

2 A: I know there was a bulkhead at one point at one
3 property.

4 Q: Don't circle talk to me. How about a wall? Is
5 there a wall or not?

6 A: Yes. And both in Beachwood East and at 122
7 Ocean Boulevard, I issued cease and desist and
8 notice to complies to have them removed.

9 Q: And what happened to those?

10 A: They're enforcement now, at least 122 Ocean
11 Boulevard is in enforcement process right now
12 to have it removed.

13 Q: And so, on the other one, did they cover in
14 sand?

15 A: What's the other one?

16 Q: The other one you just talked about, the -- the
17 east or west.

18 A: Beachwood East, I'm not exactly sure which
19 property you're referring to, but there was a
20 property that I did follow-up with, and I don't
21 know if it's covered with sand right now.

22 Q: It is.

23 A: What property?

24 Q: The property -- the only one there with an
25 erosion control structure, real wall, all the



1 way around, with a wing wall. I don't know ---

2 A: What kind of materials are we talking ---

3 Q: I thought you were the compliance manager.
4 That's why I'm asking you. Are you aware of
5 it? Because you seem very much aware of mine.
6 You were climbing into my yard three, four
7 times a day, sometimes. So, I'm asking you,
8 are you aware of something in Beachwood East or
9 West that has a wall?

10 A: I am aware.

11 Q: Okay. And so you -- is it your testimony that
12 you are not aware whether that wall is covered
13 in sand or not?

14 A: I'm unsure exactly what property you're
15 referring to, but I know there was one wall, at
16 least, out at Beachwood East that was not
17 covered at one point in time.

18 Q: So, let me ask you on the other two cease and
19 desists that you issued. I'm just curious. Do
20 you -- you had a lot of beautiful pictures, by
21 the way, I like that camera, whatever y'all
22 have.

23 A: iPhone.

24 Q: But y'all were -- you showed a picture of water
25 behind the wall?



1 A: There was multiple days of which I was out
2 there there was water behind the wall.

3 Q: Correct.

4 A: As in landward.

5 Q: Correct. Do you realize that if you excavate
6 on a beach, that if you dig down to pour a
7 footing, that water comes up from underneath?

8 A: I would say that means it's inundated with
9 water, yes.

10 Q: Yes. It was inundated with water because we
11 excavating to pour a footing. Now, would you
12 say all of that was happening inside an
13 existing concrete wall landward?

14 A: I know when I documented site conditions that
15 there's water landward of a concrete erosion
16 control structure at the site and multiple
17 points.

18 Q: Okay. So, I'm still trying to understand this.
19 So, there is a concrete wall already in place.
20 Everything is happening inside that concrete
21 wall, landward of the concrete wall. So, is it
22 your testimony that your cease and desist was
23 periodic inundation happening landward of a
24 concrete wall?

25 A: That was one of the ways I was able to identify



1 it was beaches critical area at the time.

2 Q: Again, it's circle talk. I don't understand.
3 Can you just answer yes or no? It's much
4 easier. My brain is ---

5 A: Restate the question, please.

6 Q: So, I'm gonna repeat the question. Is it your
7 testimony that periodic inundation for which
8 you issued the cease and desist in critical
9 area, periodic inundation happened landward of
10 a concrete wall?

11 A: Yes.

12 Q: Okay. So, landward of a concrete wall,
13 periodic inundation can happen, and periodic
14 inundation landward of a concrete wall will
15 make it a critical area, as well. That's your
16 testimony?

17 A: It can.

18 Q: Okay. No, I -- I just wanted to clarify.

19 **THE COURT:** Well, I don't understand. You're saying
20 this periodic inundation he's asking you about,
21 are you testifying about what happened on the
22 outside of the structure, the concrete wall,
23 are you saying periodic inundation happened,
24 and where you had those pictures of water being
25 retained right behind the wall?



1 A: I believe he asked if there was any water
2 landward of the wall.

3 **THE COURT:** I want you to clear that up.

4 A: There's been water landward of the wall
5 multiple different points, and that water at
6 some times I've been out there to document site
7 conditions, had breached around the structure.

8 **THE COURT:** I'm not asking about the breaching
9 around. I'm asking about the water that -- you
10 touched on that. I'm trying to clear this up
11 in my mind. Is there -- you -- there was a
12 photo with water that was retained behind the
13 wall. Is your testimony that that water was
14 the result of periodic inundation, or some
15 other possibility?

16 A: Yes, so that photograph, you're talking about
17 the wooden forms that were landward where they
18 were going to be installing that second wall,
19 is -- on that day?

20 **THE COURT:** It looked like it was -- almost like an
21 old pool.

22 A: Yes. So, that day, I specifically went over
23 one photo from that day where the water was
24 breaching through the seaward side. There was
25 a hole, you could see the water was going



1 underneath the structure to the landward side.
2 And it was disturbing that water that was
3 contained within that wooden form on the
4 landward side. So, periodically inundated
5 'cause the waves and tidal action were getting
6 through and under the wall there to inundate
7 that area landward.

8 **MR. REDDY:** Your Honor, like I said, I'm not a great
9 engineer, but I don't know how periodic
10 inundation can happen behind a concrete wall,
11 which is all the basis for the cease and
12 desists, different issue.

13 **Q:** Landward of that existing concrete wall, same
14 -- same type of question. You said landward of
15 that existing concrete wall, there was some
16 rebar going in that was exposed for three days
17 that you said was a safety hazard. So,
18 landward of that existing thing you're saying,
19 the public would be walking in there? Safety
20 hazard to me, or -- I'm trying to understand.
21 On what basis were you saying to you with your
22 camera, to the public? The public's gonna
23 climb around the wall into my yard and say,
24 dang it, I got on the dang rebar they were
25 doing?



1 A: I believe it's a safety hazard for workers on-
2 site, people on the beach, any potential
3 animals that get in the area. It's unprotected
4 steel or metal piece of rebar that if anything
5 falls on that, it could hurt or kill someone.

6 Q: The people on the site, is that your business
7 now? Are you managing them?

8 A: I observed contractors working there.

9 Q: I understand. But is that your business to
10 manage them? I'm trying to understand the
11 level of government intrusion. So, if we have
12 contractors working on the site, government is
13 going to manage them and say, oh, there's a
14 rebar; you better not go near it, or, again,
15 behind a concrete wall in a construction zone,
16 you -- your testimony is we proved a safety
17 hazard to the people walking on the beach?
18 Wow. Where do you guys draw the line? Is
19 there anybody who will draw the line? How
20 about my house? How about my dog? Yeah. Is
21 that something y'all gonna regulate soon
22 enough? This is -- this is -- this is -- I'm
23 trying to understand what it is that you -- who
24 the heck you think you are to keep coming in
25 and telling me what we can do. Where is this



1 going to stop? How does the citizen protect
2 themselves against this type of tyranny?

3 A: Through requesting permittable activities in
4 our direct regulatory jurisdiction.

5 Q: Really.

6 A: The beaches critical area.

7 Q: Really, the beaches critical area. Well, no,
8 you just testified the beaches critical area is
9 to my back porch.

10 A: I did not.

11 Q: Yes, you did, because you said you gave me a
12 cease and desist for the turf that went all the
13 way to the back porch.

14 A: I didn't say that.

15 Q: You didn't say that. Your cease and desist
16 said that ---

17 A: It did not say to the back ---

18 A: Hey, don't try to be cute here. You know, it's
19 all there. I asked you a specific question,
20 did your cease and desist tell the guys that
21 you can install turf for three feet? No.

22 A: It said in the beaches critical area.

23 Q: Yes, in the beaches critical area, which is
24 what? The whole thing. They were not in the
25 beaches critical area, by the way. At the time



1 that you issued the cease and desist, they were
2 not in the beaches critical area. You have not
3 established that they were in the beaches
4 critical area. They had -- they were like not
5 even close to the beaches critical area. First
6 of all, even after the turf went in, I don't
7 believe they were in the 1,255. The burden is
8 for you to show that. You can't walk in there
9 and say, oh, here's a cease and desist, without
10 showing that they were in the beaches critical
11 area. Do you have a measurement to show how
12 many feet were in the beach -- beaches critical
13 area?

14 A: I can refer to when I originally collected data
15 back in October 2023 on the 5th, so that data
16 that I collected was along the erosional
17 escarpment and the seaward extent of the non-
18 beach compound materials at the site. And that
19 data was compared to previously collected data
20 from September to see exactly what ---

21 Q: Excuse me, Jacques, that's not the question.
22 Answer the question. I'm not interested in all
23 this ---

24 A: What's the question?

25 Q: --- narrative. That -- the question was very



1 simple. We're not talking about October and
2 June and July and whatever you've been climbing
3 in my yard without permission. I am asking you
4 a very specific question. In March, this is
5 March of '24, not October of '23, did you
6 measure that turf and say three linear feet is
7 in the beaches critical area, or did you just
8 issue a cease and desist because you were
9 pissed that anyone can work in my back yard,
10 even though it was going all the way to the
11 back porch and you felt that your little
12 direction here could give you that type of
13 authority?

14 A: I don't appreciate that characterization, first
15 off, but I did not specify exactly how much of
16 the artificial turf that was added on that
17 March cease and desist.

18 Q: Should you not have? What if there was none?

19 A: That directive is to call out specifically at
20 the time and as quick as we can, to the best of
21 our ability, to cease the work in the beaches
22 critical area. I did not collect survey data
23 at that time to give them the exact line of
24 where something might have been.

25 Q: Jacques, you would have -- you would have cost



1 me money if my attorney hadn't responded, and
2 you cost me money for my attorney to respond,
3 and you didn't even know if they were in the
4 beaches critical area because you didn't
5 measure it. You had a responsibility to not
6 just issue these things, of not spying on what
7 was going on in my back yard. Are you spying,
8 Jacques, is that what you're saying? I have a
9 14 year-old daughter. Were you spying on her?

10 A: Once again, I don't appreciate that
11 characterization.

12 Q: I don't appreciate what you're doing either, so
13 don't -- that's not the question. My question
14 ---

15 **OBJECTION:**

16 **MR. CHURDAR:** Your Honor, I object. This is so
17 argumentative.

18 **MR. REDDY:** It is -- it is not, Your Honor.

19 **THE COURT:** I think, are you spying on my daughter -
20 --

21 **MR. REDDY:** It's a question. I mean, why is he
22 issuing a cease and desist?

23 **THE COURT:** Do you have any -- when you ask a
24 question, you have to have a legitimate
25 evidentiary basis to ask a question.



1 **MR. REDDY:** Well, my only evidentiary basis is that
2 he was climbing in my yard, and when my wife
3 asked him what he was doing in there, he said,
4 I have a right to be there, and do you want me
5 to call the police?

6 **THE COURT:** I sustain the objection on the last
7 question.

8 **Q:** Okay. So, I'll ask the question again. Do you
9 believe it is fair to issue a cease and desist
10 on artificial turf, a blanket cease and desist
11 of someone installing turf in my yard, without
12 even knowing -- without having any knowledge if
13 that artificial turf was going to be the cease
14 and desist, or giving me a reasonable basis of
15 saying, hey, from -- from here to here is being
16 litigated and in dispute. So, as long as your
17 turf comes up to here, that's fine. This last
18 piece is in dispute. That's what -- that I
19 think would have been a reasonable approach.
20 Instead, you gave a blanket cease and desist.
21 And since then, would you agree, not even
22 knowing how much of a cease and desist, those
23 people -- do you know that those people were
24 harassed with subpoenas showing -- asked for
25 information for ten years? Do you know that?



1 A: No, I don't know about that.

2 Q: You don't know about that. And you didn't have
3 a basis for that.

4 **MR. REDDY:** Your Honor ---

5 A: A basis for what?

6 Q: Your -- for your cease and desist.

7 A: I did, continued to work ---

8 Q: You did not.

9 A: --- on the beaches critical area.

10 Q: How? Tell me, how many -- how many feet were
11 in the beaches critical area?

12 A: I can't give you feet, but I can tell you this,
13 I'm familiar with the site. By March 2024, I
14 had been out there many times, and you can
15 interpolate the data between the adjacent
16 properties where that vegetation line had been
17 established or remaining from previous periodic
18 inundation.

19 Q: That is not your basis. Your basis is 1,255
20 square feet that was claimed.

21 A: That is in reference to the notice to comply.

22 Q: Not -- not -- not some vegetation on either
23 side. Like I -- like -- like -- like I
24 mentioned to you last time, and I think you
25 know it because you were climbing in her yard,



1 as well, till she complained, that she has
2 artificial turf. So, there is no vegetation
3 down there. I built that house. I know what
4 vegetation there is. So, this -- this
5 unlimited saying you're going to look at the
6 neighbor's property and decide what vegetation
7 is there, and that's beaches critical area,
8 I've never been notified of that. I've only
9 been notified of 1,255 square feet. So, you
10 should have measured the 1,255 and see if I was
11 in violation before you caused me to have all
12 this heartache with my lawyers, my contractors
13 and everything else. This -- if you think this
14 is the way to behave, well, I hope this Court
15 sees that this Pandora's box that they're
16 opening up is a disaster, because this is --
17 this -- we'll have two more courtrooms like
18 this to fill up. I'm going to ask you another
19 question. Can we go to Exhibit 142 that they
20 put up? So, I want to -- I just want to
21 address some issues here in 142. You circled
22 the orange fence, or whatever.

23 **(Joint Exhibit Number 142 was referenced at this**
24 **time.)**

25 A: Uh-huh.



1 Q: What is that orange fence?

2 A: It looks like it's potential marine debris, as
3 well as non-beach compatible material that had
4 been added to the site.

5 Q: Would you be surprised if we notified the City
6 that that was a safety fence that we put in
7 there, because that's the beach path?

8 A: That does not ---

9 Q: To keep it from being a -- because it was a
10 construction zone?

11 A: From what I can recall from this site visit,
12 that orange fencing was just set up around
13 excavation areas on the sides of the structure,
14 likely where they're installing the wing walls.

15 Q: Do you -- do you recognize that -- I brought it
16 up earlier, that six feet from that edge of
17 that is a public beach access?

18 A: And it was blocked for a significant amount of
19 time.

20 Q: It was blocked by the City, not by me. I
21 didn't block it. The City shut it off because
22 they said it was a safety hazard. They shut
23 off multiple beach paths. Do you realize that
24 this is another one of these fake things
25 they've been circulating, that we blocked the



1 beach access, including by your friends at CCL,
2 we didn't. The City did. You knew that,
3 right? That the City blocked it for safety
4 reasons?

5 A: I didn't know who blocked it. I know there was
6 a sign at some beach accesses saying they were
7 closed.

8 Q: Correct. Yeah, that -- I don't -- I don't
9 manage beach access. The City does. So, I
10 want to show you something else here and ask
11 you a question. We've been beating this thing
12 to death, I think, yesterday, with Matt's
13 testimony and all that. You see that
14 escarpment, that's my neighbor's escarpment to
15 the -- I would say, coming this side of the
16 orange -- orange. Do you think that escarpment
17 is in line with that wall? More or less?

18 A: I'm unsure to say that's -- if that's an
19 escarpment; that could be excavated sand.

20 Q: Whatever dune ---

21 (Inaudible due to simultaneous speakers.)

22 Q: --- like, Your Honor mentioned earlier. I
23 don't know what that is. That's -- that's the
24 sand, escarpment, dune, whatever you want to
25 call it.



1 A: What's the question?

2 Q: My question is, does that look like in line
3 with the wall?

4 A: Looks like there's some sand approximately in
5 line with that wall, but it does vary. And
6 this is just one small portion next to the
7 wall, and that could have been scraped sand.
8 I couldn't say exactly what that sand is.

9 Q: Do you see sand past the wall, like over there?

10 A: I see some sand beyond the wall.

11 Q: Yes. So, let's talk about that. You know what
12 all that is? That is all the neighbors' homes
13 and escarpment that were getting scraped sand,
14 and all of those were in line. Now, of course,
15 because they don't have anything to protect
16 their property, as you showed -- he showed some
17 of the subsequent pictures, a lot of their
18 property's gotten washed away with no
19 compensation. My point is, you earlier
20 mentioned, oh, there was water funneling in on
21 the side. You know why water was funneling in
22 on the side? I'm just asking you here, just
23 looking at this.

24 A: I'd say it could be periodic inundation or
25 excavation work.



1 Q: Well, it is. But if you put sand and pile sand
2 up two times a day on either side, of course,
3 the water is going to come in. It's funneling
4 into my house because you cannot -- your --
5 Matt testified, I think yesterday, that any
6 time you put a -- any type of a dune, it has to
7 be continuous. If you don't put a continuous
8 dune, is what he said yesterday, I think you
9 were sitting in the back. And if you don't put
10 it, it's going to go around it. That's what
11 was happening. You keep talking about
12 funneling. This is all stuff your beach
13 preservation is doing, crazy stuff.

14 A: What's the question?

15 Q: My question is this, why are we being accused
16 of access and this and that, which is all of
17 the stuff going on here? You can see it's in
18 line. The question to you is, you kept showing
19 selective pictures. Like I said, I had to fire
20 my lawyers earlier, and -- and -- and that --
21 they should have objected to half of these
22 things they're putting in because they're all,
23 like, show selective pictures. The issue is,
24 if the City has deliberately decided that they
25 are going to skip my property for scraping and



1 they won't let me put sand in front of my
2 property, but they will on either side, you got
3 a funnel. That's the definition of a funnel,
4 my friend. And I will also say you said that
5 day in your testimony, oh, this was a four foot
6 tide in your estimation, on February the 6th,
7 I believe that -- is that the date on it? Or
8 whatever that date is, right? What is your
9 basis to say that was a four foot tide?

10 A: While I was out on the site during that time,
11 at 11:45 a.m., approximately, if I'm recalling
12 correctly, I was using the tides chart app. I
13 relied with my iPhone to get high readings, or
14 wherever I may be, to get the high tide or low
15 tide, the level of tide when I'm there. So ---

16 Q: Great. Awesome. Would you say your tide phone
17 iPhone, is correlated to NOAA?

18 A: It is. It primarily relies on data pulled from
19 NOAA, and it also is updated.

20 Q: Would you then be surprised that NOAA has it at
21 5.5?

22 A: On that day?

23 Q: Yeah.

24 A: I would be surprised.

25 Q: Yeah.



1 A: If it's -- what was the data pulled from? What
2 base station?

3 Q: The NOAA for Breach.

4 A: I'd like to see that.

5 Q: Always happy to show it to you. Let me ask you
6 another question along that.

7 A: And this is also February 1st, I would like to
8 add.

9 Q: Correct. February 1st, yeah, that's what we
10 have. Let's see, screw piles. I love screw
11 piles. You talked about the screw piles and
12 you talk about screw piles were seaward and all
13 this kind of stuff. Do you know what a screw
14 pile is?

15 A: I have an idea.

16 Q: Do you know that a screw pile mostly goes down
17 into the ground, not out?

18 A: Yes.

19 Q: Okay. Good. So, the screw pile goes down into
20 the ground, and you are very busily circl- --
21 circling all those things showing the screw
22 piles going on this side of the wall.

23 A: I'll circle it for you.

24 Q: Oh, you can circle it if you want -- if you
25 wish. Great. Do you know what those are for?



1 A: Those are the caps or tops of the screw piles.

2 Q: Yeah. I'm asking -- I'm not asking you the --
3 the name of them. I'm saying, do you know the
4 purpose of them?

5 A: Purpose of what exactly?

6 Q: Am I not being clear? Do you like me to speak
7 in a different language? The screw piles.
8 What else do you think I'm talking about?

9 A: I didn't know if you meant the tops or the
10 actual ---

11 Q: No, I don't know about tops.

12 A: --- screw piles.

13 Q: Talking about screw piles? What the -- what's
14 the purpose?

15 A: To secure the structure.

16 Q: To do what?

17 A: Secure it.

18 Q: Excellent.

19 A: It's a foundational element.

20 Q: Excellent. So, let me just go through the
21 sequence of events here.

22 **THE COURT:** You have an objection?

23 **MR. CHURDAR:** Your Honor, we've been going for about
24 two and a half hours.

25 **THE COURT:** Yes, sir.



1 **MR. CHURDAR:** So, might ---

2 **THE COURT:** Like to take a break?

3 **MR. CHURDAR:** --- be a good time for a break.

4 **MR. REDDY:** I'm almost done. Can we take ten more
5 minutes?

6 **MR. CHURDAR:** Well, I mean, I'd appreciate a break.
7 I'm not sure about anybody else, but ---

8 **THE COURT:** I tell you what, let's just go ahead and
9 get this over with. If you need -- do you need
10 to step out or can you wait ten minutes?

11 **MR. CHURDAR:** Well, I mean, do I need to step out or
12 do what?

13 **THE COURT:** Do you need to step out to take a break
14 or can you wait ten minutes?

15 **MR. CHURDAR:** I can wait ten minutes.

16 **THE COURT:** Okay. Well, it's 11:31.

17 **MR. REDDY:** I'm almost done.

18 **Q:** So, screw piles go down into the ground. And
19 so the sequence of events here is on -- when
20 the -- when the wall up to three weeks of --
21 first of all, when the wall was exposed, you do
22 know that it's on the record that we asked to
23 put sand in front of the wall? Are you aware
24 of that?

25 **A:** I believe so.



1 Q: Okay. And that was denied. Do you know why it
2 was denied? Do you know of any link to statute
3 that deny someone bringing in sand, new sand,
4 beach-compatible sand, and putting it back? Do
5 you know of anything?

6 A: I believe it's related to the erosion control
7 structure. I don't think you're allowed to
8 bring sand or scrape sand seaward of those
9 types of structures.

10 Q: I think you're correct on the second one.
11 You're not allowed to scrape sand. The statute
12 does not say anything about bringing new sand,
13 because it would be silly not to bring new sand
14 into a depleted beach. It was denied despite
15 repeated requests to do it. As a result of
16 that, this so-called erosion control structure
17 that is supposed to be water facing, that you
18 testified to, was leaning forward. Do you
19 think that's a good idea to have on a beach,
20 something that's leaning at a 45 degree angle?

21 A: No.

22 Q: Okay. So, that's why we straightened it. And
23 then when we straightened it, are you aware of
24 the fact that after we straightened it, there
25 was yet another request made to the bureaucracy



1 to be allowed to put sand back in front,
2 because my contractor said it will not remain
3 straight if it's water facing? Are you aware
4 of that?

5 A: Am I aware of what exactly?

6 Q: The second request that was made.

7 A: I'm not sure if I can recall the specifics to
8 that at this time.

9 Q: Okay. So, that was denied, and then he said
10 that we got to stabilize that wall because that
11 is the safety hazard, not the rebar in the
12 inside that's temporary construction. A
13 leaning wall can kill someone. And that's why
14 we had to do what we did. So, just so there's
15 a -- there's a clear sequence of events. After
16 the screw piles were put in, do you realize
17 that we had an engineering evaluation of
18 whether screw piles on a seven foot wall can
19 still be ocean facing? Are you aware of that?

20 A: I'm aware there was some sort of engineering
21 report.

22 Q: Yes.

23 A: I'm not sure of all the details in that.

24 Q: Good. And we were told no, unless you can put
25 something in front of it, it's not an erosion



1 control structure, it's not water facing. It
2 will tilt again. That is when we decided to
3 reinforce this structure landward of the
4 setback. Landward of the wall. Are you aware
5 that that's the sequence of events that
6 happened?

7 A: I'm aware that that first wall went in and then
8 the second wall went in after they were doing
9 some work to ---

10 Q: Good. I just want to make sure ---

11 A: --- the foundation of it.

12 Q: --- that you understood -- that you were aware
13 of the sequence of events. One of the slides
14 you showed this debris, said small rocks and
15 stuff like that. This was post the two walls.
16 I believe it was February or March. You know,
17 you were circling a lot of ---

18 A: The end of February.

19 Q: Yes, yes, rocks and all that. Is it your
20 testimony that rocks jumped over two concrete
21 walls and onto the beach, or is it your
22 testimony that concrete wall was falling apart
23 and deteriorating onto the beach?

24 A: I did observe at the end of February on the
25 26th and 29 in ---



1 Q: Uh-huh.

2 A: --- 2024, concrete debris, clay debris, and
3 rock and gravel debris scattered throughout the
4 beach, adjacent to the property, as well as all
5 the way down to the Breach Inlet. And I've
6 only observed that similar type of material at
7 the site prior. I haven't observed it
8 originating from another site to my -- best of
9 my memory.

10 Q: So, you assumed it's mine?

11 A: I've seen the same material place landward of
12 the wall on multiple occasions.

13 Q: So, your testimony would be the -- the material
14 that was landward of the wall, was there a
15 weather event that happened between, say,
16 January, even though -- February and beginning
17 of February and end of February? Was there a
18 hurricane Idalia? Any that type of thing?

19 A: Tide cycles had happened. There might have
20 been other movement on the beach, I'm not sure.

21 Q: But the tide cycle had to be pretty high to get
22 over the wall. They have ten foot tides.

23 A: I wasn't insinuating that it went over the
24 wall.

25 Q: Okay. So, if it did, somehow you're



1 insinuating that rocks jumped over the wall and
2 over there, because that's the only way they're
3 gonna come from my yard, and recognizing that
4 neighbor's yard also had the same gravel
5 without any protection that I had. Regardless,
6 I want to go to this picture, because in the
7 interest of time -- I think y'all put this up
8 earlier. This is Joint Exhibit 151 and about
9 riprap. So, I just want to make sure that I
10 understood what you were saying. So this
11 riprap and all this new riprap that you have a
12 beautiful picture of, that's -- right down
13 there is the beach path, or supposed to be the
14 beach path before the City closed, all of this
15 new riprap. Is it -- Is it your testimony that
16 that is my property?

17 **(Joint Exhibit Number 151 was referenced at this**
18 **time.)**

19 A: That wasn't my testimony.

20 Q: Okay. So, then is it your testimony that the
21 water worked its way in reverse direction? In
22 other words, the water -- this is north, that
23 is Breach Inlet, water flows north to south
24 into Breach Inlet. So, it must have been a
25 incredible storm to take big rocks from the



1 front of my house and put it all the way down
2 Theresa's house. Is that your testimony?

3 A: That there must have been an incredible storm?

4 Q: How else would those rocks move in the opposite
5 direction to the water?

6 A: Somebody could put them there.

7 Q: Someone put them in front of my neighbor's
8 house, but it's me that did that?

9 A: So, you put in front of your neighbor's house.

10 Q: So, I put it in front, that's your testimony?

11 A: That is unauthorized activity in the beaches
12 critical area.

13 Q: So, why would you think that I would put rocks
14 in front of my neighbor's house? Do you think
15 I'm limber enough to pick up rocks and say, let
16 me put in front of a neighbor's house, because
17 I'm a good Christian guy, and I want to help my
18 neighbor's property?

19 A: You might have moved it 'cause you had too much
20 debris in front of your property, and you were
21 trying to get some heat off of you,
22 potentially.

23 Q: So, I just said, hey, Theresa, let me put some
24 debris in front of your house?

25 A: I didn't say you had to ask.



1 Q: You know, it's this type of implication with no
2 data. Did you see me move it?

3 A: No.

4 Q: Did you see anyone move it?

5 A: Nope. I was just documenting site conditions.

6 Q: You just assumed I did it. Because anything
7 that happens on the beach, like I said earlier,
8 it is your testimony that any debris on the
9 beach, anything you see on the beach, any rock,
10 any clay, anything, somehow was this bad guy
11 that has a clean history, never had any
12 problems at all, that these people are tainted,
13 is that your testimony?

14 A: I did not testify to that.

15 Q: Well, that's what you ---

16 A: I said I was documenting site conditions.

17 Q: --- implied. That's what you're implying, my
18 friend. You're implying I moved rocks in front
19 of my neighbor because I want to get debris
20 out.

21 A: I said it could be.

22 Q: Could be.

23 A: Could be, you were asking.

24 Q: You didn't say it could be. You just simply
25 said, look at all this debris I observed. Your



1 Honor, have to be from the big bad wolf.

2 A: No, I didn't.

3 Q: Jacques ...

4 **MR. REDDY:** I have no use for this witness, Your
5 Honor. We're done.

6 **THE COURT:** Re-direct?

7 **MR. CHURDAR:** Well, it's been about ten minutes.

8 **THE COURT:** Oh, yeah.

9 (Laughter)

10 **THE COURT:** Well, you got two more minutes, but
11 that's okay. We'll take a break.

12 **MR. CHURDAR:** Thank you, Your Honor.

13 **THE COURT:** All right.

14 (Off the record from 11:39 a.m. until 11:52 a.m.)

15 **MR. PREVOST - RE-DIRECT EXAMINATION BY MR. CHURDAR:**

16 Q: Mr. Prevost, there was -- there was testimony
17 in your cross examination, Mr. Reddy had asked
18 you about what this structure was, and you made
19 reference to the statutory definition of an
20 erosion control structure. When you look at
21 the three structures that you mentioned in your
22 testimony, seawall, bulkhead and revetment, and
23 read those definitions, which definition would
24 apply to the structure that's in front of the
25 -- at the Reddys' property?



1 A: I would say that this type of erosion control
2 structure is inclusive of both section A and B,
3 as it is a seawall, a special type of retaining
4 wall that is designed specifically to withstand
5 wave -- normal wave forces, as well as a
6 bulkhead, as self described by Mr. Reddy, a
7 retaining wall designed to retain fill material
8 but not withstand wave forces. So, there's
9 kind of a contradiction there, but it does
10 both. It functions as both in this case.

11 Q: Okay. And one other matter Mr. -- Mr. Reddy
12 had asked you about, have you -- have you been
13 out to the property at Beachwood East recently,
14 and asked you about the property at 122 Ocean
15 Boulevard. Are you -- are you a current --
16 currently, a compliance project manager?

17 A: I'm not currently.

18 Q: Okay. And when did you stop being a compliance
19 project manager?

20 A: In October of 2024, so, approximately seven
21 months now.

22 Q: Okay. So, would that be a reason why you would
23 not be familiar with those properties?

24 A: Since that change, yes, that's why I wouldn't
25 be aware.



1 Q: Okay. So, Mr. Prevost, there was -- you were
2 asked about the pictures that show the water
3 that was going down through a crack and then
4 behind the other side of the wall. And I
5 wanted to ask you about the text that you can
6 -- that you see up there. This is -- I don't
7 have the -- this is CNT Foundation, LLC 049, is
8 the Bates number. So, my question for you is,
9 can you just read into the record the email
10 exchange between Mr. Reddy and Mr. Betson,
11 please?

12 (Joint Exhibit Number 195 was referenced at this
13 time.)

14 A: In this text conversation ---

15 MR. REDDY: Is this -- is this a joint exhibit?

16 MR. CHURDAR: Yes.

17 MR. REDDY: What's the number?

18 MR. CHURDAR: 195.

19 MR. REDDY: 195.

20 Q: Go ahead.

21 A: In this text conversation, it starts with --
22 this is the top of the pour from yesterday.
23 You could see all the sand on top of the new
24 concrete where the waves are crashing over the
25 wall. And then the next text, this was this



1 morning. You can see one side where the dirt
2 caved in. All our forms, so, I had to dig out
3 all the forms and reform that side. And then
4 a response, that water's crazy. Looks like you
5 are on a boat. What is wrong with these people
6 running the City and State.

7 Q: And so, would it be fair to say that water is
8 getting in, not only through the crack, but
9 also over the top of the wall?

10 A: According to this text between Mr. Reddy and
11 his contractors.

12 Q: Okay.

13 **OBJECTION:**

14 **MR. REDDY:** Your Honor, can I object to that? This
15 is hearsay. They don't know the context of
16 this conversation. I do, but they don't.

17 **THE COURT:** Well, it's an exhibit. They can --
18 remember I says you can publish an exhibit.

19 **MR. REDDY:** Okay.

20 **THE COURT:** They published an exhibit.

21 Q: Mr. Prevost, this is from that same Joint
22 Exhibit 195, CNT Foundation LLC 048 is the
23 Bates number. Does this appear to be the water
24 getting over topping the wall that Mr. Betson
25 and Mr. Ready were talking about?



1 A: It appears that they're doing some construction
2 activity. The top photo there looks like
3 they're doing some of those landward extension
4 of the wing wall, putting those concrete forms
5 where they will be pouring concrete. And also
6 that bottom shows the waves and tidal action
7 reaching at least the base of the seaward side
8 of the wall.

9 MR. REDDY: What exhibit is that?

10 MR. CHURDAR: That's Joint Exhibit 195.

11 MR. REDDY: Okay. Can you keep this out 'cause I'll
12 need it?

13 Q: I'll just stand over here. This is Joint
14 Exhibit 198, Bates number 21537. And can you
15 see -- describe what you see here.

16 **(Joint Exhibit Number 198 was referenced at this**
17 **time.)**

18 A: I see wave and tidal action reaching the
19 seaward side of the wall, as well as water
20 landward of the wall towards the center. And
21 I'll circle that area where I at least see some
22 water and some also landward of the structure
23 up here, as well. But it appears that water had
24 gotten over it, like this (indicating).

25 Q: This is Joint Exhibit 199, Bates number 3- --



1 Reddy 377, what do you see here?

2 **(Joint Exhibit Number 199 was referenced at this**
3 **time.)**

4 A: This photograph is more clear. It shows what
5 looks like form of -- sorry, foam on the inner
6 side of the -- and I'll outline what I'm
7 referring to now, looks like foamy water, as in
8 sea water, within the bounds of where they're
9 putting these wooden forms, as well as landward
10 of this seaward portion of the concrete erosion
11 control structure (indicating).

12 Q: Can you iden- -- I ask you to describe -- this
13 is Bates number Reddy 00378, can you tell the
14 Court what we're looking at here, as well?

15 A: Yes, so in this photograph, I'll circle this.
16 This is some wooden form set up to also pour
17 another wing wall. And then on the left side
18 here, which is the inner side of the wall, to
19 the best of my knowledge, there's some of that
20 foam, some sea water that had gotten through or
21 around the wall, and you can see some marine
22 debris on the right side. And it's likely that
23 while they were doing this activity, had gotten
24 around from -- the periodic inundation that is
25 (indicating).



1 Q: From the front of the wall, how far back did --
2 does that wing wall go?

3 A: That is something I've not measured personally,
4 but approximately it could be 50 to 60 feet.
5 I don't have an exact number to provide because
6 that's not something I had surveyed or measured
7 personally.

8 Q: Okay. Now, Mr. Reddy cross examined you about
9 your communications or what he -- I believe I'm
10 characterizing his questioning correctly, your
11 lack of communication with his contractors when
12 they were rolling out the artificial turf, do
13 you remember that?

14 A: (Nods head.)

15 Q: Okay.

16 A: Yes.

17 **OBJECTION:**

18 **MR. REDDY:** Excuse me, Your Honor, that's not --
19 that's not what I said, so, I don't know what
20 he's saying. Maybe he fell asleep when I was
21 asking the questions, but that's not what I
22 said. We do not support these unelected
23 bureaucrats talking to our contractors. I said
24 the opposite. I said they shouldn't be
25 directing the contractors.



1 **THE COURT:** His objection is that you
2 mischaracterized it --- not the testimony, but
3 I guess his question. Do you wish to respond
4 or rephrase?

5 Q: Well, do you remember that portion of your
6 cross examination?

7 A: Yes.

8 Q: Okay. And when you had gone out to the
9 property on -- how many occasions was it that
10 you -- that you spoke to the contractors and
11 they walked away from you?

12 A: I believe at least two times.

13 Q: Okay. And how many times would that be prior
14 to the third cease and desist directive? Would
15 it be two times?

16 A: At least one time, I'm trying to recall exactly
17 the second time I'm thinking of when I
18 communicated to the -- tried to communicate to
19 the contractors, and they had ignored me.

20 Q: Okay. And what -- what is a typical scenario
21 when -- when you encounter contractors that are
22 doing unauthorized work in the critical area,
23 and you talk to them and say, you can't be
24 doing this, and issue, essentially, a cease and
25 desist, a verbal cease and desist? What's the



1 typical scenario?

2 A: The typical scenario is that they stop doing
3 all the work, at least in the beaches critical
4 area or where I designate to them, or all work
5 in general, so that we can follow up with them
6 to further advise them on our area of
7 jurisdiction and what is allowable in those
8 areas.

9 Q: Okay.

10 A: I also typically follow-up with a formal cease
11 and assist letter after verbally giving a cease
12 and desist or posting on-site cease and
13 desists.

14 Q: Okay. And do you -- have you ever had a
15 situation besides this enforcement action where
16 the contractors walked away from you when you
17 -- when you talked to them?

18 A: No.

19 Q: Okay. There has been some, I guess -- I guess
20 you'd call it preliminaries to a question that
21 you were asked on cross examination implying
22 that you might be out on site for reasons other
23 than doing your inspection. Was that -- is
24 that the case, were you ever out there for
25 anything other than doing site inspections?



1 A: I've only ever been out to that beach to do
2 site inspections, such as documenting site
3 conditions at various properties. I may have
4 been out there for beachfront structural
5 inventory or damage assessment, which is
6 similar activity that is Department-wide in our
7 office of the Bureau of Coastal Management,
8 where we follow-up after storms, as well as
9 annually collect information on the habitable
10 structures along the beachfront. I've not even
11 been out there personally for enjoyment ---

12 Q: Okay.

13 A: --- that I can recall.

14 **MR. CHURDAR:** That's all the re-direct I have, Your
15 Honor.

16 **THE COURT:** Ms. Milton, any re-direct?

17 **MS. MILTON:** No, Your Honor.

18 **THE COURT:** All right. Re-cross on a new matters he
19 raised.

20 **MR. REDDY:** I'm ready.

21 **MR. PREVOST - RE-CROSS EXAMINATION BY MR. REDDY:**

22 **MR. REDDY:** Put up the same slides they put up on
23 the cr- -- on the re-direct.

24 Q: Have you ever been involved in construction?

25 A: I've been involved in construction.



1 Q: In what way? Can you qualify your construction
2 knowledge?

3 A: I have a couple certifications related to
4 erosion protections at sites. I've also
5 monitored environmental compliance for a
6 variety of reasons at construction development
7 sites for various reasons.

8 Q: Have you ever been involved in field
9 construction where you're actually out there
10 with construction crews in the field?

11 A: I have been on site with construction crews in
12 the field multiple times.

13 Q: So, you must be familiar then with excavation.

14 A: I'm familiar with excavation.

15 Q: Let's go through this really quickly. I don't
16 really care about that text. Let's go to the
17 pictures. The text is basically saying, let's
18 talk about water work. I'll tell you the
19 context of it, because they didn't tell you the
20 context of it. Let's go to the pictures that
21 they put up.

22 **MR. REDDY:** Your Honor, there's going to be a series
23 of pictures they're going to put up. Of
24 course, they take it at angles that are
25 favorable to them. So, I'm going to tell you



1 something. What happened here, this is
2 landward ---

3 **THE COURT:** Mr. Reddy -- Mr. Reddy ---

4 **MS. MAPLES:** Questions.

5 **MR. REDDY:** Yes.

6 **THE COURT:** You can testify later about that.

7 **MR. REDDY:** No, I will.

8 Q: Is this landward of the wall?

9 **OBJECTION:**

10 **MR. CHURDAR:** Your Honor, I object. We did not take
11 these pictures.

12 **MR. REDDY:** I don't know who took 'em but ---

13 **THE COURT:** Did ---

14 **MR. CHURDAR:** These were pictures from -- that we
15 received from ---

16 **MR. REDDY:** Okay.

17 **MR. CHURDAR:** --- opposing counsel.

18 **MR. REDDY:** That's fine. The pictures that were
19 used in the re-direct.

20 **THE COURT:** I've already ---

21 **MR. CHURDAR:** We weren't in ---

22 **THE COURT:** Mr. Churdar.

23 **MR. CHURDAR:** --- control of the angle. I'm sorry.

24 **THE COURT:** I stopped him and told him he could
25 testify about them later on, so, I stopped that



1 line of questioning. And I'm gonna let him ask
2 questions.

3 Q: So, the question is this, how deep do you think
4 in a beach adjacent property would you have to
5 -- let's say you're there with a shovel, how
6 deep would you have to dig before water starts
7 coming up?

8 A: That varies day-to-day and from beach to beach?

9 Q: So, is it your testimony that when you have a
10 somewhere around a nine to ten foot excavation
11 to pour concrete, that all of that water came
12 over the wall? Is that your testimony?

13 A: I don't know if all the water did come over the
14 wall. It could have come over the wall.

15 Q: Did you see the water come over the wall or are
16 you relying on that text?

17 A: I didn't see the water going over the wall. I
18 saw water landward of the wall.

19 Q: You saw what?

20 A: I saw water in these photographs landward of
21 the wall.

22 Q: No, I'm asking you the question. These are
23 photographs that we supplied. Did you actually
24 observe at any time, not just in these
25 photographs, water coming over the wall?



1 A: I did not observe water coming over the wall.

2 Q: Okay. So, I want -- I want to ask you one
3 question, and I'm going to get into somewhat
4 detail. So, if you never observed water coming
5 over the wall and some of those things you told
6 him right now, you said, well, look at all this
7 water, that's periodic inundation. So, are you
8 back to the agency's definition of periodic,
9 which is once, that that you even saw water?
10 I'll get to over the wall in a second.

11 A: The agency's definition of periodic is not
12 once.

13 Q: Well, in my case it was.

14 A: Okay.

15 Q: But are you saying that this is periodic?

16 A: I'd say that's beaches critical area. And that
17 it ---

18 Q: Why don't you answer the question?

19 A: --- has water.

20 Q: Just answer the question. I'm not asking you
21 to do the circle talk. I'm asking you a simple
22 question. Are you saying that water there is
23 periodic?

24 A: I see water here in this photo, and I've
25 personally seen water in that same location



1 other times.

2 Q: Do you have any proof of that?

3 A: In my inspection reports and photos taken.

4 Q: Okay. So, I would like to ask you the same
5 question I asked you before. This water that
6 you saw there was all in a what day period?
7 How many day period that this stuff was going
8 on behind the wall? What range? How many days
9 from first time you saw that to last time you
10 saw that?

11 A: I'd have to refer to my inspection reports for
12 specific dates, but ---

13 Q: Approximately. Roughly. Ten months? One
14 month? Three months? Two days?

15 A: Well, let me just provide some context of this
16 photo. This is when they were installing the
17 wing walls on the outer side of the structure,
18 after already doing a lot of other work on the
19 seaward side. So, I've seen water in this
20 area, where it's foamy here before they put
21 these wall forms in at the bottom of the pit.
22 And I've seen it there a few times, at least.
23 I don't know the exact dates.

24 Q: So, the entire excavation, all the pictures you
25 showed there were excavation behind the wall.



1 Would you be incredibly surprised if I told you
2 day one of excavation to day -- to finish up
3 excavation was five days?

4 A: Well, I ---

5 Q: Of everything, both wing, front, back,
6 everything.

7 A: I don't know the extent, but I don't have a
8 surprise feel about how quick or slow it went,
9 but I've been out there multiple times and seen
10 it.

11 Q: Okay. So, that excavation, how deep do you
12 think it was?

13 A: Landward of the wall for when they were
14 installing that second erosion control
15 structure, the excavation pit was approximately
16 seven to ten feet deep, if I'm recalling
17 correctly from my inspection report, because I
18 did note that.

19 Q: That's accurate. And do you realize at what
20 level did you think -- do you think the water
21 started bubbling up?

22 A: I don't just think that water was bubbling up.
23 I believe that water had also breached
24 underneath the front side of that structure,
25 where I pointed to a previous testimony where



1 it went under and through, as well as it could
2 come behind, through the sides of the
3 structure, before this type of form and the
4 concrete what was put in.

5 Q: No, all the pictures y'all put up on re-direct,
6 which I was told yesterday, is all we were
7 gonna talk about, on re-direct, all the
8 pictures we're talking about, is that and the
9 sides, correct?

10 A: What's the question?

11 Q: The question is, how -- at what point in your
12 -- since you said you had some engineering,
13 some construction knowledge, a beach -- around
14 the beach, at what point do you think water
15 starts coming up when you excavate there?
16 Let's say you were playing on the beach and
17 you're starting to dig down into the beach,
18 what point do you think -- you know, when
19 you're very close to the -- the -- the -- the
20 tideline, what point do you think water
21 actually starts bubbling up?

22 A: If you're close to the tideline, you probably
23 don't have to dig that far to get to water.

24 Q: That's good. That's accurate. So, would you
25 say it's two feet?



1 A: I wouldn't say any number, because it can vary
2 day-to-day depending on the site conditions.

3 Q: So, the water starts bubbling up at two feet,
4 we went nine feet. 95 percent of that water
5 that you think -- that foamy water, you think
6 is came over the wall or under the wall, or
7 from the ground up? Or you have any way of
8 knowing that?

9 A: I wouldn't know specifically, but it could go
10 around where they had been excavating. I'm
11 drawing an arrow here to demonstrate what I'm
12 saying, where it could go around where they
13 excavated, and then get into this area.
14 There's a possibility that groundwater is
15 exposed as you excavate deep enough
16 (indicating).

17 Q: You're saying it went around here?

18 A: It's possible.

19 Q: Is that what you're saying?

20 A: It is possible.

21 Q: Do you see any water there in this picture?

22 A: I can't see the entirety of that side of the
23 form. So, in this photo, I ---

24 Q: We can -- we can -- we can enlarge it.

25 A: Well, I can't see the opposite side of that



1 wooden form in this photograph.

2 Q: Right there. I'm talking about there, all over
3 there, all over there (indicating).

4 A: It's not clear in this photo because it's
5 darker over there, so there could be water. It
6 looks like wet sand, at least.

7 Q: Of course, it'd be wet sand. So, it is your
8 testimony right now, as I understood from what
9 all the pictures he puts up, whether you know
10 this or not, it is your testimony that all that
11 water, which is -- looks like you testified
12 earlier, was about seven to ten feet, which I
13 verified was correct, of excavation. So, seven
14 to ten feet of water, it is your testimony came
15 over the wall, or under the wall somehow, from
16 the waves?

17 A: It could have gone under the wall; it could
18 have gone over the wall; it could have gone
19 around the wall.

20 Q: Although there's a -- there's a little ditch
21 here that's maybe two, three feet, maybe here,
22 and there's no water there. Somehow, water was
23 -- all nine feet of water was piled up in here
24 in some weird fashion that actually followed
25 this, wing wall there, nowhere.



1 A: I would also add that I don't know what's
2 underneath this water. There could be some of
3 the concrete forms that were previously
4 photographed that they had already set, so it's
5 possible that it's not actually seven to ten
6 feet and that water level is higher because the
7 already set concrete. I couldn't say exactly
8 how deep that water is.

9 Q: You just proved you didn't know -- you don't
10 know anything about construction, because those
11 concrete forms aren't gonna have water coming
12 out. So, that's -- that -- that was the
13 excavation. You can't pour water in th- -- you
14 can't pour concrete in that, my friend.

15 A: I didn't think that they would pour concrete
16 into sea water.

17 Q: Can't. So, all of this stuff y'all are
18 creating is some attempt -- was this pre
19 planned, a pre planned, let's spend two, three
20 days of the judge's time, just saying, all of
21 these things have to be somehow speculation as
22 to how water got there? Water came over the
23 wall, under the wall, and so somehow this all
24 ties into periodic inundation, that is
25 unlimited and is at your judgment? Isn't --



1 isn't that kind of the whole -- whole plan
2 here? Because anyone who has any con- -- by
3 the way, when I say construction knowledge, I
4 ran construction companies in 50 states, so,
5 maybe I have a little bit more than others, but
6 anyone who has any type of knowledge would say
7 you were accurate when you said earlier, right
8 close to that line, around two feet, the water
9 starts coming up. When you get to ten feet, at
10 high tide, you're going to fill the thing with
11 water. Period. As the water recedes and it
12 gets to medium or low tide, this water table
13 sinks. That's -- that's the -- that's --
14 that's the name of that story. So, I want to
15 go back to the other thing on cross that he
16 brought up about site visits. And you said
17 something about site visits, and how many times
18 did someone walk away from you. I want to ask
19 you if a lawyer has been interjected in the
20 process where the lawyer is communicating to
21 the agency, in your opinion, what do you think
22 the lawyer would advise us?

23 A: I don't give legal advice.

24 Q: What's that? I didn't -- I didn't hear what
25 you said.



1 A: I don't give legal advice.

2 Q: I'm not asking for legal advice. I'm simply
3 saying, if a matter -- let's say you have a
4 lawyer. I'm just asking you, you hire a
5 lawyer, right? And you go out and you do
6 something, I don't know, maybe you smoke pot,
7 and you get caught, and you have a lawyer, and
8 what do the lawyer say, go ahead and talk to
9 the cops, or would he say, don't talk to
10 anyone. If anyone talks to you, tell them to
11 call me.

12 **OBJECTION:**

13 **MR. CHURDAR:** Your Honor, this is -- he's asking him
14 to speculate about what he would do in a
15 fictional situation. Its objectionable.

16 **MR. REDDY:** Excuse me, Your Honor, he speculated as
17 to what was going on that somehow our people
18 behaved differently, and walked away from him
19 because people on the site were told that this
20 was a legal matter being handled by the legal
21 team, not ---

22 **THE COURT:** Well, regarding your hypothetical, I
23 sustain the objection. You can pursue your
24 line of questioning regarding specifics of this
25 case.



1 Q: Let me ask you the question a different way.
2 Would you think it is normal in a disputed
3 situation, where a dispute has been tabled as
4 a legal dispute, that the contractors and other
5 people would be told to say, if something
6 happens, call the lawyer?

7 **OBJECTION:**

8 **MR. CHURDAR:** Your Honor ----

9 Q: You think that's normal?

10 **MR. CHURDAR:** --- that's -- calling it normal or
11 what you think you would do, it doesn't matter.
12 It's still asking him to speculate.

13 **MR. REDDY:** In any situation.

14 **THE COURT:** Well, you're asking him to speculate
15 what another person would say, that's why he's
16 objecting.

17 **MR. REDDY:** Mr. -- Your Honor, isn't he saying the
18 same thing? Isn't he asking him to speculate?
19 Is this the only time that people walk away
20 from you? Would people normally walk away from
21 you? Shouldn't -- shouldn't the question
22 really be, would people walk away from you if
23 there was a lawyer involved? It's all ---

24 **THE COURT:** Mr. Reddy, I can't respond.

25 **MR. REDDY:** --- all hoax, Your Honor. All hoax.



1 Maybe they should focus in on jurisdiction
2 instead of all this nonsense. That's it, Your
3 Honor. I have no use for him.

4 **THE COURT:** All right. You may step down.

5 A: Thank you.

6 **THE COURT:** Probably a good time to take a break for
7 lunch.

8 **MS. MILTON:** Your Honor, before we break, we have an
9 issue that we need guidance from the Court on,
10 if I may.

11 **THE COURT:** Okay.

12 **MS. MILTON:** We received an email yesterday from
13 Mr. Reddy stating that he had plans to call Mr.
14 Churdar and Ms. Lenhardt as witnesses in his
15 case. We have a litany of reasons that that's
16 inappropriate that we're happy to discuss, but
17 I just wanted to get the Court's guidance on
18 whether we need to file motions for protective
19 orders on this.

20 **THE COURT:** I will wait until he calls -- or wait
21 until he, indeed, does call them as witnesses
22 and then rule on it at that time.

23 **MS. MILTON:** Okay. So you don't need a motion ahead
24 of time?

25 **THE COURT:** Yeah, along the lines of what y'all were



1 just objecting to, I don't want to speculate.

2 **MR. REDDY:** Thank you, Your Honor.

3 **MS. MILTON:** Sounds good.

4 **THE COURT:** Oh, now, this time I'll get it right.

5 How about 1:30, is that enough?

6 **MR. REDDY:** Yeah.

7 **THE COURT:** 1:30 it is.

8 **(Off the record from 12:22 p.m. until 1:31 p.m.)**

9 **COURT REPORTER:** All rise.

10 **THE COURT:** Y'all be seated. Thank you.

11 **MR. CHURDAR:** Your Honor, I'd like to call Doug
12 Truslow next, please.

13 **COURT REPORTER:** Truslow, T-R-U-S-L-O-W? Truslow, T-
14 R-U-S-L-O-W?

15 **MR. TRUSLOW:** Yes, ma'am.

16 **COURT REPORTER:** Raise your right hand, please.

17 (Witness complies.)

18 **COURT REPORTER:** Do you solemnly swear the testimony
19 you're about to give in this matter is the
20 truth, the whole truth and nothing but the
21 truth, so help you God?

22 **MR. TRUSLOW:** I do.

23 **COURT REPORTER:** Thank you.

24 **MR. TRUSLOW - DIRECT EXAMINATION BY MR. CHURDAR:**

25 **Q:** You are -- you are Doug Truslow?



1 A: I am.

2 Q: Okay. And will you please tell the Court where
3 you live?

4 A: 23 21st Avenue, Isle of Palms, South Carolina.

5 Q: Okay. And how long have you lived on the Isle
6 of Palms?

7 A: I've lived there since 2018. However, my
8 background goes back to 1965. Married my wife
9 in 1971. She lived on the Isle of Palms with
10 her family since 1952. Again, we got married
11 in '71. When she retired -- when both of us
12 retired, she wanted to move back to the Isle of
13 Palms, so we've been there since.

14 Q: Living as full time residents ---

15 A: Full time residents.

16 Q: --- since 2018?

17 A: Yes.

18 Q: Okay. And as a resident of Isle of Palms, do
19 you enjoy getting exercise, walking on the
20 beach?

21 A: Right. My wife is more of a gym rat than I am,
22 but both of us walk almost every day on the
23 beach or ride the bicycles.

24 Q: Okay.

25 A: And then she's the chaplain for the VFW, which



1 is on -- on the beach in the middle of the
2 island, so we're there on a regular basis, and
3 we always walk.

4 Q: Okay.

5 A: Or we ride bicycles.

6 Q: And does your walking or riding bicycles
7 include the south end of the Isle of Palms?

8 A: Yes.

9 Q: Okay.

10 A: On a regular basis. I mean we walk -- weather
11 permitting, we walk or ride bicycles almost
12 every day.

13 Q: Okay. And when you're on the south end, does
14 that include walking or riding bicycles past
15 the Reddys' house at 118 Ocean Boulevard?

16 A: Yes.

17 Q: Okay. Do you recall what was going on at the
18 Reddys' property earlier last year?

19 A: Well, it was the year before, actually, but ---

20 Q: Okay.

21 A: --- I mean, it was 2023 ---

22 Q: Okay.

23 A: --- when I first noticed the problem. Basic --
24 the basic problem to start with is we couldn't
25 get around. They had a seawall out there.



1 We'd had some storms and, you know, the beach
2 is dynamic, so it -- the shore is sometimes
3 smaller, sometimes it's larger.

4 Q: Okay.

5 A: So, I want to say this is a -- just a vague
6 recollection, but I noticed some -- in May of
7 2023, seems like there was some clay out on the
8 -- on the beach. But the really significant
9 things that I -- that I saw were November,
10 December of 2023 when the -- when the seawall
11 was exposed, and then thereafter they started
12 some construction. Two things. One, maybe I'm
13 ashamed to say, but we were selfish, because my
14 wife and I couldn't -- we -- you had to wade
15 out into the water to get around and so did --
16 so did other people. On the other hand, if
17 people wanted to park at Breach Inlet and walk
18 in a northerly direction, past -- past the
19 Reddys' house, they couldn't. And that's the
20 most dangerous area of the island, and there's
21 signs that say it's illegal to wade or go in
22 the water or swim. So, with the -- with the
23 beach being blocked off, the public was -- was
24 put -- if they were coming from the Breach
25 Inlet side, the south side, they were put in



1 the most dangerous part of the beach.

2 Q: And then you're referring to the currents going
3 in and out of Breach Inlet when you're talking
4 about danger?

5 A: Yes. Can I say one thing before he asks the
6 next question?

7 **THE COURT:** Is it responsive to ---

8 A: I don't have anything against the Reddys. I'm
9 under subpoena and that's -- that's why I'm
10 here. And I can explain that, but -- if need,
11 but I don't have anything against the Reddys,
12 certainly. And just -- these are the facts.

13 Q: Sure, I understand. Let me ask you, when you
14 were either walking down the beach or riding
15 your bike down the beach and you said the
16 option was to either get into the ocean to get
17 past it or not, what did you end up doing?

18 A: Turning around.

19 Q: Okay.

20 A: If you've got your shoes on, you're not gonna
21 -- not gonna wade out into the water. You
22 know, we have grandchildren but we wouldn't --
23 we really don't take them up that far, but
24 people that have small children wouldn't be
25 wading out into the water right there. So,



1 you'd just turn around.

2 Q: Okay. Now, you had mentioned clay, and I can't
3 remember if it was anything else, but can you
4 just tell the Court what debris you observed in
5 addition to the clay that was out in front of
6 the Reddys' property?

7 A: Well, you know, I'm certain it wouldn't be all
8 attributable to Mr. Reddy because there were --
9 you know, there were palm trees, there was some
10 things that were washed up from various places.
11 But you could see where -- and there was clay,
12 wood. They had some -- when they poured
13 concrete, the concrete wall, some of that had
14 detached and you could readily see there was
15 granite. There's still granite out there. I
16 mean, it's pretty far out. So you've gotta be
17 pretty careful about where you step, even now.

18 Q: Okay.

19 A: I've got a picture of one thing, I mean, it's
20 just noticeable, but you just couldn't -- you
21 couldn't walk around there conveniently at high
22 tide. I don't know if you know what a king
23 tide is, or a neap tide, but especially at full
24 moon ---

25 Q: Uh-huh.



1 A: --- it was -- you couldn't walk around. Now,
2 today -- today, this week, there's no problem.
3 You can walk -- walk either way, you can ride
4 bicycles. If the wind's right, you can go to
5 Breach Inlet on bicycles and it's -- feel like
6 a little kid, you know, wind's behind you and
7 blows us down to 21st Avenue.

8 Q: In all the years that you've been coming as a
9 -- growing up and living there on a permanent
10 basis since 2018, have you seen the beach
11 change as in like, you know, widen and shrink?

12 A: It -- I would use the word -- yeah. Short
13 answer is yes. It's very dynamic. Our law
14 firm did a lot of -- probably more than we
15 didn't, work in Wild Dunes when Wild Dunes was
16 being built.

17 Q: Uh-huh.

18 A: So, we did a lot on the front beach, and we
19 were regularly seen. At that point in time, it
20 was more dynamic on -- on that end than now.
21 And there was a -- some mention of -- might
22 call it a revetment, but there was -- there
23 were problems there where you couldn't get
24 around. But the beach is dynamic. Where the
25 dunes are, you know, at one time it's -- could



1 be different the next month. Certainly, in the
2 course of years, it's different.

3 Q: Yeah. Just a moment. Mr. Truslow, how -- do
4 you remember reaching out to -- it was either
5 Ms. Phelan or me with expressing concerns about
6 what was going on?

7 A: I do. And I think that's how I ended up
8 getting a subpoena. This is -- it's lost on
9 Father Time why I called you, but one thing I
10 remember is as my wife, who never bets on
11 anything, had won -- won a lottery, and she,
12 she considered it the devil's -- I'm being
13 facetious, but considered it the devil's money
14 to -- to have won something when she doesn't
15 gamble. So, she was trying to figure out what
16 to do with the money, and she thought that the
17 VFW needed a new flagpole, which I've got a
18 picture of here, but. So, she was asking, to
19 start with, as I recall, was asking about, or
20 asking me to ask whether we could put a
21 flagpole right outside of our VFW post, between
22 there and at the edge of the dunes. That's
23 what I -- that's what I seem to recall. And
24 then I asked -- well, you know, hey good luck
25 -- on your on your case. I would've said the



1 same thing to Mr. Reddy. And then you said --
2 or some- -- whoever I talked to said, what do
3 you know, and I said, well, my wife and myself,
4 and hundreds, if not thousands, of people that
5 walk regularly on the beach are concerned
6 because we can't -- can't get back. And then
7 we're concerned about the safety of people who
8 couldn't get by and were on the Breach Inlet
9 side of the beach where the deadly currents
10 are, so. So, at that ---

11 Q: I guess the point is, you reached out to us and
12 not the other way around?

13 A: That's absolutely correct.

14 Q: Okay.

15 **MR. REDDY:** Your Honor, can I object to the witness
16 saying other people can't get around. What's
17 his basis for saying that? Now, he might have
18 some beef with me, although he says he doesn't,
19 but why would he -- how -- on what basis would
20 he be able to say other people can't get
21 around?

22 **THE COURT:** You could've objected at the appropriate
23 time, but it's past.

24 **MR. REDDY:** Man.

25 (Laughter.)



1 **THE COURT:** Gotta be a little quicker.

2 Q: And, just one final question, Mr. Truslow, you
3 don't have -- do you have any knowledge of
4 either Ms. Phelan or me, just on a personal
5 basis?

6 A: Not at all.

7 Q: Okay. All right. Thank you. That's all the
8 questions I have.

9 A: All right. That was pretty easy.

10 **MS. MILTON:** Nothing, Your Honor.

11 **THE COURT:** All right.

12 **MR. TRUSLOW - CROSS EXAMINATION BY MR. REDDY:**

13 Q: Doug. Are you a lawyer?

14 A: I am.

15 Q: Excellent. Love talking to lawyers.

16 A: I'm sorry?

17 Q: I said I love talking to lawyers.

18 A: Well, that's nice to hear.

19 (Laughter.)

20 Q: So, as a lawyer, do you believe in property
21 rights?

22 **OBJECTION:**

23 **MR. CHURDAR:** Your Honor, this is far beyond the
24 direct examination.

25 **THE COURT:** Again, this -- there's wide latitude on



1 cross examination in South Carolina.

2 **MR. CHURDAR:** Okay.

3 **THE COURT:** I mean, as long as it's relevant to the
4 case, so.

5 A: Can I answer your question? I have a strong,
6 strong bias in favor of following the law.

7 Q: The law, okay.

8 A: And if that -- if it's ---

9 Q: That wasn't my question. My question is life,
10 liberty and property rights. Do you believe in
11 property?

12 A: Well, in the generic sense, yes, if you're
13 doing something legal. If you're growing
14 plants for heroin, no, I don't. That's not
15 something that's acceptable, so.

16 Q: Excellent. No, I ---

17 A: So yeah, it's ---

18 Q: --- don't disagree with you.

19 A: So, it would be in context. I respect people's
20 property rights very much. And I respect
21 complying with the law. And this is not my
22 beef for the day.

23 Q: Correct.

24 A: I was just asked to come tell the truth.

25 Q: Right. Let's put up the plat. The Joint



1 Exhibit Number 66?

2 **MS. MAPLES:** 48.

3 **MR. REDDY:** 48, sorry. I get them confused.

4 Q: While they're putting that up. You were in
5 BIPA, right? Were you in BIPA, no?

6 A: I was. That's where I first met you.

7 Q: That's what I thought. That's why -- you look
8 familiar, so I couldn't figure out where, where
9 I---

10 A: You'd invited me to your home.

11 Q: Yes, yes, excellent.

12 **THE COURT:** What is BIPA?

13 A: It was -- there was an organization, loose
14 organization, that was was dealing with the
15 rights of a community -- of a town to control
16 their own destiny versus -- it's home, home
17 rule ---

18 **THE COURT:** Okay.

19 A: --- and it related to parking, whether the DOT
20 would control parking on Isle of Palms or would
21 the -- or would the Town have the right to
22 control parking.

23 **THE COURT:** Okay.

24 Q: So ---

25 A: So, we were getting together trying to decide,



1 was there anything that we could do. What --
2 what were our property rights? What could we
3 do? What we couldn't do? Mr. Reddy was
4 involved in that, if I recall.

5 Q: Thank you. Yeah, because I just could -- the
6 reason I asked you the question is, because
7 that's exactly what we were fighting. We were
8 sort of fighting a side battle there, if you
9 remember in BIPA, were we not, that basically
10 said the State should not be interfering with
11 the local communities. That's kind of what
12 BIPA was, parking with access on the bridge or
13 whatever, right?

14 A: It was a Home Rule issue.

15 Q: Home Rule issue, yeah.

16 **(Joint Exhibit Number 48 was referenced at this**
17 **time.)**

18 Q: So, this is the plat of my property.

19 A: And the other part of it dealt with the bridge,
20 the connect- -- it's call the Connector, Clyde
21 Dangerfield Connector. It had one lane of
22 going on and one off, had a lane limited for
23 safety and emergencies, and the question was
24 whether we had any say so or any input in the
25 design of the road.



1 Q: I'm just curious, and I'm not going to dwell on
2 that, but isn't that because the state agency,
3 similar to this, showed up there one day and
4 repainted the lines, and the Town was mad?

5 A: I would say it was a safety issue, but many
6 people were upset because they were concerned
7 about -- you know, in the ---

8 Q: Okay.

9 A: --- summer we've got 20,000 people coming on
10 the island in a day, and we've only got 3500
11 residents. And it ---

12 Q: All right. So let's just ---

13 A: --- traffic backs up.

14 Q: --- let's just focus on this. So, this is the
15 plat of my property, just to give you some
16 orientation of this plat. If it's not
17 oriented, just let me know. That being the
18 street, this being the Atlantic Ocean. Do you
19 see that, Doug? Does it show up on your screen
20 over there?

21 A: If I tilt my head, I can see it.

22 Q: Huh?

23 A: Yes, sir.

24 Q: You see it, right?

25 A: Yes.



1 Q: So basically ---

2 A: No, the other way.

3 Q: Can you identify on this plat where -- there's
4 some marking -- if you tell me you can't read
5 it, I'll help you with it, but can you identify
6 for me where you think on this plat the mean
7 high tide line is marked?

8 A: I don't know. Not my job, not my function.
9 Wasn't my responsibility.

10 Q: No, no, no. I'm just asking you, can you point
11 out on this chart where the mean high water
12 mark is?

13 A: I haven't looked, but the short answer is no.

14 Q: Okay.

15 A: 'Cause I haven't looked.

16 Q: Okay. Can you read this line here? I know
17 it's crooked, but I don't know if you can read
18 this. This -- can you enlarge it? Yeah. This
19 line here, Doug. Would you like -- if you'd
20 like me to help you read it? I'm happy to read
21 it for you, but.

22 A: All right.

23 Q: Yes, you want me ---

24 A: 2/17/1992.

25 Q: This line right here. This line is the mean --



1 you see this line here I'm pointing to
2 (indicating)?

3 A: All right.

4 Q: Right below Atlantic Ocean.

5 A: I see that.

6 Q: Okay. Can you just read that line out?

7 A: Can I do what?

8 Q: Can you read it out? Can you read what the
9 line says?

10 A: I can.

11 Q: Read it out loud, I mean.

12 A: All right. This line is the mean high water
13 mark as of October 1986 per plat by E.M.
14 Seabrook, LLC, recorded in plat book BM, page
15 42.

16 Q: And then, I'm sorry, Doug, I know you're having
17 trouble with all the reading, but can you read
18 the -- this is a -- what I'm going to hand you
19 is the statute, so I don't have to do any
20 entrance into it. Can you read the statute 48-
21 39-120(B)? If you want a copy, I can give it
22 to you.

23 A: No, I can read it.

24 Q: Okay. You can actually read it if you -- if
25 you like, from the second -- read the whole



1 thing, it's easier. Read it ---

2 A: I've read it.

3 Q: --- it aloud, please.

4 A: I've read it. You want me to read it out loud?

5 Q: Yes, that'd be great.

6 A: All right. "The department for and on behalf
7 of the State may issue permits for erosion
8 control structures following the provisions of
9 this section." All I'm gonna -- I can read it.
10 I see what is says.

11 Q: Yeah, just go ahead and read that sentence ---

12 A: "Provided, however, that no property rebuilt or
13 accreted as a result of natural forces or as a
14 result of permitted structure shall exceed the
15 original property line or boundary. Provided,
16 further, that no person or governmental agency
17 may develop ocean front property accreted by
18 natural forces or as the result of permitted or
19 nonpermitted structures beyond the mean high
20 water mark as it existed at the time the ocean
21 front property was initially developed or
22 subdivided, and such property shall remain the
23 property of the State held in trust for the
24 people."

25 Q: Can you explain to me what do you think those



1 last three sentences mean?

2 A: That's not my function. I hadn't -- I'm not
3 engaged as an expert.

4 Q: I'm just asking your opinion of that. Like,
5 whatever -- how do you read it? You're a
6 lawyer. How do read the statute?

7 A: I ---

8 **OBJECTION:**

9 **MR. CHURDAR:** Your Honor, I'll just put on the
10 record, I mean, he just said he's not an expert
11 and he's wanting ---

12 **THE COURT:** Well, he's also -- all right. Even if
13 he was a lawyer, he can't give me an opinion as
14 to the meaning -- not was a lawyer. The fact
15 that ---

16 **MR. REDDY:** Let me ask him ---

17 **THE COURT:** Even if he was a witness called to
18 testify about this, he couldn't testify about
19 the meaning of the statute because that's the
20 Court's interpret- -- function.

21 **MR. REDDY:** I understand.

22 Q: So, let me ask you a question. I showed -- you
23 pointed out the mean high water mark, right, on
24 the previous chart. You pointed out the mean
25 high water mark. And over here, it says such



1 property shall remain the property of the State
2 for trust of the people, which is below the
3 mean high water mark. Would that be that the
4 State does not have any ownership of property
5 above the mean high water mark or landward of
6 it?

7 A: Mr. Reddy, with all due respect, this is a
8 decision for the Court to make. This isn't my
9 decision.

10 **OBJECTION:**

11 **MR. CHURDAR:** Well, Mr. Truslow just made my
12 objection for me. I mean, this is invading
13 your turf, Judge.

14 **THE COURT:** I'll have to sustain that objection.

15 Q: So, Mr. Truslow, let me ask you another
16 question.

17 A: Okay.

18 Q: Do you believe that at any tide that a
19 homeowner would need to back up their property
20 so you can walk on the beach? Is that your
21 opinion, or is that your -- is that why you're
22 testifying today, that you believe that no
23 matter what, a homeowner should back up so you
24 can actually walk on their property so you can
25 walk on the beach? Is that -- is that what



1 you're saying?

2 A: No. What I'm saying is, I'm -- it's, it's not
3 my place to invade the province of the Court.
4 The Court makes legal decisions. I'm telling
5 you that when -- with your wall the way it was
6 constructed at the time, was preventing the
7 public, my -- from walking on the beach or
8 riding on the beach. And otherwise it was
9 putting the public in a dangerous position.
10 Those are just facts. That's not an
11 interpretation of what the ---

12 Q: Okay. So, I'm gonna show you ---

13 A: --- law is. That's for the Court.

14 Q: --- this picture. Let's get ---

15 **MR. REDDY:** The one y'all have up is good.

16 Q: So, I'm gonna show you this picture. This is
17 the so called wall. Can you see that? Do you
18 see -- do you recognize the wall?

19 **(Joint Exhibit Number 92 was referenced at this**
20 **time.)**

21 A: That looks like the southern part of your wall.
22 Is that -- I'm guessing. I don't know what ---

23 Q: Excellent.

24 A: -- I don't know what it is ---

25 Q: Excellent.



1 A: --- from this picture. What is it?

2 Q: So, all of these homes -- these are all Isle of
3 Palms homes. All of these homes that you see,
4 what are you contending? Let's say you and
5 your wife are out there at this tide, this was
6 whatever, September ---

7 **MRS. REDDY:** 19th.

8 Q: --- 19th, 2024. If you and your wife were out
9 here at this tide, there's Sullivan's Island
10 and Breach Inlet. Are you saying you want to
11 walk up here or ride your bike up in this
12 corner past that? Is that what you're saying?
13 Or are you saying that homeowners should
14 actually excavate some areas so you can ride
15 your bike?

16 A: I'm not saying either one of those things. I'm
17 telling -- if -- if this is your wall that's in
18 the bottom right-hand corner, I -- myself and
19 anyone else, a member of the public, would have
20 to walk out further -- even further into the
21 water to get around.

22 Q: So, what are you saying, Mr. Truslow, because
23 over here you're telling me -- I just want to
24 be clear, you are on private property. You
25 want to back up private property so you can



1 walk at high tide. You're saying -- and as you
2 -- I noticed you were sitting here, so you
3 listened to the testimony that other people
4 made, that nothing is being done to the beach,
5 so the water is going to keep coming in. So,
6 once the water comes, where would you like to
7 walk? What is the extreme situation here?
8 Says -- let's say the water keeps doing what
9 everyone just said, keeps eroding, keeps
10 eroding, keeps eroding, as Mr. Jacques --
11 Jacques testified, that that, in fact, is
12 critical area. And now the critical area has
13 moved to the back porch. Well, there's some
14 concrete on the back porch, so should I allow
15 you to ride my -- your bike and your wife walk
16 through my back porch? Where's the limit?
17 Where -- what's your -- what do you think is
18 the limit?

19 A: You've just asked me four questions in one,
20 which do you want me to answer.

21 Q: There's one question.

22 A: No, it wasn't one question, it was four. Which
23 one do you want me to answer?

24 Q: If the water backs up all the way to the back
25 -- to my back porch, do you think at high tide



1 you decide you want to walk your dog, that I
2 should let you walk through my back porch?

3 **OBJECTION:**

4 **MR. CHURDAR:** Your Honor, I ---

5 A: I think this whole thing is a legal issue for
6 the Court to decide. I can't ---

7 Q: I'm asking you.

8 A: --- the province of the ---

9 Q: You're here testifying, aren't you?

10 **THE COURT:** Wait, he's objecting.

11 **MR. CHURDAR:** Your Honor, this is a roundabout way
12 of getting to the same issue that we -- I've
13 objected to twice before. And that is, what is
14 the -- his interpretation of the law.

15 **THE COURT:** I don't think ---

16 **MR. CHURDAR:** And that's not pertinent.

17 **THE COURT:** --- he's asking him to interpret the
18 statute at this point in time. I do think
19 we're getting real close to too far afield
20 here, but I'm going to let him ask this
21 question.

22 Q: Do you know there's a beach path next to my
23 house?

24 A: I do know that.

25 Q: Okay. Have you ever used it?



1 A: I'm not sure. I can't remember. I know it's
2 a very, very, very narrow one. It's -- the
3 wider one where, as I recall, where people were
4 -- the heavy equipment that was being used to
5 do work on your seawall came in on number -- on
6 number two, I think.

7 Q: Correct. No, I'm just asking you, there -- so
8 you are aware that there's a beach path access
9 all the way from Ocean Boulevard all the way to
10 the beach?

11 A: I am.

12 Q: Good. So, the -- if you're walking on Ocean
13 Boulevard, you can come all the way to the
14 beach, right, you're walking down the path,
15 come all the way to the beach. Once you get to
16 the beach, my question to you is this, you've
17 taken a lot of time to -- out of your day,
18 subpoenaed by the deep state, to come in here
19 and testify that you want to walk and you want
20 to ride bikes and you want to do all of these
21 things at high tide, and, therefore, homeowners
22 with erosion coming in should keep backing up
23 so you can do that. That's what I understood
24 your testimony to be.

25 **THE COURT:** You can respond to that.



1 A: Was that a question?

2 **THE COURT:** You can answer whether that's your
3 testimony or not.

4 A: That's not my testimony.

5 Q: Then I'm not sure what you want me to do. Are
6 you saying, then -- what is it that you're
7 asking me to do? Are you saying because you
8 cannot ride your bike -- I'm asking you why
9 you're here then, because if you say you cannot
10 ride your bike or walk, are you saying that if
11 I took my wall down, then let the water come
12 into my yard and wash my yard out, then you
13 could walk through my yard, because it's now
14 deemed the property of the State. Is that what
15 you're saying?

16 A: No, Rom, I'm not -- with all due respect, I'm
17 not asking you to do anything. This is a legal
18 decision. I was asked to -- I was asked to
19 provide facts to the Court. I'm convinced
20 beyond any doubt, and I'm -- I would think you
21 would be, that what I've said is accurate, that
22 when you had -- the result was, with this wall,
23 that the public could not get by at high tide.
24 I'm gonna say it -- not even at high tide, some
25 of the high tide. But I'm not asking you to do



1 anything. This is for the Court.

2 Q: I get it. We're not asking -- this is not a
3 matter of legal. You're here to say you could
4 not ride your bike at high tide or walk at high
5 tide. So, why is it that everyone else without
6 a wall, maybe that's a better question. In
7 this picture, the next person over there, next
8 to me, that would be 120 because it's north of
9 me, why is it everyone else without a wall, how
10 is it you can, you can walk past their
11 property? How is that possible?

12 A: I think -- number one, where yours was is far
13 more pronounced than others.

14 Q: So, you're saying, in their case ---

15 A: Excuse me, if I can ---

16 **THE COURT:** Well, let him finish.

17 **MR. REDDY:** I'm sorry, I'm sorry, I was trying ---

18 A: If I can finish. If you'll look at your
19 photograph with the flag on it.

20 Q: Yeah, yeah.

21 A: You can see your's is more pronounced than --
22 than others.

23 Q: I agree.

24 A: There are times when you have neap tides, king
25 tides, when we just know you just don't walk at



1 the highest tides. But that's a very -- that's
2 a rare instance. But I understand your point.

3 Q: I just want to stay with this question, Doug.
4 This is the prop- -- this is my house. This is
5 the house just north of me, Teresa's house.
6 So, yes, the water is coming up into her --
7 what used to be her beautiful yard. Yes,
8 people have put public umbrellas in her yard.
9 I get all that. But for you to walk around,
10 are you saying, whoops, I came walking down the
11 beach this way, because I can, and I ran into
12 this wall and I couldn't go around the wall.
13 Do you recognize, though, that walking in this
14 way is because she backed up her private
15 property. So, my question is, how far do you
16 think people need to back up their property the
17 tide keeps coming in?

18 A: With all due respect, that's for the Court to
19 determine. I'm not here to render a legal
20 opinion or decide this case.

21 Q: Okay. All right.

22 A: I will note -- I would like to add, though,
23 that your picture does -- when you have a wall
24 like this with the -- you know, sometimes the
25 wind blows from the north; sometimes it's a



1 south -- from the south. It tends to scour --
2 when you have a concrete wall on the side, it
3 tends to scour out and make more pronounced --
4 it eats into the -- into the bank, so.

5 Q: Is that your opinion, or is that something you
6 observed? So, now you're an expert.

7 **MR. REDDY:** Can I question now, as an expert, Your
8 Honor?

9 A: I don't have any --- I know what I see.

10 Q: You know what you see?

11 A: Yes.

12 Q: I see. Have you been out there recently?

13 A: Yesterday.

14 Q: Yesterday, excellent. So, if you were there
15 yesterday, what did you see? Did you see most
16 of this original wall actually covered up?

17 A: Yes, it's sort of on odd.

18 Q: Odd?

19 A: On -- let me see. Today -- on Sunday we were
20 doing some work at the exchange club, so close
21 by.

22 Q: Can you just answer the question?

23 A: No, I'm ---

24 Q: Because we -- I'm just trying -- I don't think
25 Your Honor really cares ---



1 A: --- trying to answer your question.

2 Q: --- exchange club. What I'm asking you is, you
3 are now testifying ---

4 **OBJECTION:**

5 **MR. CHURDAR:** Your Honor, please.

6 **MR. REDDY:** He's testifying that it's scour ---

7 **MR. CHURDAR:** He will not let him answer the
8 question. He was answering the question. He
9 said, I'm trying to answer your question. And
10 Mr. Reddy just interrupted him.

11 **THE COURT:** Right.

12 **MR. REDDY:** Excuse me.

13 **THE COURT:** Answer -- ask him the question again. I
14 want to start it all over.

15 A: All right.

16 Q: I wanna -- and I'm gonna ask you a very
17 specific question. I'm not asking you about
18 the exchange club, so if you can't hear me,
19 just ask me again ---

20 A: All right.

21 Q: --- and I'll repeat the question. When you
22 said you were out on the beach yesterday ---

23 A: Yes.

24 Q: When you were out on the beach yesterday, did
25 you notice that since you seem to have been



1 walking back on the beach for many, many years,
2 that the bottom portion of the wall is actually
3 covered up?

4 A: Yes, there's an odd situation, because it's
5 changed from yesterday to Sunday. On Sunday,
6 there were -- and I've got a picture of it
7 here, because I thought you might ask. There
8 were large piles of sand, kind of like a teepee
9 in front of your -- of your house. They were
10 about 15 to 20 feet in front of your seawall,
11 you could see -- clearly see your concrete
12 seawall, it was obvious. And it just seemed
13 sort of -- you know, it was -- anecdotally,
14 seemed sort of odd. When I walked by there
15 yesterday, it's been bulldozed down. Your wall
16 is now covered up, and there's really almost no
17 dune.

18 Q: Really. And you think that was me? Is that
19 your -- you think that's me?

20 A: I don't know. I didn't say it was you.

21 Q: Are you aware that the ---

22 A: I don't know who ---

23 Q: Are you aware that the Army Corps is doing the
24 project there on those beaches right now?

25 A: Yes.



1 Q: With a pipe?

2 A: Yes.

3 Q: And they're bulldozers?

4 A: I couldn't hear you.

5 Q: Pipe, bulldozers, heavy equipment?

6 A: Yes.

7 Q: Good. So, I'm going to ask -- let's -- let's
8 change. You testified earlier to his question,
9 have you -- did you prepare for your testimony,
10 talking to them?

11 A: Not really. They confirmed that I was going to
12 say what I was going to say. I was -- shook
13 hands with you. I was equally available to you
14 if you'd wanted to talk.

15 Q: Well, I am talking. So, I'm happy you're
16 talking too. But you said some weird stuff.
17 So I'm trying to ask -- figure out what you
18 told him. You said in May of 2003 -- 2023 to
19 clarify, you saw clay on the beach with your
20 own eyes.

21 A: That's what -- I have a vague recollection of
22 seeing -- seeing some -- some clay.

23 Q: Clay.

24 A: It was not -- it wasn't sand. There was --
25 there was -- there was -- it looked like some



1 construction work had been done. I didn't know
2 what was done. I don't even know whether you
3 did it. I'm just telling you, anecdotally,
4 that's something that -- that I observed.

5 Q: Were you told that by Jacques? Because Jacques
6 was claiming that everywhere that he saw clay,
7 he attributed to me, because there was no clay,
8 you know, by their own testimony, they put up
9 hundreds of pictures, May of 2023. There was
10 nothing we did, number one. Number two, are
11 you aware that their department was informed --
12 -

13 **OBJECTION:**

14 **MR. CHURDAR:** Your Honor, it's a compound question.
15 He didn't even give him a chance to answer the
16 first question.

17 Q: Okay. All right, good. Answer it.

18 **THE COURT:** Well, I don't know which one you're
19 asking, so can you ask it again?

20 **MR. REDDY:** These compound questions are starting to
21 get me, Your Honor.

22 (Laughter.)

23 Q: Let me see. In May of 2023, did you testify
24 that you saw clay on the beach?

25 A: I didn't testify in May, but I tes- -- I didn't



1 testify in May, number one. Not ---

2 Q: No, I'm sorry.

3 A: --- to make too fine a point, but this is my
4 first testimony. I haven't been deposed or
5 anything. My recollection is, and I said I had
6 a vague recollection, of some construction that
7 was ongoing. I didn't give it another thought.
8 However, I've got a picture here of the -- if
9 the Court wants to see it, I can show ---

10 Q: Is it part of the exhibits?

11 A: I don't know. I have no idea.

12 Q: If it's not, I'm not gonna enter pictures.

13 A: I haven't seen an exhibit ---

14 Q: --- so I'm just asking you ---

15 A: But I can show you that there is -- look at
16 this. I mean, there's clay all over the place.
17 And it's eroded out where you can't walk
18 around it.

19 Q: What are you talking about? This is May of
20 '23?

21 A: No. This is ---

22 Q: Can you answer the question? I know you're
23 getting confused here.

24 A: I'm not confused at all.

25 Q: I'm asking you, you testified ---



1 **THE COURT:** Whoa, whoa.

2 Q: You testified in the testimony May of ---

3 **MR. CHURDAR:** Your Honor ---

4 Q: --- 2023.

5 **MR. CHURDAR:** Your Honor, please. He's not letting
6 Mr. Truslow answer.

7 **MR. REDDY:** Mr. Truslow's not answering the
8 question.

9 **MR. CHURDAR:** He keeps interrupting like he's doing
10 to me.

11 **THE COURT:** All right. Here's how it works. Mr.
12 Reddy, if you think Mr. Truslow's not answering
13 your question, you can turn to me and object to
14 his answer, okay.

15 Q: So, let's hit the reset button.

16 A: I'm not confused at all. I'm not talking about
17 May, I'm talking about from December to, say,
18 January, February, there is debris, clay that
19 looked -- it appears to have fallen off of your
20 wall that's littering the beach. I took -- I
21 think I took this picture.

22 **MR. REDDY:** Excuse me, Your Honor. Can we go back
23 to his testimony then, because he asked him
24 when -- during his testimony in response to
25 that question he said, in May of 2023, I saw



1 what looked like clay on the beach. We can
2 rewind and look at it.

3 **THE COURT:** If you can just -- it's difficult to go
4 that far back for the court reporter. If you
5 could just ask him about that right now.

6 **MR. REDDY:** Okay.

7 Q: Okay. So you testified during your -- not
8 testified, you -- when you were answering his
9 question, I guess you were testifying. You
10 said, in May of 2023, 2-0-2-3, you saw what you
11 thought might be clay debris on the beach. Is
12 that still your testimony?

13 A: Yes.

14 Q: Okay. So, what clay debris did you see? And
15 are you saying -- do you have any indication
16 that it came from me?

17 A: Only by proximity, and there wasn't a lot of
18 it. This was just -- it was just something in
19 passing and you see something a little bit
20 different on the beach. It wasn't -- it didn't
21 appear to be flaking off like it did in
22 December to January, February of 2004, flaking
23 off in large chunks. This just -- this, just
24 small amounts of -- it could be clay. I'd call
25 it sand clay.



1 Q: But your -- is it your testimony that it came
2 from me?

3 A: I didn't say that. I said I saw it in close
4 proximity to your wall.

5 Q: Okay. I'm not sure then why it's -- why you
6 asked the question if he answered it that way,
7 but okay. Let's get past that. So, then you
8 testified that you saw granite on the beach.
9 I believe you said granite. Is that correct?

10 A: Yes.

11 Q: And I think you said it's still there?

12 A: You could go out there today and you could see
13 it ---

14 Q: Okay. So ---

15 A: --- in front of your house.

16 Q: --- are you -- are you testifying that the
17 granite came from me?

18 A: No.

19 Q: So, you're generally testifying to beach
20 conditions. You're not testifying to anything
21 about me. Is that -- is that what you're
22 saying? All those questions he asked you were
23 generally your observations?

24 A: Those are my observations. I saw -- I saw
25 during the critical period of time, you might



1 call it riprap, you might call it part of a
2 revetment. I call it just granite, large
3 chunks of rock that were up against your wall,
4 and -- and they've migrated down closer to the
5 -- to the water. Even at low tide.

6 Q: Jacques said he didn't know which direction the
7 water moved, or that it moved from north to
8 south or south to north. Do you have a sense
9 of it, since you walk on the beach?

10 A: No. I do.

11 Q: You do?

12 A: Uh-huh.

13 Q: How does water move there?

14 A: Sometimes it comes straight in, sometimes it
15 comes from the right, sometimes it comes from
16 the left. Depends to some degree on the wind.
17 It isn't -- the weather isn't dynamic, and
18 neither is the beach.

19 Q: What's the general direction of the flow of the
20 water? Do you have a -- just watch as you walk
21 on the beach? Do you see the water going
22 towards Breach Inlet, towards the -- where it
23 drains towards the inlet, or you see it going
24 upstream towards Wild Dunes?

25 A: It does -- as a general rule, my sense is that



1 it's moving more towards Breach Inlet. That's
2 my ---

3 Q: I ---

4 A: --- that's a guess, but I'm not -- that's my
5 sense of it.

6 Q: Okay. So, then you would agree that my house
7 is probably at the -- really almost at the tip
8 of the southern portion of the island, would
9 you agree with that?

10 A: Yes.

11 Q: Okay. So, if the water is generally moving
12 north to south, is it normal to say that the
13 flow of stuff and debris tends to flow in that
14 direction?

15 A: Often, yes.

16 Q: Thank you. So, then I'm going to ask you the
17 next question.

18 **MR. REDDY:** Can we get up Joint Exhibit Number 78c
19 and then n?

20 **(Joint Exhibit Number 78c was referenced at this**
21 **time.)**

22 Q: So, that's Joint Exhibit Number 78c that I
23 think was used some time ago, yesterday. Do
24 you -- does it have a date on it?

25 **UNKNOWN MALE FROM AUDIENCE:** June of '24, I think.



1 Q: So, that was before the wall? There was no
2 wall there. It's June of '24. So do you think
3 you could ride your bike on that or walk?

4 A: Did you say of June of '24 ---

5 **OBJECTION:**

6 **MR. CHURDAR:** Your Honor, I would ---

7 **THE COURT:** Whoa, whoa.

8 **MR. CHURDAR:** --- I would object. Mr. Reddy's
9 testifying.

10 **MR. REDDY:** What am I testifying?

11 **MR. CHURDAR:** As to the date.

12 **MR. REDDY:** Oh, it's not -- isn't there a date on
13 it?

14 **MRS. REDDY:** It's a Joint Exhibit 78c.

15 **MR. REDDY:** So, Joint Exhibit 78c that they put up
16 yesterday and testified that that's what was
17 happening in June for their definition of
18 periodic inundation.

19 **THE COURT:** If he's basing it on previous testimony,
20 I don't know, so.

21 **MR. CHURDAR:** I'm not sure what he said, but that
22 was June 2023.

23 **MR. REDDY:** Yeah, June '23. That's -- that's --
24 that's correct.

25 A: He said June '24. '24 before the wall was



1 built.

2 **MR. REDDY:** I'm sorry. I mean June '23, before the
3 wall. June '24 there was a wall.

4 **THE COURT:** Okay. Proceed.

5 Q: So June '23, as we all agree, that was the
6 picture. Do you think you could ride your bike
7 on that?

8 A: I couldn't hear you.

9 Q: Do you think you can ride your bike on that?

10 A: No.

11 Q: Walk?

12 A: Pretty obvious.

13 Q: Okay. So, that was before a wall. So, when
14 the tide came up, wall or not, that's what
15 happens, right? You see that, you can't -- you
16 just testifying you can't walk, regardless of
17 the wall, because the water is coming in?

18 A: On that day, you could not walk.

19 Q: Excellent.

20 A: You could not ride on the beach from what
21 appears in that picture.

22 Q: I'm gonna ask one more -- there's one more
23 slide I want to put up. We're going to fast
24 forward to May. This is where I got confused
25 between '23 and '24.



1 **MR. REDDY:** Can you put up slide 78n.

2 **(Joint Exhibit Number 78n was referenced at this**
3 **time.)**

4 Q: That slide is from May 1 of '24. Do you
5 recognize that beach?

6 A: It doesn't -- doesn't have a date on it.

7 Q: It does in the far left corner.

8 A: Can you point to that?

9 Q: Oh, sorry, I will. Right there (indicating).

10 **THE COURT:** You can see it on the screen.

11 A: Oh, now -- okay.

12 Q: You see it?

13 A: You moved it up a little bit. Yeah, I can see
14 that. That's in May of ---

15 Q: Can you ride your bike or walk on that?

16 A: That says May 1st of 2024. You could clearly
17 walk -- you could ride a bicycle, you could
18 walk unimpeded as of that date.

19 Q: Beautiful. My point is, on the previous slide,
20 May of '23 -- June of '23, there was no wall,
21 and you couldn't ride your bike. In this
22 slide, one year later, there is a wall, and
23 there's clearly a ton of room for you to do
24 anything. So, we can't relate this whole thing
25 y'all are relating, regardless of the fact that



1 I am not required, I don't think, but we can --
2 are you saying you can relate to riding a bike
3 or walking to the wall being there or not?

4 A: Are you asking me if I can ride a bicycle or
5 walk as of May '24? The answer would be,
6 clearly, yes.

7 Q: Clearly, yes. And your answer, I think, to the
8 previous one on May of 20- -- June of '23 was
9 you couldn't ride a bike ---

10 A: Yes.

11 Q: --- in that?

12 A: And of course my point is ---

13 Q: So ---

14 A: --- that the beach is dynamic. Sometimes it's
15 -- the water's up, sometimes it's down.

16 Q: Doug, I agree.

17 A: Yeah.

18 Q: We don't disagree in that. So, I'm going to
19 ask you a question. Because the beach is
20 dynamic, like you said, you just testified to
21 that, the water comes up, the water comes down,
22 is it the responsibility, in your opinion, of
23 homeowners who have no control over what the
24 water does or how the beach is managed, to --
25 is it the responsibility of homeowners to make



1 sure that whatever happens on the beach,
2 however dynamic it happens to be at any given
3 point in time, that the homeowner's
4 responsibility is to make sure that the public
5 can always walk or ride a beach at high tide?

6 A: I need to answer that in two -- two parts.
7 Number one, it's not my issue as to whether
8 houses should've been built on Ocean Boulevard
9 given the situation. There's accretion and
10 then there's erosion. They chose to build, and
11 it's not my issue.

12 The second part -- to answer the second
13 part of your question, I don't have a -- I'm
14 not entitled to have an opinion in this
15 instance. This is for the Court to decide, not
16 for me. This is a legal issue. I hope that
17 answers your question. It's a legal issue.
18 It's not for me to say.

19 Q: I agree.

20 A: I have tremendous respect for you, but it's --
21 it's not my job.

22 Q: Thank you. You've been very, very kind. I
23 don't have any more questions.

24 A: All right.

25 Q: And I promise you, I'll buy you a glass of



1 wine.

2 A: All right. I'll take you up on that.

3 **THE COURT:** Re-direct?

4 **MR. TRUSLOW - RE-DIRECT EXAMINATION BY MR. CHURDAR:**

5 Q: If I could get -- Mr. Truslow, can I get that
6 picture that you were holding up just a moment
7 ago? I'd like to enter that.

8 **OBJECTION:**

9 **MR. REDDY:** We object.

10 **MR. CHURDAR:** Let me get it marked first.

11 **THE COURT:** You can get it marked.

12 **MR. REDDY:** You know what, Your Honor, I'll tell
13 you, I'll agree to that if they'll agree to
14 ours.

15 **COURT REPORTER:** So, this would mean this would not
16 be Joint, this would be Petitioner's 1?

17 **MR. CHURDAR:** Correct.

18 **COURT REPORTER:** Thank you, I just wanted to make
19 sure I was right.

20 **MR. CHURDAR:** Right.

21 **(Petitioner's Exhibit Number 1 was marked for**
22 **identification purposes at this time.)**

23 **MR. CHURDAR:** All right. And, Your Honor, this --
24 in response to Mr. Reddy's objection, Mr.
25 Truslow identified this. One foundation



1 question.

2 Q: Did you take this picture?

3 A: I can't recall, but it would've been one that
4 I would have taken.

5 Q: Okay. All right. But you ---

6 A: I can -- I can say that fairly and accurately
7 depicts how the -- how the scene appeared as
8 I've described it to the Court.

9 **OBJECTION:**

10 **MR. REDDY:** Your Honor, I object to all of this. We
11 already said we object. Why does he keep
12 asking questions?

13 **THE COURT:** All right. He's attempting to lay a
14 foundation.

15 **MR. CHURDAR:** Okay. And I think I have, so I'm
16 offering it into evidence now.

17 **THE COURT:** All right, now. You object on what
18 grounds?

19 **MR. REDDY:** Discovery is closed. Closed.

20 **THE COURT:** I sustain that objection unless you can
21 explain it any further. Y'all had -- not that
22 discovery is closed, I assume y'all had a -- or
23 did y'all have an agreement on exhibits or
24 not?

25 **MR. CHURDAR:** We did. I mean this was -- this was



1 something that I have received today, just as
2 Mr. Reddy had, so.

3 **MR. REDDY:** I haven't seen it. He didn't show it to
4 me.

5 **MR. CHURDAR:** Oh, I'm sorry. There you go.

6 **MR. REDDY:** Thank you. Okay. Yeah, no. This is --
7 this is more ...

8 **THE COURT:** One second. Mr. Reddy offered exhibits
9 that y'all hadn't seen, correct?

10 **MS. PHELAN:** Yes, Your Honor.

11 **THE COURT:** That's what I was asking about. Y'all
12 didn't have an agreement on exhibits, did you
13 or not?

14 **MS. PHELAN:** Your Honor, according to our scheduling
15 order, we did have a deadline for exhibits.
16 We've been trying to work with them ---

17 **THE COURT:** Okay.

18 **MS. PHELAN:** --- and I don't think that we ...
19 Yeah. The ones that we got the day before
20 trial we did object to, but it was on a
21 different basis than ---

22 **THE COURT:** Oh, okay.

23 **MR. REDDY:** They were objected to. All of the ones
24 we have, Your Honor, we have 90 sitting out
25 there that we haven't been able to enter for



1 one reason or the other. And part of the
2 reason we're not able to enter it because we
3 had to make a FOIA request because they did not
4 submit everything they were supposed to.

5 **MS. PHELAN:** Do you want to hear from me on it?

6 **THE COURT:** No.

7 **MS. PHELAN:** Okay.

8 **THE COURT:** What's the legal grounds why you would
9 be prejudiced for the introduction of this
10 exhibit?

11 **MR. REDDY:** What's that? Sorry.

12 **THE COURT:** How would you be prejudiced as a result
13 of this exhibit?

14 **MR. REDDY:** Because we have not been able to verify
15 who took the picture, when it was taken, under
16 what circumstances it was taken. And we have
17 no idea, he pulled it out of his pocket as he
18 sat on the witness stand.

19 **MR. CHURDAR:** Your Honor, Mr. Truslow testified that
20 this is a fair and accurate representation of
21 what he saw, and I believe that that's really
22 the point of ---

23 **THE COURT:** I don't think he said what date and all
24 that. So, I'm going to take that as an
25 objection as to the improper foundation.



1 **MR. CHURDAR:** Okay. Well, can I ---

2 **THE COURT:** Yes.

3 **MR. CHURDAR:** Okay, thank you.

4 Q: Do you remember when this picture was taken?

5 A: It was -- it was taken in approximately
6 December the 18th of 2023.

7 **THE COURT:** Anything else?

8 **MR. REDDY:** I don't know what approximately means.
9 Is that plus or minus ---

10 A: Within a week.

11 **MR. REDDY:** A week? Five days? I have no idea.

12 **THE COURT:** Well, you can ask -- you can voir dire
13 him.

14 **MR. REDDY:** I can do what?

15 **THE COURT:** It's called -- I'm sorry. It's called
16 voir dire. You can ask him questions about the
17 sufficiency of the foundation.

18 **MR. TRUSLOW - VOIR DIRE EXAMINATION BY MR. REDDY:**

19 Q: All right, Doug. December 18th was -- what do
20 you remember about December the 18th?

21 A: I think that was the day when my wife and I
22 were taking a walk and it was most noticeable
23 that there was a dramatic problem on the
24 seawall in front of your house. It was -- it
25 was caving in going towards the beach. There



1 was a lot of debris that -- up here that had
2 come off your wall.

3 Q: Put on your glasses, please.

4 A: All right.

5 Q: You see the wall or anything caving in? And do
6 you recall that on December the 17th or 16th
7 night was a nor'easter? So, are you -- is it
8 your testimony that you took a picture
9 approximately in a time frame that you don't
10 remember? You just testified that the wall was
11 caving in. It's about as straight as it can
12 be. And -- and I asked you what incident
13 happened? You said you were taking a walk on
14 the beach, which was a day after the one of the
15 biggest storms in the history of Isle of Palms.
16 So, what -- I'm trying to understand why -- why
17 you did not disclose that to us earlier, so we
18 could've actually looked into it?

19 A: Rom, if I understand your question, is why I
20 didn't disclose this? Well, you know, you're
21 one of my neighbors. If you'd've called me,
22 I'd've been glad to talk to you.

23 Q: Why would I talk to you? I have no interest in
24 talking to you.

25 A: Okay. All right. Well, that probably ---



1 **MR. CHURDAR:** Your Honor, we ---

2 A: --- explains that.

3 **MR. CHURDAR:** --- will withdraw ---

4 **THE COURT:** Okay.

5 **MR. CHURDAR:** --- the offering of that. I mean it
6 seems like the simplest ---

7 **THE COURT:** All right.

8 **MR. CHURDAR:** --- time efficient way to do it, so.

9 **THE COURT:** All right. Move on.

10 **(Petitioner's Exhibit Number 1 was withdrawn.)**

11 **MR. CHURDAR:** And I have no redirect for this
12 witness.

13 **THE COURT:** Any re-cross on new matter?

14 **MR. REDDY:** No.

15 **THE COURT:** All right. You may step down.

16 A: All right. Your Honor, do you recall Judge
17 Bruce Littlejohn?

18 **THE COURT:** Yes, sir.

19 A: I'm no longer under oath? It's been a
20 pleasure.

21 (Laughter.)

22 **THE COURT:** I don't know if you're gonna get your
23 glass of wine now or not, but.

24 (Laughter.)

25 **THE COURT:** That'll be said through history.



1 A: Thank you.

2 **MR. REDDY:** Your Honor, some day he'll be happy that
3 I'm fighting for property rights, he just
4 doesn't know.

5 **THE COURT:** Okay.

6 **MR. CHURDAR:** All right, Your Honor. Next, the
7 Department is calling Ms. Morgan Flake.

8 **COURT REPORTER:** State and spell your name.

9 **MS. FLAKE:** Morgan Haley Flake. M-O-R-G-A-N, H-A-L
10 ---

11 **COURT REPORTER:** G-I-N?

12 **MS. FLAKE:** G-A-N.

13 **COURT REPORTER:** Thank you.

14 **MS. FLAKE:** H-A-L-E-Y, F, as in snowflake, L-A-K-E.

15 **COURT REPORTER:** Raise your right hand for me.

16 (Witness complies.)

17 **COURT REPORTER:** Do you solemnly swear the testimony
18 you're about to give in this matter is the
19 truth, the whole truth, and nothing but the
20 truth, so help you God?

21 **MS. FLAKE:** I do.

22 **COURT REPORTER:** Thank you.

23 **MORGAN HALEY FLAKE,** being first duly sworn, testifies
24 as follows:

25 **MS. FLAKE - DIRECT EXAMINATION BY MR. CHURDAR:**



1 Q: All right. You are Morgan Flake?

2 A: I am.

3 Q: Okay. And before we get into your work
4 experience and your connection and what you --
5 involvement with this case, can you just tell,
6 please, the Court about your educational
7 background?

8 A: Yes, I have a Bachelor of Science in Biology
9 that I received from the College of Charleston
10 in 2007, and then I have a Master of Earth and
11 Environmental Resources Management degree that
12 I received from the University of South
13 Carolina in 2009.

14 Q: Okay. And can you please tell the Court where
15 you're employed?

16 A: The Department of Environmental Services,
17 Bureau of Coastal Management.

18 Q: Okay. And how long have you been employed by
19 DES?

20 A: I began my time with DES almost 17 years ago,
21 when it was DHEC. I started in the Bureau of
22 Air Quality, Forced Evaluation Section, and
23 then I moved to Bureau of Coastal Management in
24 November of 2014.

25 Q: Okay. And what is your position currently at



1 BCM?

2 A: I'm the Manager of the Compliance and
3 Enforcement Section.

4 Q: Okay. And did you -- I was going to ask you
5 what other duties and responsibilities, but I
6 think, you -- okay, I did not, okay. Can you
7 tell the Court what other duties and
8 responsibilities you've had at DES?

9 A: Well, I did note that I started in Bureau of
10 Air Quality and site testing, but when I moved
11 to Bureau of Coastal Management, I started out
12 as an enforcement project manager, and then I
13 moved into a team lead role over both the
14 compliance and the enforcement project
15 managers, and then became manager in 2020.

16 Q: Okay. And so that's currently your title is
17 compliance and enforcement section manager?

18 A: (Nods head.) That's right.

19 Q: Okay. And in your capacity as the compliance
20 and enforcement section manager, can you please
21 tell the Court just an overview of BCM's
22 enforcement process generally?

23 A: Yes. So, the compliance and Enforcement
24 section, as the name indicates, we have project
25 managers that are dedicated to a compliance



1 assistance process, as well as an enforcement
2 process. The compliance assistance is a bit
3 more informal -- formal. The enforcement
4 process is more prescribed. So, with the
5 compliance process, we have six dedicated staff
6 members for that process. That is a process by
7 where, when the Department issues permits or
8 authorizations, those staff go out; they
9 conduct routine compliance inspections for
10 those authorizations; they respond to incoming
11 complaints; they may also respond to referrals
12 from other -- other staff in BCM or other
13 bureaus in the -- staff in other bureaus of the
14 agency that may see activities of concern in
15 the critical area that we would want to take a
16 look at and further evaluate. That process,
17 when a -- when an unauthorized utilization or
18 alteration of critical area is determined,
19 typically starts with the issuance of a notice
20 to comply, which is a -- usually a one-page
21 document that quickly identifies when the staff
22 was at the site, what was observed, what the
23 violation is, and a directive in terms of how
24 to come into compliance. If we're not able to
25 timely resolve a violation through that



1 compliance assistance process, then it's
2 referred over to our enforcement staff, and we
3 have two enforcement staff that are dedicated
4 to that process, which starts, typically, with
5 the drafting and issuance -- issuance of a
6 notice of alleged violation and an admission
7 letter. Typically sets up an enforcement
8 conference, and then from there, we proceed
9 with an appropriate path forward for a
10 resolution of the action.

11 Q: Okay. And that being the overview, is that the
12 process that has happened in this case?

13 A: Yes.

14 Q: Okay. So, let's turn now to the Department's
15 enforcement action with the Reddys and I have
16 all the joint exhibits right there. If you
17 could open the book and look at Joint Exhibit
18 Number 11, please.

19 **(Joint Exhibit Number 11 was referenced at this**
20 **time.)**

21 Q: Okay. And is that the Administrative Order
22 that was issued in this case?

23 A: Yes, it is, as well as a cover letter.

24 Q: Okay. And did you prepare this document?

25 A: I did.



1 Q: Okay. I'd like to go over with you the findings
2 of fact, not -- not every one of them, but some
3 key ones, and just have you elaborate on each
4 one. So, if you could -- first, I'd like to
5 have you look at some aerials ---

6 **MR. CHURDAR:** Do you mind getting Joint Exhibit 175
7 up, please?

8 **(Joint Exhibit Number 175 was referenced at this**
9 **time.)**

10 Q: Okay. Now, I'd like to show you what we have
11 up there is 2485, and then after that look --
12 have you look at 2495, 2499, and 2500. Are you
13 familiar with this photo?

14 A: I am, yes.

15 Q: Okay. And what is it -- this that we're
16 looking at?

17 A: So, this is a Google Earth image that is
18 actually from a series of images that I took
19 screen grabs of where I reviewed site
20 conditions. In this image from January of
21 2019, it shows that there's an intact and
22 established dune field on the seaward end of
23 118 Ocean here. And I think as we'll see
24 coming up, I had used this image in Google
25 Earth to narrow down the time frame in which



1 some activity occurred in this area at the
2 Reddy property.

3 Q: Okay. And what is significant about this image
4 right here?

5 A: Well, the area that we're gonna see coming up
6 that was impacted, this general area that's
7 circled, equates to about a little over 1500
8 square feet of established dune that was
9 impacted.

10 Q: Okay. And please give a time frame. Do you
11 know when the impact to those dunes was? This
12 image is in 2019.

13 A: Yeah. But -- so, yes, this was before the
14 impact occurred in January 2019 and the other
15 images we're gonna look at are February 2019,
16 so, between January and February.

17 Q: Okay.

18 **MR. CHURDAR:** And Janet, can you make this the
19 seventh image, 2495?

20 Q: And, Ms. Flake, if -- you might want to get
21 that circle off there. Okay.

22 A: So, this is an aerial image from February 18,
23 2019, this is from Pictometry, which is an
24 aerial imagery service that the Department
25 uses. You can see in this image there is a



1 freshly graded or appears to be freshly graded
2 substrate seaward of the Reddy residence. The
3 line that is represented in yellow, that's just
4 kind of an indicator. As we'll see moving
5 forward, I took a series of measurements from
6 the house to the seaward extent of the -- the
7 dunes before they were impacted, and then the
8 seaward extent of impaction. So, another point
9 on -- or point out is just this general area
10 here, you can see now that the seaward extent
11 of that impacted area basically matches the
12 property seaward extent of the upland property
13 to the north, which Mr. Reddy's already
14 indicated that he previously owned.

15 Q: Okay. And a moment ago, you had mentioned that
16 over 1500 square feet of dunes had been removed
17 from the seaward side of the Reddys' yard. Can
18 you tell the Court how you calculated that
19 number?

20 A: Yes. So, I took measurements. This is just
21 delineating the measurement after the impact.
22 I have another aerial that shows measurements
23 before and after.

24 Q: Okay.

25 MR. CHURDAR: Janet, can you go to 2499? That's 11



1 of 12, so it's the second to the last.

2 Q: Okay. Ms. Flake, do you recognize this image?

3 A: I do.

4 Q: Okay. What are we looking at here?

5 A: So, the image on the left is from February 10th
6 of 2017. Image on the right is from February
7 18th of 2019. So, these images are taken two
8 years apart. Pictometry only offers imagery
9 every two years on odd number years, so, that's
10 why I use that Google Earth image to help
11 narrow down the timeframe in which this
12 activity occurred. But given the 2017 aerial,
13 I took measurements. The extent of the
14 landscaped yard at that time in 2017 seemed
15 consistent with what was there in 2019 prior to
16 the activity, so, I used the 2017 aerial and
17 made those comparisons. Again, just for quick
18 visual reference, you can see the difference in
19 the seaward extent of the landscaped yard
20 there.

21 Q: Okay.

22 **MR. CHURDAR:** And, Janet, can you go one to 2500,
23 please?

24 Q: Okay. Now, we're looking at Joint Exhibit 175,
25 Bates number 2500. Do you recognize this



1 image?

2 A: I do.

3 Q: And the -- what are the yellow lines and the
4 yellow filled in area supposed to mean?

5 A: So, this is where I was mentioning earlier I
6 took distance measurements from basically the
7 fixed point of the house to the -- the edge of
8 the landscaped yard from 2017 and then overlaid
9 the -- the measurements from after the impact
10 in 2019, and created this polygon to show the
11 difference using property lines on the corner
12 -- or on the edges of the property and then
13 that seaward extent of the -- the -- where the
14 property matches to 120.

15 Q: Can you, like, put, like, put a little circle
16 with the area you're talking about? Well, the
17 -- where you say the -- matches the property --
18 -

19 A: Oh, yes.

20 Q: --- the neighbor's prop- -- Right.

21 A: Yeah, I just used that as a location to create
22 that -- to help create that polygon.

23 Q: Okay.

24 A: But the lines, also, you know, ending here and
25 here (indicating) help create that polygon, as



1 well.

2 Q: Okay. And the house and the edge of the
3 neighbor's property are two fixed points. Is
4 that why you chose those?

5 A: That's right.

6 Q: Okay. Now, the dune grading that you talked
7 about is not the basis for the administrative
8 ---

9 **OBJECTION:**

10 **MR. REDDY:** Your Honor, can I object to this line of
11 questioning?

12 **THE COURT:** You can object. What is your ---

13 **MR. REDDY:** Can I tell you the basis for the
14 objection?

15 **THE COURT:** Yes, sir.

16 **MR. REDDY:** The -- the whole case here seems to be
17 some bizarre periodic inundation. What they're
18 talking about here is nothing to do with
19 periodic inundation. Now, she's talking about
20 saying we came in and we flattened our own yard
21 inside my fence, behind the setback line, so we
22 can have grass for my, at that time, five year-
23 old to play on. And now she's -- they're
24 saying this is some type of disruption. What
25 has this got to do with it? So, you -- are



1 they now claiming -- are they adding a new
2 claim, that if someone comes in and straightens
3 out their yard -- see -- according to Isle of
4 Palms rules, Your Honor, I could build a pool
5 there. Isle of Palms says I can put a pool in
6 there if I want, as long as I'm seaward of it
7 and I'm inside the fence. The old lady who
8 lived there before, she was 78 years old, she's
9 the granddaughter of an ex-president, she was
10 -- she was not very mobile. So, she used to go
11 back out now to the beach on a wheelchair. She
12 never used her yard. We have young children,
13 so, we just flattened the yard. And is this --
14 my question is ---

15 **THE COURT:** Let me hear his response.

16 **MR. CHURDAR:** Okay. So -- so, Your Honor, what ---

17 **THE COURT:** What's the purpose of this?

18 **MR. CHURDAR:** Well, my next question to Ms. Flake is
19 actually going to explain the purpose of the --
20 of why I've gone through this.

21 **THE COURT:** Well, number one, the exhibit's in
22 evidence, right?

23 **MR. CHURDAR:** Yes.

24 **THE COURT:** It's a Joint Exhibit.

25 **MR. CHURDAR:** Yes, sir.



1 **THE COURT:** So, it's in evidence. You can normally
2 testify about any exhibit in evidence, but how
3 about let's let him answer the next question.

4 **MR. REDDY:** Okay.

5 **THE COURT:** And then if you -- you feel like we're
6 going into something irrelevant, I'll hear you.

7 **MR. REDDY:** Okay.

8 **MR. CHURDAR:** Okay.

9 **Q:** So, Ms. Flake, the dune grading is not the
10 basis for this Administrative Order, is that
11 right?

12 **A:** That's right.

13 **Q:** Okay. So, why did you include finding of fact
14 number three?

15 **A:** Well, the purpose of the Administrative Order
16 -- not the purpose, but what a component of the
17 Administrative Order does is lay out notable
18 events that have taken place at the site. And
19 in my due diligence of this site, it appeared
20 as though this was a notable event that took
21 place, that removed established dune vegetation
22 that may result in the property being more
23 vulnerable to tides and waves.

24 **Q:** Okay. Let's move on to finding of fact number
25 five. The Administrative Order references



1 photos that are taken by the City of Isle of
2 Palms on May 25th, 2023, correct?

3 A: That's right.

4 **MR. CHURDAR:** Okay, Janet, can you please pull up
5 176? Joint Exhibit 176.

6 **(Joint Exhibit Number 176 was referenced at this**
7 **time.)**

8 Q: Okay. We have -- can you please tell us what
9 we're looking at? We have the first one,
10 that's 2549, and then just go to the third one,
11 which is 2552, and then you can go back to tell
12 me -- tell me -- well, we'll just start with
13 the 2549. Tell us what we're looking at with
14 that photo.

15 A: So, this photo was taken by the City of Isle of
16 Palms on May 25th, 2023. You see the Reddy
17 residence in the background. Matt Slagel
18 actually went over this photo yesterday,
19 explaining the erosion loss escarpment there.
20 So, I'm not going to go into great detail, but
21 one thing I did want to point out is the
22 shading from the sun that's caused or that --
23 that's resulting from that dune walk over.
24 You'll notice it's -- the shadow cast indicates
25 that this photo is taken earlier in the day.



1 Q: Okay. And then are you ready to go on to 2549?

2 A: I am.

3 Q: Okay. Can you turn to that one, please?

4 Excuse me. 2500, I believe.

5 A: No ---

6 Q: 2552, I apologize. What are we looking at
7 here?

8 A: So, this is another photo taken by the Isle of
9 Palms on May 25th, 2023. It's not a straight
10 on shot like the other one is, but you can see
11 the shading cast by the walk over there
12 indicates that this photo was taken more of a
13 midday time frame, so, later than the one we
14 looked at previously. And you'll see that turf
15 -- artificial turf that has already been
16 discussed was -- was draped over the escarpment
17 and appears to have been covered with sand to
18 help hold it in place.

19 Q: Okay.

20 **THE COURT:** This photo wasn't taking the same day as
21 2549, was it?

22 A: Yes, sir.

23 **THE COURT:** I didn't notice the astroturf in the
24 previous photo.

25 A: That's right. It wasn't there. It was



1 installed between the time the two photos were
2 taken, I believe.

3 **THE COURT:** Oh, okay.

4 Q: Let's -- let's look at finding of fact number
5 10. That finding of fact indicates that on
6 September 7th, 2023, Matt Slagel sent Mr. Reddy
7 a letter.

8 **MR. CHURDAR:** And Janet, if you could go to Joint
9 Exhibit Number 14, please.

10 **THE COURT:** While she's doing that, the Exhibit
11 2549, it showed the escarpment, was that before
12 any of the construction began regarding the
13 walls?

14 A: Yes, sir. As far as -- yes, that was taken in
15 May of 2023.

16 Q: Okay. So, is this the letter that you're
17 referencing in -- in finding a fact number 10?

18 **(Joint Exhibit Number 14 was referenced at this**
19 **time.)**

20 A: It is.

21 Q: Okay. And why was this letter included as a
22 basis for finding of fact number 10 at the
23 Administrative Order?

24 A: Well, Mr. Slagel went over this letter
25 yesterday, the September 7th letter, 2023, to



1 the Reddys and BluTide regarding the
2 Department's jurisdiction and beaches and
3 beach/dune system and advisement of any -- any
4 work in this area would -- would require the
5 Department's authorization. But what I wanted
6 to point out that wasn't mentioned yesterday is
7 that I am copied at the bottom of this letter,
8 and this was kind of Compliance and
9 Enforcement's first involvement or awareness of
10 any potential unauthorized work at the site.

11 Q: Okay. Let's move on to finding a fact 15.
12 That indicates that on September 21st, 2023 Mr.
13 Slagel issued a Department Emergency Order.

14 MR. CHURDAR: Janet, can you please go to Joint
15 Exhibit number 37, please?

16 Q: That EO allowed Mr. Reddy to conduct minor
17 renourishment, install fencing and/or plant
18 native dune species at the site. So, why did
19 the Department include this EO in the
20 Administrative Order?

21 (Joint Exhibit Number 37 was referenced at this
22 time.)

23 A: Well, it's a notable event that took place at
24 the site. But also this authorization was
25 issued September 21st of 2023 and expired



1 October 21 of 2023 and it was during this time
2 frame that the Reddys installed non-beach
3 compatible materials, including the
4 unauthorized erosion control structure, the
5 first one.

6 Q: Okay. And had they -- did they have -- with
7 this EO did they have options that would have
8 allowed them to exercise or to take protective
9 actions over the property?

10 A: They did. It provided for -- or allowed for
11 minor renourishment that could have been placed
12 to provide protection to the property.

13 Q: Okay. All right. Let's next move to finding
14 of fact number 24. That indicates that on
15 November 14th, 2023 you were at the Reddys'
16 site at 118 Ocean Boulevard, and that you had
17 taken photographs showing filtered fabric and
18 timberwood marine debris from the Reddys'
19 unauthorized construction that's -- that was
20 embedded in the sand on the active beach. And
21 I'd like to show you a Joint Exhibit 128.

22 **MR. CHURDAR:** Janet, if you could please pull that
23 up.

24 Q: I'd like to ask you about the last picture of
25 that series, which is 2189. Do you recognize



1 this photo?

2 **(Joint Exhibit Number 128 was referenced at this**
3 **time.)**

4 A: I do.

5 Q: Okay. What are we looking at here?

6 A: So, this is a photo taken -- I see the -- the
7 Reddys' residence there in the background. And
8 what I had identified was this geotextile or
9 filter fabric material, and this piece of
10 timber that appeared to be some ornament to the
11 non-beach environment materials that were
12 previously identified at the site.

13 Q: Okay. All right. Let's -- let's move to
14 finding of fact number 30.

15 **MR. CHURDAR:** And, Janet, if you want to go to Joint
16 Exhibit 135.

17 Q: Finding of fact 30 indicates that on December
18 18th, 2023 Mr. Slagel conducted field work and
19 collected photographs of property -- of
20 properties along Ocean Boulevard. Are you --
21 are you aware of any other photographs that
22 were taken that day at 118 Ocean Boulevard?

23 A: Yes, I am.

24 Q: Okay. Let me show you three pictures, starting
25 with 21 -- excuse me, 2216, and then through



1 2217 and 2218. So, what are we looking at here
2 that Jacques or Mr. Prevost and Mr. Slagel have
3 not testified to?

4 **(Joint Exhibit Number 135 was referenced at this**
5 **time.)**

6 A: So, as has been mentioned a couple of times
7 after their impacts to the coast of South
8 Carolina, it may be deemed appropriate to send
9 field triage teams out into the -- to the --
10 onto the beach to assess damage that may have
11 taken place or may have occurred. And these
12 photos were taken from a team that was deployed
13 to the Isle of Palms. They were taken the
14 afternoon of December 18th, 2023. We
15 previously looked at a photo that Mr. Slagel
16 had taken earlier in the day. At that time,
17 the tide was higher and the -- the wall was in
18 the water. So, I don't -- I don't know that he
19 was able to get all the way around the image.
20 But this is a -- all the way around the wall.
21 So, this is a photo that just shows that
22 seaward side of the wall.

23 Q: Okay.

24 A: And, you know, as already noted by Jacques in
25 a couple of other photos from December 20th,



1 you know, there's the clay materials and the
2 draped geotextile fabric on the seaward side,
3 but this here appears to be maybe clumps of
4 clay that are still adhered to the face of that
5 structure.

6 Q: Okay. Can you turn to 2217, please? And what
7 are we looking at here?

8 A: This is another angle of the site on the same
9 day. Again, the clay here, there's clay, clay,
10 and this also appears to be clay materials.
11 And you can also see there's kind of this
12 difference in color here, which indicates the
13 substrate was -- was two different things. The
14 top kind of appears to still be stained clay,
15 and then the bottom part of it is not stained.
16 So, likely sand.

17 Q: Okay.

18 **MR. CHURDAR:** Can you turn to the next one, please,
19 Janet, 2218?

20 Q: And what are we -- what are we looking at here
21 at 2218?

22 A: This is the same day, different -- different
23 angle, looking south. There's clay balls
24 there, as well as other debris landward of the
25 structure.



1 Q: Okay. So, let's move on to finding of fact
2 number 31. And ---

3 **THE COURT:** Is there any indication of the
4 inundation in any of these photos?

5 A: Yes, sir. You can see how the water -- if you
6 look at the actual sand substrate itself, it
7 appears as though there was water there. This
8 is where water had got- -- gotten around and
9 flanked the side of that structure and a little
10 bit landward of it. Additionally, on this --
11 don't know that that's the best drawing. Kind
12 of see the landward extent -- or the seaward
13 extent of that vegetation on that side.

14 Q: Okay. So, let's move on to finding of fact
15 number 31. That indicates that on December
16 19th, 2023, you had participated in a phone
17 conference with the representatives from the
18 City of Isle of Palms. Are you aware of Mr.
19 Reddy making a recent request of the City to
20 place sand at his site?

21 A: I was, yes.

22 Q: Okay. And can you tell the Court about that
23 conversation?

24 A: I can -- which finding is this? I'm sorry.

25 Q: I'm sorry, this is finding of fact number 31.



1 A: Okay. Yes, so we had a phone conference with
2 Isle of Palms representatives December 19th,
3 which would have been the day after the photos
4 we took. And during that -- during that call,
5 Douglas Kerr made me aware that Mr. Reddy had
6 reached out about placing sand at the site.
7 And my instruction was that the regulations
8 prohibited scraping of sand in front of an
9 erosion control structure, and that given the
10 non-beach compatible fill materials that were
11 still present after issuance of the notice to
12 comply, and the newly discovered unauthorized
13 erosion control structure, that we didn't see
14 anywhere at the site based off of the photos
15 that were taken where sand could really be
16 placed that wouldn't cover up the extent of
17 those unauthorized activities.

18 Q: And is that when -- when you make reference to
19 the regulations, is that what you're talking
20 about, the prohibiting covering erosion control
21 structure or the covering a violation?

22 A: Right, so that the scraping is prohibited, and,
23 yes, covering up a violation does not compel
24 compliance, or, in this instance, it wouldn't
25 allow the Department to further assess and



1 really understand the extent of the structure
2 that had been recently uncovered that was in
3 critical area.

4 Q: Were there other communications with -- either
5 with Mr. Reddy or with his counsel about why
6 the Department was not allowing placement of
7 sand at the site at that time?

8 A: Yes, there were email communications between
9 Department counsel and Reddy's counsel --
10 previous counsel that further explained the
11 Department's position.

12 Q: Okay.

13 **MR. CHURDAR:** Can you pull up 21, please? Joint
14 Exhibit.

15 Q: Okay, sorry. And are these communications,
16 some of the communications that you just
17 referenced?

18 **(Joint Exhibit Number 21 was referenced at this**
19 **time.)**

20 A: Yes.

21 Q: And can you tell the Court about these
22 communications?

23 A: Yes, it starts, I think, with an email on
24 December 23rd possibly, which is a few pages
25 down in this exhibit.



1 Q: Would it help to start at the bottom?

2 A: It would. Because that -- with the ---

3 Q: Okay.

4 A: --- communications that occurred.

5 **MS. DEBRUHL:** That's an attachment.

6 Q: You tell me where you'd like to start. Is that
7 -- at that page?

8 A: I think it was December 23rd. Let's go one
9 more. One more, please. One more, please.
10 Okay, yeah. So, here's -- December 20th, my
11 apologies, not -- not the 23rd. No, one more
12 up. I'm sorry. Okay. There's the December
13 21st, that's the date. This was an email reply
14 that Department counsel sent to Merritt Abney,
15 who was the counsel at -- for the Reddys at the
16 time. It discussed previous instructions
17 regarding beaches critical area at the site.
18 I need you to go back down to the next page,
19 please.

20 **MR. REDDY:** Can you clarify what exhibit this is?

21 **MS. DEBRUHL:** 21.

22 **MR. REDDY:** 41?

23 **MS. DEBRUHL:** 21.

24 **MR. CHURDAR:** 21.

25 **MR. REDDY:** 21.



1 A: So, it states that based on the Department's
2 inspection -- recent inspection, the Reddys
3 have recently constructed an erosion control
4 structure in violation of the Act and in
5 contravention to OCRM specific instructions
6 that were given to Mr. Reddy, his contractors
7 and other counsel at the time. It was
8 uncovered and revealed to OCRM by the high
9 tides of the recent storm. And this violation
10 is in addition to violations that Mr. Reddy had
11 already been cited for in the notice to comply
12 that was dated October 20th, 2023. And it
13 noted that instead of complying with the notice
14 to comply by removing the non-beach compatible
15 fill and other materials, an illegal erosion
16 control structure was constructed in this
17 location. OCRM directs Mr. Reddy to refrain
18 from placing sand which would cover up the
19 myriad of violations of the Act, including non-
20 compatible fill, artificial turf, the erosion
21 control structure and fencing. And it does not
22 appear from OCRM's recent inspection of this
23 area that there would be any place to put sand
24 that would not bury these non-beach compatible
25 materials which must be removed from the



1 beaches critical area. So, it essentially
2 informed Reddy's counsel of the same
3 information that I had already conveyed to the
4 City.

5 Q: Okay.

6 **MR. CHURDAR:** Janet, can you go to the January 12th,
7 2024, email that's Bates number 393 to 394?

8 A: Okay.

9 Q: And ---

10 A: This ---

11 Q: Go ahead.

12 A: One more up, please. It was the January 20- --
13 January 17th.

14 **MS. DEBRUHL:** Wait a minute. At the bottom of this
15 page, it's January 12th.

16 **MR. CHURDAR:** I'm sorry.

17 **MS. DEBRUHL:** Here's the email.

18 A: Go to -- I don't know ...

19 Q: Yeah, no, had you already spoken about the
20 January 12th email?

21 A: I -- it was Decem- -- no, I'm sorry. No, I
22 have not spoken about the January 12th email.

23 Q: Okay.

24 A: Is this it? Is this the full extent? Is this
25 where it starts?



1 Q: On 393 to 394.

2 A: Okay. So, that's January 12th, you'll see
3 there at the bottom of the page. I'm sorry,
4 that's where I was missing it. It's Dear
5 Merritt, this is in response to an email reply
6 from -- from Mr. Abney. We disagreed that the
7 erosion con- -- the unauthorized erosion
8 control structure was not constructed in -- in
9 beaches critical area, and reiterates that the
10 Reddys have continued to alter the critical
11 area under OCRM's jurisdiction by placing a
12 riprap revetment along and seaward of the
13 erosion control structure, which, together with
14 the structure, appears to be exacerbating
15 erosion of the surrounding properties. The
16 detriments of building erosion control
17 structures are clearly set forth in the Act.
18 And since no compliance has been reached and
19 has continued to alter the critical areas
20 without authorization, OCRM is referring this
21 matter to Enforcement. And then it reiterated
22 the previous direction that the -- yes for the
23 City's efforts as explained below, sand could
24 not be placed on top of the non-beach
25 compatible materials that have been deposited



1 in the beaches critical area. In addition, the
2 Reddys have now constructed the unauthorized
3 erosion control structure and riprap revetment
4 and placed dirt in the beaches critical area on
5 an active beach. We also were requesting
6 clarification on exactly where it was that the
7 Reddys were requesting to place sand, because,
8 as this email indicates, it appeared as
9 though -- it appears that the unauthorized
10 erosion control structure and revetment
11 material are mostly seaward of where the City
12 is placing sand.

13 Q: Okay.

14 A: So, the City would have been placing sand
15 landward, and the wall would have been further
16 seaward.

17 **MR. CHURDAR:** And then, Janet, can you please go to
18 392, and then, this is the January 17, 2024
19 email.

20 A: That's right. So, on January 17, 2024,
21 Department counsel informed the Reddys' counsel
22 at the time -- well, fir- -- they thanked --
23 the second paragraph here, thanked counsel for
24 clarifying that the Reddys did not plan to
25 place sand landward of the erosion control



1 structure. And then it goes on to state that
2 as for Mr. Reddy placing sand seaward of the
3 erosion control structure, Regulation 30-
4 13(0)(2) sets forth standard -- standards which
5 must be met. These conditions have been
6 incorporated into the permit issued to the City
7 of Isle of Palms for the minor beach
8 renourishment for this area. And that permit
9 was attached to that email. And it appears
10 that Mr. Reddy would not be able to meet at
11 least two of these conditions, given that he
12 has constructed an erosion control structure
13 and placed riprap that juts quite a bit seaward
14 from the adjacent properties. The conditions
15 of that minor renourishment permit that were --
16 that was mentioned is constructed dune shall
17 not be located seaward of the normal spring
18 high tide line, and that any constructed dune
19 shall be aligned to the greatest extent
20 possible with existing dune ridges, and shall
21 be of the same general configuration as
22 adjacent dunes.

23 Q: Okay. Let's go on to finding of fact number
24 37.

25 MR. CHURDAR: For that finding of fact -- and Janet,



1 Exhibit 120. Just be ready.

2 Q: Finding of fact 37 indicates that on January
3 7th, 2024 the Department staff were made aware
4 that unauthorized riprap was installed at the
5 base of the unauthorized erosion control
6 structure at the site. So, how specifically
7 was the Department made aware of this
8 unauthorized riprap?

9 A: The Department received an email that had
10 attached photos, or maybe the photos were
11 embedded in the email, I can't quite remember,
12 an email and photos.

13 Q: Okay. So, can you ---

14 **MR. CHURDAR:** Go to 240, please. And then 240, 243,
15 and 244.

16 Q: Are these some of the photos in the email that
17 the Department received?

18 **(Joint Exhibit Number 120 was referenced at this**
19 **time.)**

20 A: It is.

21 Q: Okay. Is there -- I think that they're self
22 evident, but if there is -- if there's anything
23 that you want to point out to the Court about
24 the riprap or the email, please do that.

25 A: I think this is the one that -- maybe the only



1 photo that we are -- set up photos that we have
2 showing the wall still upright with the rock
3 revetment placed. I think the next time
4 Jacques was out there, the wall was already
5 leaning.

6 Q: Okay.

7 **THE COURT:** So, that's the wall there?

8 A: Yes, sir, the wall is -- this is the wall. And
9 then these are some plywood extensions that had
10 been placed landward as kind of main wall
11 extensions, I guess. (Indicating)

12 **THE COURT:** Again, is there any indication of a
13 periodic inundation in those photos?

14 A: Yes, sir. So, it looks like the artificial
15 turf atop is still a little disheveled after
16 the December 17th nor'easter, those December 17
17 photos, you know, had all that debris landward
18 of the -- of the wall on the upland, scattered
19 almost all the way back to the house,
20 indicating that the water had -- had come over
21 that structure.

22 **THE COURT:** But that wouldn't be reflective of
23 periodic inundation, would it? A nor'easter?
24 I'm asking.

25 A: Yeah, I mean, it's inundated. So, I think it



1 would -- I think would be an indication of
2 inundation.

3 Q: All right. Let's move on to finding of fact
4 number 42.

5 **MR. CHURDAR:** Can you get Joint Exhibit 87?

6 Q: So, that finding of fact indicates that on
7 January 25th, 2024 the Department received
8 photographs depicting unauthorized work at the
9 site. And I'd like to show you some photos
10 marked as Joint Exhibit 87 and can you take
11 those line off? Thank you.

12 **(Joint Exhibit Number 87 was referenced at this**
13 **time.)**

14 Q: And let's look at Bates number 3032, so the
15 next one down. Okay. And -- and then just --
16 let me just go through and then go to 3034 and
17 just, and then 3035, and 3037. So, are these
18 the photos that the Department received on
19 January 25th, 2024?

20 A: They are.

21 **MR. CHURDAR:** Okay. Can you go back up, Janet, to
22 3032, please?

23 **MR. REDDY:** Your Honor, can they clarify who they
24 received the photos from?

25 **THE COURT:** You -- these are already admitted. So,



1 Mr. Reddy, I'll let you ask that on cross.

2 **MR. REDDY:** Okay.

3 Q: So ---

4 **THE COURT:** So, I can be clear and make sure my
5 ruling was correct. This is a joint exhibit?

6 **MR. CHURDAR:** Yes, sir.

7 **THE COURT:** Okay.

8 **MR. CHURDAR:** Yes, sir.

9 Q: And I can't remember, did I ask you if these
10 are the photos that you saw -- that you
11 received -- the Department received on January
12 25th, 2024? Did I just ask you that?

13 A: I don't -- I don't -- these are the photos that
14 the ---

15 Q: Okay.

16 A: --- Department received on January 25th prior
17 to Jacques' site inspection that he's already
18 detailed.

19 Q: Okay. And can you explain to the Court what
20 we're looking at in these photos? And just
21 when you're ready to go to the next one, just
22 tell Janet to go to 3034 and we'll go from
23 there.

24 A: Okay.

25 Q: So, what are we looking at here?



1 A: So, in the foreground, center of the photo, we
2 see that metal screw pile that was being --
3 those -- that's what was being installed in
4 critical area at the time. So, to the -- to
5 the left of the photo, you see the folks
6 walking, just to the right of them is this skid
7 steer. They're installing screw piles, and we
8 see a large piece of equipment on the top. And
9 then in the background here you see this
10 machinery, that's the City's contractor.

11 **OBJECTION:**

12 **MR. REDDY:** Your Honor, I'm going to object to all
13 of this as cumulative. They keep on going on
14 with the same thing over and over again. We're
15 happy to say, yeah, we did all this as a safety
16 issue to keep the wall from killing someone.
17 This was all covered in hours of testimony
18 yesterday. So, why is this just being repeated
19 over and over again?

20 **MR. CHURDAR:** Your Honor, I have gone through after
21 both Mr. Prevost and Mr. Slagel's testimony and
22 eliminated duplication. I mean, we -- we --
23 there were 68 I think findings of fact. We
24 have skipped a lot of them to avoid
25 duplication. So, this testimony is not



1 duplication.

2 **MR. REDDY:** We admit to it. So, why do you need to
3 keep duplicating and wasting the Court's time?
4 We -- yes, we straightened the wall. Yes, yes
5 and yes. So, can we end this drama here?

6 **THE COURT:** If he stipulates that these events
7 occurred, what are these exhibits offering
8 then?

9 **MR. CHURDAR:** I'm not -- I'm not sure what that
10 stipulation means. The burden's on the
11 Department to prove the case and it seems to me
12 that ---

13 **THE COURT:** Mr. Reddy, give me specifically your
14 stipulation.

15 **MR. REDDY:** I'm -- I am -- I am stipulating to the
16 fact that they have already covered this with
17 Matt and Jacques in excruciating detail that
18 the wall was straightened up and screws were
19 put in with a bobcat and an excavator, and we
20 admit to all that. Done. Admitted.

21 **THE COURT:** All right. So, clearly agree that --
22 well, he stipulated that occurred, so if you
23 could offer exhibits that offer something in
24 addition to that.

25 **MR. CHURDAR:** Well, the -- I mean, right before he



1 started to object, Ms. Flake was talking about,
2 at the same time that they are installing their
3 wall, the City is in that picture doing work
4 out on the beach, as well.

5 **THE COURT:** All right.

6 **MR. REDDY:** So, what do I care?

7 **MR. CHURDAR:** Well, I mean, we haven't gotten to her
8 testimony yet.

9 **THE COURT:** Well, I'll let you go into that. I
10 don't know how it's gonna be relevant, but I'll
11 wait to hear it.

12 Q: Okay. So -- so, if you would, please, go
13 ahead. What are we looking at here with 3032?

14 A: So, in the -- in the background, as I was
15 mentioning, there's a piece of machinery
16 working for the City that's installing a berm
17 that's for the permitted -- this is permitted
18 work for the protection of the property
19 landward.

20 Q: Okay. And then the next photo is 3034.

21 A: That provides a closer view of that piece of
22 machinery in the background and kind of the
23 extent of that berm in relation to the
24 unauthorized structure that we see this -- this
25 worker just landward of.



1 Q: Okay. And that heavy equipment in the
2 background is a close up -- more closer up of
3 the City of Isle of Palms ---

4 A: Right, their permitted work.

5 Q: Okay.

6 A: Their permitted work.

7 Q: Okay. And then in 3035?

8 A: That's just a closer up view of the screw pile.

9 Q: Okay. And 3037?

10 A: Indications of alteration and utilization of
11 critical area.

12 **MR. REDDY:** Your Honor, he's continuing ---
13 (Inaudible due to simultaneous speakers.)

14 **THE COURT:** Wait ---

15 **MR. REDDY:** --- to go on with this thing. I don't
16 understand what he doesn't understand about
17 what I just said.

18 **MR. CHURDAR:** Okay. We're moving on to the next
19 finding of fact.

20 Q: So, finding of fact 43, can you turn to finding
21 of fact 43 and please explain the email
22 communications from Department counsel to the
23 Reddys' counsel as detailed in that finding of
24 fact?

25 **(Joint Exhibit Number 195 was referenced at this**



1 time.)

2 A: Yes, this finding of fact states that after
3 Jacques -- Mr. Prevost's inspection, that was
4 on January 29th, which he's already gone over,
5 that Department counsel, Ms. Phelan, sent an
6 email to Mr. Abney and Mr. Smith informing them
7 of Mr. Prevost's findings and that contractors
8 continue to work with heavy equipment in the
9 critical area to install the metal screw piles.
10 Ms. Phelan additionally informed the Reddys'
11 legal counsel that Mr. Prevost was informed by
12 an on-site worker that they were instructed not
13 to talk to him. And I mean, basically, what
14 we're going with that is based on the kind of
15 level of uncooperativeness that we had had at
16 that point, we believed that that was ---

17 **OBJECTION:**

18 **MR. REDDY:** Your Honor, this is, again, third-party
19 high level of uncooperativeness. Did she speak
20 to them?

21 **MR. CHURDAR:** Your Honor, these are joint exhibits,
22 and --well, the ---

23 **THE COURT:** Well, she was commenting about the level
24 of uncooperation.

25 **MR. CHURDAR:** If we could look at Joint Exhibit



1 Number 125, we will see corroboration of what
2 she just testified to, that was laying the
3 foundation. So, if you can get to Joint
4 Exhibit 195, please.

5 **MR. CHURDAR:** And go to Bates number 24.

6 Q: So, Ms. Flake, I'd like to show you a series of
7 text messages between -- from ---

8 **MR. CHURDAR:** CNT 24. Can you -- go to the next one
9 and see if you can see it. Do you see it?

10 **MS. DEBRUHL:** 27.

11 **MR. CHURDAR:** Just a second, Your Honor. Just a
12 second, Your Honor.

13 **THE COURT:** Mr. Churdar, do we need to take a break?

14 **MS. MILTON:** If we could, Your Honor, just five
15 minutes.

16 **THE COURT:** All right. Let's take a five-minute
17 break so we can expedite this when we come
18 back.

19 **MR. CHURDAR:** Yes.

20 **(Off the record from 3:19 p.m. until 3:27 p.m.)**

21 **THE COURT:** All right. Mr. Churdar.

22 **MR. CHURDAR:** All right.

23 Q: So, Ms. Flake, I'd like to show you a series of
24 texts that have been marked as Joint Exhibit
25 number 195. Can you pull up number -- Bates



1 number 24, please? What are we looking at
2 here?

3 **(Joint Exhibit Number 195 was referenced at this**
4 **time.)**

5 A: These are text messages between Mr. Reddy and
6 his contractor, Travis Betson.

7 Q: Okay. And ---

8 **OBJECTION:**

9 **MR. REDDY:** Your Honor, I hate to do this, but we're
10 going to object again.

11 **THE COURT:** Okay.

12 **MR. REDDY:** This is once again we testified this
13 morning that we were told by our attorneys to
14 make sure that any issues, since it was in a
15 judicial issue, was communicated from that.
16 They keep on with the same thing. Charlie is
17 the attorney for CNT. Merritt Abney's my
18 attorney. So, they -- they both said they want
19 communications from you. We covered all that
20 this morning. So wh- -- so, why we keep
21 beating this dead horse?

22 **MR. CHURDAR:** Your Honor, these -- these texts were
23 used as -- as a basis for calculating the
24 penalty. One of the -- one of the factors that
25 Ms. Flake will talk about is -- is hiding



1 things, and how that factors in. And then
2 these texts have not been before the Court
3 prior to this.

4 **PROPOSED STIPULATION BY MR. REDDY:**

5 **MR. REDDY:** I didn't hide anything that she's
6 talking about. Matter of fact, I'm not going
7 to contest the penalty. They can have whatever
8 penalty they want. They have no jurisdiction
9 on my property. And that's the issue here. I
10 don't care about the penalty. So, I won't even
11 -- we can even skip the penalty. Say, I'm
12 going to admit whatever penalty they have and
13 skip over it.

14 **THE COURT:** Well, now, Mr. Reddy, you've got to
15 understand, potentially, this Court could find
16 that they have jurisdiction, but then lower the
17 penalty. If ---

18 **MR. REDDY:** You know, Your Honor ---

19 **THE COURT:** So, what you're saying is if I ---

20 **MR. REDDY:** If this Court ---

21 **THE COURT:** --- if I was -- I could look at some of
22 the actions that have occurred and say, okay,
23 Mr. Reddy, I find that there -- that it was in
24 the beach, but the -- in this situation, the
25 penalty should be substantially lower. So, I



1 want -- you do recognize what you're saying
2 here?

3 **MR. REDDY:** Can I answer this, Your Honor? The
4 reason I'm here -- I've never been in a
5 courtroom. The reason I'm here -- the reason
6 I'm here today, sitting in this chair my entire
7 week here, and you've been very kind to me to
8 accommodate my lack of knowledge, but the
9 reason I'm here is very simple, not to get into
10 some little pit match with these people about
11 how they calculate penalties. I am here to
12 protect property rights. What they are here
13 testifying is that they have unlimited
14 jurisdiction, and I am in their way. And that
15 is the fight I want to fight. I don't care
16 about their penalty.

17 **MR. CHURDAR:** Your Honor, that -- we're here to
18 prove our case as to why we issued the
19 Administrative Order. The burden is on us and
20 -- and ---

21 **THE COURT:** Well, he just said, you know -- I've
22 heard evidence that would make me think that
23 maybe the penalty should be reduced from some
24 of the evidence I've heard. But Mr. Reddy can
25 do whatever he wishes. And if he wishes to



1 stipulate that -- that if this Court determines
2 that -- that the Department was proper in its
3 determination of the beaches -- the critical
4 jurisdiction that it can regulate, that he'll
5 pay the penalty. If that's what he wishes to
6 do, then -- then that will -- this evidence
7 doesn't need to be presented.

8 **MR. CHURDAR:** It seems -- it seems to me that this -
9 - there's ---

10 **THE COURT:** He said he'll pay the penalty. You
11 don't -- you want to present evidence on
12 somebody that has agreed to pay the penalty?

13 **MR. REDDY:** This is -- this is a matter of
14 principle.

15 **THE COURT:** I understand what you're saying.

16 **MR. REDDY:** Yeah.

17 **THE COURT:** Do you want to talk to him?

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

19 **THE COURT:** Okay. Well, let's hold on a second
20 before I make my final ruling on it.

21 **MR. REDDY:** Your Honor, I have declined to listen to
22 my co-counsel.

23 **THE COURT:** All right.

24 **MR. REDDY:** Meaning my wife.

25 **THE COURT:** Oh, okay. I don't know if that was



1 wise.

2 **MR. REDDY:** That's the only co-counsel that I -- you
3 know, that I'm afraid of, so.

4 **THE COURT:** Okay.

5 **MR. CHURDAR:** I'm sorry; I was -- if you were
6 looking to me, I was talking to Ms. Phelan and
7 I did not ---

8 **THE COURT:** Well, Mr. Reddy ---

9 **MR. CHURDAR:** --- I heard consult with co-counsel.

10 **THE COURT:** He said he -- one second. So, you're
11 sticking with your stipulation?

12 **MR. REDDY:** Go for the penalty. Gonna throw the
13 ball into the end zone.

14 **THE COURT:** Okay.

15 **MR. CHURDAR:** Your Honor, I mean, this is -- this is
16 a de novo review, as you well know.

17 **THE COURT:** Yeah.

18 **MR. CHURDAR:** And the Court in order to make a
19 determination as to the amount of the penalty,
20 I believe, needs to hear the testimony of Ms.
21 Flake.

22 **THE COURT:** The Department issued a penalty for
23 sanctions of 200 and how much -- 89 thousand
24 dollars.

25 **MR. CHURDAR:** Yes, sir.



1 **THE COURT:** That's what you are seeking today, I
2 assume. He's stipulated that if this Court
3 finds that there was jurisdiction for which --
4 to allow the Department to take the actions
5 that it has taken, that he will pay that
6 penalty. I mean, I don't get why -- you know
7 what, last time I told him, you've won. The
8 only thing you can do is screw it up. Hey,
9 what else do you want? Do you want more than
10 you were asking for? Is what -- or ---

11 **MR. REDDY:** Your Honor ---

12 **THE COURT:** Honestly, like I said, the case isn't
13 over with 'cause I hadn't heard all her
14 testimony, based on what I heard, I was
15 declined to go -- or inclined to go lower. So,
16 I'm just not sure why ---

17 **MR. CHURDAR:** Well ---

18 **THE COURT:** --- it would be relevant at this point,
19 if you're get- -- if he's agreeing to pay what
20 you're seeking for -- the sanction you're
21 seeking.

22 **MR. CHURDAR:** Your Honor, we would need to talk to
23 our client before we could ---

24 **THE COURT:** Your client?

25 (Inaudible due to simultaneous speakers.)



1 **MR. CHURDAR:** Those that are here. I mean, rather
2 than just making a decision without even
3 talking to them.

4 **MR. REDDY:** Your Honor, I do not understand this.
5 They are asking ---

6 **THE COURT:** One second.

7 **MR. REDDY:** --- for 289 ---

8 **THE COURT:** I don't -- I don't understand it either.

9 **MR. REDDY:** Okay. Thank you.

10 **THE COURT:** But I want to take a short break and let
11 them talk to their client.

12 **MR. REDDY:** Okay. Who is their client again? We
13 need to know who their client is. Maybe it's
14 a hidden deep state.

15 **MR. CHURDAR:** Your Honor, before you leave, could
16 that include Ms. Flake in our conversation
17 since she's the section manager?

18 **MS. PHELAN:** Just on that ---

19 **THE COURT:** You cannot speak to her about any of the
20 testimony that she is about to present, but you
21 can -- you can discuss with her as your client.

22 **MR. CHURDAR:** Okay. Thank you.

23 (Off the record from 3:35 p.m. until 3:48 p.m.)

24 **THE COURT:** All right. Mr. Churdar.

25 **MR. CHURDAR:** I mean, Your Honor, this is -- this is



1 certainly not something that I foresaw. There
2 are -- there are certainly issues that I would
3 like to have talked longer about and so I'm not
4 quite sure what to say. I mean, there is --
5 there is -- within the testimony that Ms. Flake
6 has made, Your Honor has to make evaluations of
7 witness credibility, and that goes beyond the
8 penalty, and I believe that that is relevant to
9 the Court's decision. I mean, this is -- there
10 are things that -- issues whether or not the
11 water is hitting the wall.

12 **THE COURT:** I mean, if the issue now is -- boils
13 down to jurisdiction, that's it, what does
14 credibility have to do with -- with that? You
15 want to explain that to me, I'll be glad to
16 hear it, but I don't understand how the -- what
17 -- because you're saying Mr. Reddy's
18 credibility could be the only credibility I
19 think you could be discussing.

20 **MR. CHURDAR:** Right. I mean, he ---

21 **THE COURT:** When and if he takes the stand.

22 **MR. CHURDAR:** Well, I -- I -- I'm assuming that he
23 is based on the witness list, so.

24 **THE COURT:** And so how is your desire to present
25 evidence regarding the penalty phase have --



1 have to do with whether he is a credible
2 witness or not?

3 **MS. PHELAN:** I think -- I think that some of these
4 texts -- these texts show that are different
5 than what he would testify to, and also I ---

6 **THE COURT:** Testify ---

7 **MS. PHELAN:** --- I'm concerned.

8 **THE COURT:** One second. Testify to regarding the
9 penalty or the jurisdiction?

10 **MS. PHELAN:** The jurisdiction.

11 **THE COURT:** I will let you go into texts regarding
12 the issue of jurisdiction. So, I -- when he
13 stipulated to paying the penalty, and,
14 therefore, said that this was irrelevant, it
15 would be -- the testimony would be regarding
16 the proper penalty to impose would, therefore,
17 become irrelevant, because that would no longer
18 be an issue, because he's agreed to pay the
19 penalty for which you seek.

20 **MS. PHELAN:** Does he -- is he agreeing to limit his
21 testimony only to the jurisdictional issue?

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

23 **MR. REDDY:** Let me put it this way, Your Honor, just
24 for clarity, I have no idea what they're
25 talking about. Maybe their client is not very



1 clear what the client is saying. I am my own
2 client. So, let me first clarify a couple of
3 things, because I maybe jokingly said something
4 for the record, co-counsel. I have no co-
5 counsel of official record.

6 **THE COURT:** I know. I understand that.

7 **MR. REDDY:** I jokingly said that referring to my
8 wife.

9 **THE COURT:** Well, she is a party in this case.

10 **MR. REDDY:** She is. So, and just for -- and just
11 for clarity, mine is a conditional stipulation.
12 The Court finds jurisdiction, I am saying I'll
13 take the penalty. What is so complicated that
14 they have to have a complicated discussion with
15 the client? Who the client is. But -- so my
16 -- my only -- my only issue is this. I am not
17 going to testify about anything to do with
18 their penalty, nor do I care. I am going to
19 testify about their ability to have unlimited
20 jurisdiction, by what has been demonstrated by
21 the two days of their testimony, even they
22 don't know what they're talking about. So,
23 that's what I'll testify to. I am not going to
24 testify about how they calculated their
25 penalty. I also, of course, reserve the right



1 to testify, like I said earlier, about the fact
2 that they are treating me differently and -- in
3 how they administered jurisdiction in the past
4 versus how they're administering it now.
5 That's -- that's my testimony. I have no
6 interest in going and duking it up with numbers
7 with them.

8 **THE COURT:** Well, there is one thing that just
9 dawned on me that I failed to do, and that is,
10 there's two parties, in this case, Rom Reddy
11 and Renee Reddy. So ---

12 **MR. REDDY:** May I address that?

13 **THE COURT:** Yeah.

14 **MR. REDDY:** This is -- this is another attempt to
15 harass us, because ---

16 **THE COURT:** No, I was going to ask her if she agrees
17 to what is occurring ---

18 **MR. REDDY:** No, let me finish, Your Honor.

19 **THE COURT:** Oh, okay.

20 **MR. REDDY:** She is not -- she is not named on the
21 property. So, they have no -- she has no
22 standing. They just kept including her,
23 because that's another way of harassment and
24 another way for them to talk to the fake news
25 media, not that gentleman, but other people,



1 about how bad we were. She's not on the
2 property deed. She's not an owner of the
3 property. What standing do they have to make
4 her a party to the case, other than the fact
5 that she's married to, according to them, a
6 really bad person?

7 **THE COURT:** All right. I still have to hear from
8 her.

9 **MRS. REDDY:** Your Honor, May I?

10 **THE COURT:** Yeah, 'cause you could be heard
11 regarding standing also. Go ahead.

12 **MRS. REDDY:** I know we have -- Your Honor, we have
13 requested numerous times to remove me from the
14 case.

15 **THE COURT:** Okay.

16 **MS. REDDY:** I do not have any standing. My name is
17 not on the deed. It's never been on the deed.
18 I don't make financial decisions or any
19 decisions regarding the actual property of our
20 home.

21 **THE COURT:** Okay. So, you don't -- you agree with
22 the positions -- well, I guess you're saying --
23 -

24 **MS. REDDY:** I don't have any standing.

25 **THE COURT:** Okay. All right. Thank you.



1 **MR. REDDY:** She'll agree after a bottle of wine,
2 Your Honor.

3 **THE COURT:** Okay.

4 **MS. PHELAN:** Your Honor, I think the bottom line is
5 we've just been thrown a big curve ball and I'm
6 not sure we're comfortable making this without
7 ---

8 **THE COURT:** I used to ---

9 **MS. PHELAN:** --- being able to research what the
10 repercussions are on appeal, not having the
11 record for appeal.

12 **THE COURT:** That's part of being a trial lawyer. I
13 mean, I used to try cases on all over this
14 state for the -- as a prosecutor, and I had
15 many a time where I got the stipulation curve
16 ball thrown at me. So, it's not like I don't
17 know what y'all are going through, but he --
18 he's done it and I have to make my ruling. And
19 the ruling that I see, at least at this point,
20 I've heard nothing to convince me otherwise, is
21 that since he has stipulated to this, that I
22 will hear testimony regarding -- from here on
23 out, regarding the Department's jurisdiction.

24 **MS. PHELAN:** Okay, Your Honor, just a clarification,
25 and de novo review, you do not have authority



1 to -- to decide the amount of the penalty?

2 **THE COURT:** I do. Yeah.

3 **MS. PHELAN:** So, you've made a ruling on the amount
4 of the penalty?

5 **THE COURT:** No, I've made a ruling that you -- you
6 were seeking a certain penalty, and not
7 anymore. I mean, I guess, conceivably, I could
8 go higher than that, but at least from the --
9 that is an interesting argument. So, tell me,
10 are y'all going to make the argument that I
11 should go higher?

12 **MS. PHELAN:** We will ---

13 **THE COURT:** You were discussing that you're
14 representing your client, and I, as a judge,
15 have told you, at least, from what I've heard
16 so far, the case has not concluded, that I
17 would be inclined certainly not to go with what
18 you're requesting, but ---

19 **MS. PHELAN:** That's what -- I guess, Ms. Flake was
20 going to address a lot of the issues about the
21 penalty calculation and how -- how it -- you
22 know, how she comes up with the penalty
23 calculation, how that compares to other penalty
24 calculations, and so she hasn't had the
25 opportunity to do that yet.



1 **MR. REDDY:** Your Honor, can I comment on this? You
2 told me yesterday, I had one -- just keep quiet
3 until I lose it.

4 **THE COURT:** Yeah.

5 **MR. REDDY:** You gave them the same advice. Could
6 you recommend they take it?

7 **THE COURT:** Well, if they don't take your
8 stipulation, they can ---

9 **MR. REDDY:** They have downside. I mean, you could -
10 - you could reduce it ---

11 **THE COURT:** Yeah.

12 **MR. REDDY:** --- by whatever, you know. It's --
13 these are not good business people, and they
14 want to make decision how much of my land they
15 can take.

16 **THE COURT:** I'm going to take a short break. But
17 Mr. Reddy, I'm actually inclined to let them go
18 forward on the penalty and let them roll the
19 dice. So, let me just take a short break. I
20 want to make the ruling on the law now. Okay.

21 **(Off the record from 3:58 p.m. until 4:02 p.m.)**

22 **THE COURT:** Mr. Reddy, my ruling is going to be that
23 I do hear the case de novo, and I'm not sure
24 enough to make a ruling on this at this point
25 in time. I don't care to create an appellate



1 issue. But -- so, regarding whether I exercise
2 my proper authority in hearing the case de
3 novo. So ---

4 **MR. REDDY:** Can I still stipulate that -- can we say
5 it's duplicative for them to keep going over
6 this thing about communication?

7 **THE COURT:** Anything that you think is cumulative
8 evidence ---

9 **MR. REDDY:** Yes.

10 **THE COURT:** --- I will hear your objection on. But
11 -- and so that you'll be clear for yourself,
12 I'm declining to accept your stipulation. All
13 right. Proceed, Mr. Churdar. Mr. Churdar,
14 this issue's over with, so ---

15 **MR. CHURDAR:** I'm sorry?

16 **THE COURT:** This issue's over with, so, proceed.

17 **MR. CHURDAR:** All right.

18 **MS. FLAKE - DIRECT EXAMINATION BY MR. CHURDAR**

19 **CONTINUED:**

20 Q: I'd like to show you a series of text messages
21 in Exhibit 195.

22 **(Joint Exhibit Number 195 was referenced at this**
23 **time.)**

24 Q: We have before us Bates number CNT 024 and what
25 -- what -- what is this and how does that



1 factor into your assessment of penalty?

2 A: These are texts between Mr. Reddy and Travis
3 Betson, his contractor. I mentioned earlier,
4 the degree of uncooperativeness, I think these
5 texts that we're going to go through
6 demonstrate the degree of uncooperativeness and
7 kind of deceptiveness that the Department was
8 continuing ---

9 **OBJECTION:**

10 **MR. CHURDAR:** Again, Your Honor, same objection.
11 She's -- she's testifying to degree of
12 uncooperativeness. What is that?

13 **THE COURT:** Any response?

14 **MR. CHURDAR:** Well, I believe she's -- she's
15 testifying, but maybe I should -- should ask
16 her.

17 Q: Please make sure they don't talk to anyone on
18 the beach. I assume that's probably what she's
19 talking about. But go ahead, Ms. Flake.

20 A: Degree of uncooperative- ---

21 **THE COURT:** Mr. Churdar, do you have any rules or
22 policy that uncooperativeness -- uncooper- --
23 uncooper- ---

24 **MR. CHURDAR:** Lack of cooperation?

25 **THE COURT:** Lack of cooperation is a measure of how



1 you consider the proper penalty?

2 **MR. CHURDAR:** Your Honor, there are -- there are ---

3 **THE COURT:** You can just answer the question.

4 **MR. CHURDAR:** --- a couple of documents that the
5 Department uses for having a uniform penalty
6 calculation.

7 **THE COURT:** Okay.

8 **MR. CHURDAR:** So, that would be it.

9 **THE COURT:** Mr. Reddy, I overrule your objection at
10 this time.

11 **MR. REDDY:** Rules are overwhelming, Your Honor.

12 A: On Friday, January, 26, 2024 ---

13 **MR. CHURDAR:** Can you go -- go to 24 -- are you at
14 24?

15 **MS. DEBRUHL:** Yes.

16 Q: Okay. Go ahead.

17 A: The text block in the center of the screen, Mr.
18 Reddy stated, "Travis, I don't know if u are
19 with the crew. Otherwise, given the OCRM cease
20 and desist order, please make sure they don't
21 talk to anyone on the beach and if anyone from
22 OCRМ shows up, ask them to notify you, and pl
23 call me."

24 Q: Okay. Okay. And then can you go to Bates
25 number 30, that's the eighth page in the



1 series? And what is -- what is going on here?
2 What is this text about?

3 A: This is a text message from Mr. Reddy to Travis
4 Betson on January 31st, 2024, says, "If u are
5 at my house Paul sent me a picture of what
6 looks like Jimmy Carroll ex mayor who hates us
7 taking a bunch of pics which will be at OCRM in
8 a few minutes. He is the one who sent the pics
9 for the last cease and desist. So, hopefully
10 ur guys don't have too much" stuff "on the
11 beach and we will hear back. I think we have"
12 -- a second -- second test -- text reads, "I
13 think we have too much equipment on the beach.
14 We are pushing our luck with the city at this
15 point. Based on pic Paul sent."

16 Q: Okay.

17 A: Paul, I believe will be Paul Jorgensen, which
18 is the neighbor to the south.

19 Q: And then Bates number 32?

20 A: This is a text on January 31st, 2024 from Mr.
21 Reddy to Travis Betson stating, "OCRM is going
22 to have someone inspect what we are doing
23 tomorrow. So, best to keep any materials, etc
24 on or inside wall. People working is fine.
25 Merritt does not think a piece of equipment



1 like a skid steer is an issue either." And
2 then at 9:12 that same -- 9:12 p.m. that same
3 day, text states, "Travis, ur guys probably
4 need to call it a day. There's a noise
5 ordinance that goes into place, and the cops
6 will show up here." And the next line is, "Not
7 worth the battle at this point." That's on the
8 next page.

9 Q: Okay. And then -- then the February -- Bates
10 number 34 in there, what's going on there?

11 A: The text block at the top of this page on
12 February 2nd, 2024, Mr. Reddy is telling Travis
13 Betson, "OCRM including their attorney are
14 going to be here walking the beach from 10 to
15 2, and they want to fly a drone over the entire
16 beach. It is high tide anyway so let's keep
17 the beach side clear if we can."

18 Q: Okay. And then going to finding of fact 45,
19 that indicates that on January 31st, 2024, the
20 Department received multiple reports of
21 information that work was continuing at the
22 site. And were there pictures taken of the
23 work that was being done?

24 **(Joint Exhibit Number 88 was referenced at this**
25 **time.)**



1 A: There were and they were provided.

2 Q: And 3047, okay. Yeah, were these the photos
3 that were provided that were associated with
4 the work being done that day?

5 MR. CHURDAR: Scroll through to 48, 49 and 50, so
6 she can see those.

7 MS. DEBRUHL: 48?

8 MR. CHURDAR: Yeah, 48, 49, and 50.

9 A: Yes.

10 Q: Okay. And does the Department have any other
11 photos of work being done on January 31st,
12 2024?

13 A: Yes.

14 Q: Okay. Can you go to Joint Exhibit 141?

15 **(Joint Exhibit Number 141 was referenced at this**
16 **time.)**

17 Q: Is this the photo that you were referring to?

18 A: It is.

19 Q: If you would, tell the Court what's going on
20 with -- well, there's five photos actually in
21 this series, and whether this work or these
22 materials are in the beaches critical area?

23 A: Starting with this image, this shows the
24 original erosion control structure, just
25 landward of that, we see wooden forms; we see



1 metal grid rebar being installed, and workers
2 to -- there to install that. And, yes, this
3 was taking place in beaches critical area.

4 Q: Okay. All right. Going on to finding of fact
5 number 47, that indicates that on February 2nd
6 you conducted a site visit. And did you take
7 photographs at that site visit?

8 A: I did.

9 Q: Okay.

10 **MR. CHURDAR:** Go to 140- -- Joint Exhibit 143.

11 **(Joint Exhibit Number 143 was referenced at this**
12 **time.)**

13 **MR. CHURDAR:** And, Janet, if you could scroll down.

14 Q: So, Ms. Flake, look, it says 18248, and then go
15 to 249, and then 262, then 263, and 266. So,
16 let's go through -- could you please tell us --
17 -

18 **MR. CHURDAR:** Going back, Janet, to 18248.

19 Q: Can you please tell the Court what we're
20 looking at in these pictures?

21 A: These -- the excavated areas moving landward
22 from that erosion control structure. Oh my
23 goodness. So, this area here, those metal
24 screw piles were not previously observed.
25 Jacques was there the -- Mr. Prevost was there



1 the previous day, he -- as he previously
2 testified, placed cease and desists on site.
3 Those had been removed by the time I got to the
4 site on this day. There was -- these piles
5 were visible that were not visible in his prior
6 site inspection or any other site inspection.
7 We can -- we can move forward.

8 **MR. CHURDAR:** Go forward to 249.

9 A: I don't know that there's much extra here, from
10 what Mr. Prevost previously testified to other
11 than the barriers, the construction barriers,
12 in an attempt to keep people out, were not
13 present in this area or in this area.

14 Q: Okay. Next photo then. Morgan, is that right
15 -- or Ms. Flake? You ready to go on to the
16 next photo?

17 A: We can go on.

18 Q: Okay. So, that would be 18262.

19 A: These are pits on the -- pits and install screw
20 piles on the south side, as well.

21 Q: Okay. Then 263.

22 A: And this is -- appears to be freshly poured
23 concrete with the metal rebar sticking up that
24 Jacques previously identified landward of the
25 existing erosion control structure.



1 Q: And 18266.

2 A: And this is a photo similar to something
3 Jacques previously testified to with the ---

4 **OBJECTION:**

5 **MR. REDDY:** Your Honor, continue to say it's all
6 duplicative. Like, what is the point that he's
7 trying to make? He's going -- he's gone over
8 this 100 times. We get it. What does he want
9 us to stipulate to? That there was a wall. We
10 put the wall up. It's like -- I want to get to
11 a witness. They got ten witnesses; I got one.
12 I don't think I'm going to get to my one.

13 **THE COURT:** Mr. Churdar, I've seen this. Is there
14 anything ---

15 **MR. CHURDAR:** Well, we have done, Your Honor, our
16 best to call out -- overlap both pictures, as
17 well as testimony. I mean, there's -- there's
18 been ---

19 **THE COURT:** Mr. Reddy's objecting that you have not
20 sufficiently done so, saying that it's
21 cumulative.

22 Q: Just that -- Let me back up with -- with these
23 photos right here, Ms. Flake. Do these photos
24 that you have seen in Exhibit 1- -- Joint
25 Exhibit 143 demonstrate periodic inundation.



1 A: So, an- -- I'm sorry.

2 **THE COURT:** You moved on to a new question. So, go
3 ahead.

4 Q: Yes, I believe so.

5 **OBJECTION:**

6 **MR. REDDY:** Speculation, Your Honor. What is the
7 basis for her believing it? She sees water,
8 she thinks it's periodic?

9 **THE COURT:** Well, you -- he objected to the basis of
10 her testimony.

11 **MR. CHURDAR:** Your Honor, I'll withdraw that
12 question. That's fine.

13 So, Janet, if you could go to Joint Exhibit
14 144.

15 **(Joint Exhibit Number 144 was referenced at this**
16 **time.)**

17 Q: Just I'd like to go just briefly over finding
18 of fact 48 that indicates that on February 3rd,
19 2024 the Department received notice of the
20 contractors working on the site. Go to 46.
21 And can you please tell the Court the details
22 of that notice -- notification, how you got
23 that?

24 A: Yes, this is the February 3rd, 2024 email from
25 a citizen stating that, yesterday, which would



1 have been February 2nd, 2024, Mr. Reddy
2 appeared to stop work. All the equipment with
3 the exception of one large excavator were
4 pulled off the beach. However, last night,
5 they were back at it. And this morning saw
6 four concrete trucks.

7 **OBJECTION:**

8 **MR. REDDY:** Objection, Your Honor, speculation again.
9 This guy's in court for slander, along with
10 Jimmy Carroll, their favorite friends.

11 **THE COURT:** Well, this is an exhibit that's a joint
12 exhibit that's in evidence.

13 **MR. REDDY:** What is the basis for that? There's no
14 basis. It's -- it's some third party guy who's
15 -- who's -- being sued for slander, saying
16 there were trucks lined up all night in court.
17 He has not been able to substantiate this at
18 all. They're claiming that this is -- this is
19 some sort of fact.

20 **THE COURT:** Well, they can publish an exhibit that's
21 in evidence.

22 **MR. REDDY:** Okay.

23 **THE COURT:** So, I'll let them do that.

24 Q: And, Ms. Flake, maybe for the ---

25 **THE COURT:** You can -- you can argue the weight that



1 should be given this exhibit later on.

2 **MR. REDDY:** Okay.

3 Q: Ms. Flake, did you get through reading that
4 email. Did you complete that?

5 A: I did not complete reading that email.

6 Q: Okay. Go ahead, please.

7 A: This means at a minimum ten trucks or 100 cubic
8 yards of concrete and rebar have been placed on
9 the active beach thus far, and he is not done.

10 Q: Is it a part of your standard practice in
11 Enforcement and Compliance to receive the
12 complaints of third parties?

13 A: Yes. We -- we get anywhere between 200 and 300
14 complaints a year that we respond to.

15 Q: Okay. And what is notable in this email for
16 purposes of the Department's consideration in
17 penalty calculation?

18 A: Well, I was on the site February 2nd, and only
19 saw the one large excavator. So, that seems
20 like an accurate statement. I mean, that's
21 what I observed the previous day on February
22 2nd. It notes that work was being done at
23 night, which I think speaks to the egregious
24 nature and the deceptiveness that the
25 Department considered in the penalty



1 calculation.

2 **OBJECTION:**

3 **MR. REDDY:** Objection, again, Your Honor. I don't
4 know what she's talking about. This is --
5 we've already talked about this. The -- what
6 is the nature she's talking about? This is all
7 speculation on her part.

8 **THE COURT:** Well, she -- she's published an exhibit
9 it says, last night, although I do recognize,
10 sir, that this is a statement by a party who's
11 not a -- who, apparently, is not on a witness
12 list and is not going to be testifying, is that
13 correct?

14 **MR. REDDY:** Correct.

15 **THE COURT:** Is that ---

16 **MR. CHURDAR:** I'm sorry?

17 **THE COURT:** This is a statement by someone who's not
18 going to offer any testimony into this ---

19 **MR. CHURDAR:** That's -- that's correct. I mean,
20 this is -- the purpose of this is for -- just
21 for what she considered in ---

22 **THE COURT:** And also, apparently, the purpose of
23 what she considered, and what I would consider
24 de novo.

25 **MR. CHURDAR:** Yes, sir. No insult intended ---



1 **THE COURT:** Okay.

2 **MR. CHURDAR:** --- to the Court.

3 Q: So, let's go on to finding of fact 49, that
4 refers to photographs taken by the City on
5 February 5th, 2024.

6 **MR. CHURDAR:** And can you go to Joint Exhibit 145?
7 20588, yes, okay. 20588, and then scroll down
8 to 20589.

9 **(Joint Exhibit Number 145 was referenced at this**
10 **time.)**

11 Q: And do you recognize these photos, Ms. Flake?

12 A: I do.

13 Q: Okay. And can you tell the Court what we're
14 looking at? And go back to 2588, please. 205.
15 Yeah, thank you.

16 A: This -- these are photos of the Reddys'
17 property that was taken on May 5th, 2024, by
18 the City that show a new original escarpment
19 landward of the original erosion control
20 structure, the rebar that was previously
21 observed with concrete underneath it is now
22 covered with sand, indicating that tidal and
23 wave action had reached around and behind the
24 structure. This is also the first photo, I
25 believe, we've seen, or any awareness of the



1 steel mending plates also being on the landward
2 side of the structure. I don't know
3 necessarily how those work, so maybe I should
4 have assumed when I saw them on the face that
5 they were on the landward side, but I didn't,
6 and this was the first confirmation that those
7 were also on the landward side.

8 Q: Do you have any other photos showing that tidal
9 water is flanking the erosion control
10 structure? Attached to text messages?

11 A: I believe so, yes.

12 Q: I'd like to ---

13 **MR. CHURDAR:** Pull up 195, please. Can you go to
14 42?

15 Q: Look at 42, 44 -- 42 and 44. Okay.

16 **MR. REDDY:** Your Honor, I'd like to go back to
17 Exhibit 145, she said it's May. Is that what
18 you said? I'm not -- it's not clear. We can't
19 see it here. The previous exhibit, Joint
20 Exhibit 145.

21 **THE COURT:** I think that will be -- do you wish to
22 object?

23 **MR. REDDY:** No, I'm just trying to get a
24 clarification. I'm a little behind on what she
25 was talking about.



1 **THE COURT:** Okay.

2 **MR. CHURDAR:** Joint Exhibit 195 and then ---

3 **MR. REDDY:** No, sorry 145. Weren't you talking
4 about that one before?

5 **THE COURT:** Mr. Churdar?

6 **MR. CHURDAR:** Let me see. Yes, yes, I was -- I was.

7 **MR. REDDY:** Is that the one you were talking about?
8 145?

9 **MR. CHURDAR:** With regard to finding of fact 49,
10 yes.

11 **MR. REDDY:** Can you repeat your comment? I didn't
12 -- I'm sorry, I got distracted by what was
13 going on.

14 **THE COURT:** I know that's unusual, but can you
15 repeat your testimony?

16 A: I don't ---

17 **MR. REDDY:** On 145.

18 A: I don't know what is 145?

19 **MR. CHURDAR:** Can you go back to ---

20 A: I don't know exactly what I'm supposed to be --
21 -

22 **THE COURT:** How far back are we going?

23 **MR. REDDY:** Just two slides, one slide.

24 **THE COURT:** All right. Now, what do you wish to
25 know? I'll tell you what, I'll let you ask



1 questions about that slide in cross.

2 **MR. REDDY:** No, no, I'm just trying to get the date.

3 I wasn't sure.

4 **THE COURT:** Oh, okay.

5 **MR. REDDY:** Just clarification of the date. I

6 thought you said May.

7 **MR. CHURDAR:** February 5th.

8 **MR. REDDY:** February. Okay. Thank you. That's all

9 I was asking.

10 **THE COURT:** All right. Very good.

11 **MR. CHURDAR:** Okay. Now, can you go back to 195?

12 I'm sorry. 42 and 44.

13 **(Joint Exhibit Number 195 was referenced at this**
14 **time.)**

15 Q: Now, are these -- is this -- is the text
16 message and photos that you -- that you were
17 talking -- well, you haven't -- actually, you
18 haven't talked about -- I think I'd asked you
19 had you -- do you have any other photos showing
20 that tidal water is flanking the erosion
21 control structure.

22 A: And I said yes.

23 Q: Okay. Okay. And so looking at these photos in
24 Exhibit 195 in this text message, is this what
25 you were talking about?



1 A: It is.

2 Q: Okay. Now, let's go to finding of fact number
3 50. That refers to photographs that were
4 provided to the Department on February 7th,
5 2024, and this is Joint Exhibit 144.

6 **(Joint Exhibit Number 144 was referenced at this**
7 **time.)**

8 **THE COURT:** Yes, I'm sorry.

9 Q: And look at Bates number 43.

10 **MR. CHURDAR:** Can you move it down two notches to
11 43? And then to 44. Apparently, that doesn't
12 -- excuse me, 45.

13 Q: Okay. Do you recognize these photos?

14 A: I do.

15 Q: Okay. And can you tell the Court what we're
16 looking at?

17 **MR. CHURDAR:** Can you go back to 40- -- the first
18 one at 43, please?

19 A: So, this image is depicting the erosion control
20 structure at the site with what appears to be
21 wooden forms constructed landward of it, and
22 then support pieces on the top, I assume. But
23 it -- this is where concrete appeared to be
24 slated to be poured from this photo.

25 Q: Okay. And then the next one, 45? Anything



1 different?

2 A: This photo is taken a little further away, so
3 you can actually see the hose that I believe
4 would be dispensing concrete into that -- into
5 that void.

6 Q: Okay. Let's go on to finding of fact 52, that
7 refers to the Department's February 9th
8 petition for injunctive relief and motion for
9 temporary restraining order and preliminary
10 injunction. And that is for you to look at if
11 you want to, Joint Exhibit number 1. If you
12 could just tell the Court, what were the
13 concerns that was expressed in the petition and
14 the motion that support finding of fact number
15 52?

16 A: Well, there was -- there were a number of
17 concerns in that petition and motion. But I
18 think what I'd reiterate here is that from the
19 very -- very beginning, as documented in that
20 -- in those filings, the Department's concerned
21 about beach access and public safety, and also
22 the potential for this structure to cause
23 negative impacts to nearby properties. And in
24 communications with a nearby property owner, we
25 have -- it has been communicated to us that



1 there are concerns about the structure and the
2 potential for impacting their property.

3 Q: Okay. Let's go on to finding of fact number
4 61, that refers to the Reddys' March 29th, 2024
5 Circuit Court Summons and Complaint regarding
6 the Department's assertion of jurisdiction in
7 the beaches critical area and if --
8 specifically, they alleged in the Complaint
9 that in October 2023 they installed an inward
10 facing retaining wall behind the dunes, setback
11 lines and critical -- critical areas. So, is
12 there any other evidence that ---

13 **OBJECTION:**

14 **MR. REDDY:** We did not -- we did not. I object,
15 Your Honor. I don't know what he's talking
16 about.

17 **MR. CHURDAR:** That -- Your Honor, that is -- that is
18 one of the pleadings, one of the pleadings in
19 the Summons and Complaint that the Reddys filed
20 in Circuit Court.

21 **MR. REDDY:** You're assuming facts. We did not say
22 anything about beaches critical area.

23 **MR. CHURDAR:** I'm quoting directly from it, from
24 that Summons and Complaint, and my question --
25 my question, where that ties in ---



1 **THE COURT:** Let's hit the relevancy of it.

2 **MR. CHURDAR:** That's what I was getting at, is with
3 her.

4 Q: Is there other evidence that addresses the
5 installation of the first wall at the site?

6 A: Yes, there is. I reviewed text messages and
7 photos that actually detail that the initial
8 wall, the original erosion control structure,
9 was built between October 18th and 20th, 2023.

10 Q: Okay. And I'd like to show you Joint Exhibit
11 20- -- excuse me, 205. And Bates number is 228
12 A through D. Are these -- are these the text
13 messages?

14 **(Joint Exhibit Number 205 was referenced at this**
15 **time.)**

16 **MR. CHURDAR:** Just scroll through, if you would
17 please, Janet, A through D.

18 A: Yes.

19 Q: These are the text messages you're referring
20 to?

21 A: Yes.

22 Q: And who is Jose?

23 A: Jose Cruz is the owner of Zorro Concrete, who
24 is the contractor that installed the initial
25 erosion control structure.



1 Q: And tell me how these text messages between
2 Jose and Mr. Reddy relate to finding of fact
3 number 61, please.

4 A: Well, they -- they confirm the Reddy statement
5 that they installed the wall in October 2023.

6 Q: Okay.

7 **THE COURT:** Is that -- that's not an issue anymore,
8 is it? They installed the wall. When did they
9 installed the wall?

10 **MR. CHURDAR:** The date of when the first wall was
11 installed. I don't know the specific time
12 frame has been ---

13 **THE COURT:** Okay.

14 **MR. CHURDAR:** --- been brought up.

15 **THE COURT:** Okay.

16 **MR. REDDY:** Can we stipulate to that, Your Honor?
17 We installed the first wall in October 20th,
18 '23. We agreed to everything they said. Can
19 we just move on to jurisdiction? We don't have
20 any problem with the wall. We don't have any
21 problem with reinforcement. We don't have any
22 problem with all the stuff that's been covered
23 by Matt and Jacques. So, why are we beating
24 this dead horse? He's not said one new thing,
25 even though he's been reprimanded about three



1 times about it.

2 **OBJECTION:**

3 **MR. CHURDAR:** I would object to that mischaracterization
4 I've been reprimanded. Your Honor -- Your Honor,
5 this -- this would be something that would go
6 directly to periodic inundation, which I believe Mr.
7 Reddy will be testifying to tomorrow.

8 **THE COURT:** All right. Proceed.

9 **MR. CHURDAR:** Okay.

10 Q: And if you could look at -- look at ---

11 A: I don't ---

12 Q: Is it -- I'm sorry, had you -- had you provided
13 all the testimony about those text messages, or
14 was there something?

15 A: No, I had not. I can't see that there was a
16 series of text messages. If we could go back
17 to I believe it started with A. So, these text
18 messages are setting up a meeting at the end of
19 that, October 11th. "When do you expect to
20 have ur estimate for 118?" The follow-up was
21 Jose provided dimensions that, of course,
22 they're consistent with the original structure
23 that's there on October 13. So, a few days
24 before the first wall went in, Mr. Reddy sent
25 a text message to Jose that said, "Jose looking



1 at the tides, we need to schedule the trench to
2 start around 8 am Thursday and try to be done
3 by 1 pm. Concrete at 8 am Friday and be done
4 by noon. Both those times are near high tides,
5 which is the best time. I will be back Tuesday
6 and can give you a check. Better for me to
7 make check out to you directly as my company
8 will be the contractor hiring you." Mr. Reddy
9 also directed Jose to -- I'll just read it.
10 "Let's also cover the ditch with a tarp after
11 u are done Wednesday." On October 17th, Mr.
12 Reddy was confirming the eight -- October 18 on
13 site day. And then on October 18, that
14 morning, Mr. Reddy said, "Jose please tell your
15 people to pull their trucks into the driveway."
16 So, confirming that Jose was on site that day.

17 **THE COURT:** And Mr. Churdar, how does this help
18 prove anything that I need to decide?

19 **MR. CHURDAR:** Well, Your Honor, if ---

20 **THE COURT:** I mean, all this about checking in to --
21 -

22 **MR. CHURDAR:** Oh, Your Honor, if -- I mean, when Mr.
23 Reddy testifies, and I'm assuming that he will,
24 this evidence is -- is part of the -- the --
25 the process of building the wall in an area --



1 in beaches critical area whether it's periodic
2 inundation. I mean -- I mean, if you ask me,
3 doe the -- does the ----

4 **THE COURT:** I don't see anything in here about
5 periodic inundation of those. We've already --
6 we've already clearly built the wall.

7 **MR. CHURDAR:** I'll move on, Your Honor.

8 **THE COURT:** All right.

9 Q: Ms. Flake, let's move on to finding of fact
10 number 63 and that refers to the notice of
11 alleged violation letter that was issued by the
12 Department, and that's in Exhibit 10, is that
13 the NOAV/AL that was referenced in Exhibit 63?

14 **(Joint Exhibit Number 10 was referenced at this**
15 **time.)**

16 A: Yes, it is.

17 Q: Okay. And what is the purpose of issuing an
18 NOAV/AL?

19 A: So, notice ---

20 Q: I'm sorry ---

21 A: A notice of alleged violation and admission
22 letter details the findings of fact, the
23 chronology of the site that have led to the
24 point where the Department is asserting a
25 violation through this admission letter and



1 document, and it details the extent of the
2 violations being asserted. And it sets -- sets
3 up an enforcement conference, which is an
4 informal meeting between the Department and
5 responsible party to discuss the document.

6 Q: Okay. And then in finding of fact number 67,
7 that refers to Ethan Ware's June 7th, 2024,
8 response to the NOAV/AL, and my question is,
9 was his response sufficient to resolve the
10 issues in the NOAV/AL?

11 A: No, it did not resolve the Department's
12 concerns. And, in accordance with the
13 regulations, specifically 30-8(F), if the
14 response to a notice of alleged violation --
15 well, if the response to an admission letter
16 does not resolve the Department's concerns, the
17 Department shall issue an Enforcement Order.

18 Q: Okay.

19 A: And that's where we are.

20 Q: Okay. And now we get to the penalty
21 calculation part and I'd like to ask you, we
22 all know that the page 27 of the Administrative
23 Order indicates a penalty of \$289,000, and can
24 you please tell the Court what guidance
25 documents the Department uses when calculating



1 penalties?

2 A: The Department has -- BCM specifically has a
3 uniform enforcement policy and a civil penalty
4 assessment guideline document.

5 Q: And did you use those documents in calculating
6 the penalty in this case?

7 A: I did. I also used the statute.

8 Q: Okay. And has the Department ever issued a
9 penalty that is higher than the \$289,000
10 penalty?

11 A: Yes.

12 Q: And what enforcement action was that?

13 A: That was Wild Dunes Ocean Club Villas
14 Horizontal Property Regime, and that's a
15 another site on the Isle of Palms.

16 Q: Okay. And what happened with Ocean Club?

17 A: Ocean Club constructed and buried an erosion
18 control structure in the Department's
19 jurisdiction.

20 Q: Okay. And what was the fine -- the amount of
21 the fine in the Ocean Club case?

22 A: That penalty was \$749,000 with a continuing
23 \$1,000 per day until resolution of the
24 violation.

25 Q: Did the penalty calculation in the Reddys' fine



1 include a continuing \$1,000 a day penalty
2 passed issuance of the AO?

3 A: It did not.

4 Q: And why is that?

5 A: It should have to be consistent with how the
6 Wild Dunes' penalty was set forth by inclusion
7 of that -- an additional \$1,000 per day as a
8 term in that Administrative Order. This
9 penalty should have also been assessed in that
10 capacity, and not including it was an oversight
11 on my part.

12 Q: And if the Department had included a continuing
13 \$1,000 a day penalty in this case, what would
14 the penalty amount be as of today?

15 A: It would be close to \$600,000.

16 Q: Okay. And why was the Ocean Club penalty so
17 high?

18 A: Ocean Club had worked with the Department in
19 the past for permits, authorizations. They had
20 a heightened awareness of the Department's
21 jurisdiction, and they made a decision to move
22 forward in -- in contravention to that
23 jurisdiction.

24 Q: Okay. And what -- let's turn now to the
25 Department's calculation of the \$289,000



1 penalty here in the present action. First of
2 all, what is the purpose of assessing
3 penalties?

4 A: It's the -- one of the main purposes of
5 assessing penalties is to provide a -- to act
6 as a penalty and be a deterrent for future non-
7 compliance.

8 Q: Okay. And what is the purpose of the two
9 guidance documents that you referred to
10 earlier?

11 A: They pro- -- they provide a uniform criteria
12 for the Department to -- to use in the
13 proceeding of an enforcement action and in
14 assessing the penalty and it's to be fair and
15 consistent for similar violations.

16 Q: And what factors did you consider in applying
17 -- in considering applying coming up with
18 \$289,000 in penalty here?

19 A: In this case, it was the overall egregiousness
20 of this -- this action, the actions undertaken
21 by the Reddys. In this instance, we had
22 provided clear guidance and advice on the
23 Department's jurisdiction in this area. We
24 provided authorization to the Reddys to protect
25 their property using soft solutions. During



1 the time that that authorization was active,
2 they chose not to avail themselves of that
3 option, and they installed non-beach compatible
4 materials and the initial unauthorized -- the
5 initial erosion control structure. Once that
6 was discovered, instead of removing that, they
7 proceeded to build a second structure. Cease
8 and desists were issued. Three cease and
9 desists were issued. We filed the motion for
10 temporary restraining order and petition for
11 injunctive relief. To my knowledge and my
12 experience, this is the most egregious action
13 that I've seen as the -- in the Compliance and
14 Enforcement section.

15 **OBJECTION:**

16 **MR. REDDY:** Objection, Your Honor.

17 **THE COURT:** What grounds?

18 **MR. REDDY:** She says it's the most egregious
19 violation she's seen, based on what?

20 **THE COURT:** You can cross her on that.

21 **MR. REDDY:** Okay.

22 A: The Department, to my knowledge, and in my
23 experience, has not had to issue three cease
24 and desists before in the effort to get someone
25 to stop doing work -- unauthorized work,



1 unauthorized alteration utilization of the
2 critical area. This is also the first time the
3 Department, at least for a Compliance and
4 Enforcement action that I'm aware of, has felt
5 so compelled to seek injunctive relief and
6 request a temporary restraining order. The
7 environmental impacts of this activity are
8 significant. We're talking about the original
9 structure being at least two feet wide by 92
10 feet long, with wing walls. We're talking
11 about the second structure, based on the design
12 specifications for that -- that wall, a base of
13 at least seven -- seven feet landward for the
14 shore parallel portion of that structure. And
15 then we've got wing walls associated with that,
16 as well. And we know that that wall's also a
17 little bit longer than the original one. So,
18 we're talking about an overall combined
19 footprint of nine feet wide by close to 100
20 feet wide. And in the ten years that I've been
21 with the -- with BCM in Compliance and
22 Enforcement, we are conducting almost 1,000 --
23 around 1,000 compliance inspections a year.
24 So, in ten years, that's nearly 10,000
25 inspections. So, that's -- you know, while we



1 can't be everywhere all the time, we -- we do
2 a lot of evaluations in critical area, and are
3 addressing violations as a result of that. And
4 this is just the most egregious disregard for
5 the Department's assertion of jurisdiction that
6 I've seen. And so, I mean, for those reasons,
7 it was determined that the maximum penalty of
8 \$1,000 per day was appropriate. If -- if -- if
9 we don't have a meaningful penalty associated
10 with these actions, and just given the numbers
11 I just mentioned with how many inspections that
12 we're doing a year, the amount of work that's
13 conducted in critical area, I think that the
14 cumulative impacts of other people thinking
15 that they can ignore Department -- Department
16 directives and the authority in critical area
17 and -- and continue to impact that critical
18 area could lead to astronomical critical area
19 impacts that negatively impact -- affect all of
20 South Carolina, all of the citizens, all the
21 visitors to the State.

22 Q: Thank you. That's all the questions I have for
23 you.

24 **MR. REDDY:** Your Honor, I've never, ever seen this
25 snatch defeat from the jaws of victory. You



1 gave them 290,000, they said they didn't want
2 it.

3 **MS. FLAKE - CROSS-EXAMINATION BY MR. REDDY:**

4 Q: So, let's start over there and work backwards.
5 Made that somewhat noble speech at the end.
6 Think they're all very impressed by it, that
7 you had 1,000 complaints you investigated, and
8 this was the most egregious. And then you
9 quoted Wild Dunes as to how the penalty and
10 wall is. Let's start with that mess. How many
11 penalties have you issued for building a wall
12 landward of the setback line, I don't know,
13 say, the last 25 years?

14 A: I -- I don't know that answer.

15 Q: You don't know.

16 A: For the last 25 years, no, sir.

17 Q: So, were you coached by them to come here and
18 give all this narrative?

19 **OBJECTION:**

20 **MR. CHURDAR:** Your Honor, that's -- that is invading
21 attorney-client privilege.

22 **THE COURT:** That's -- that's almost a standard
23 question that I hear.

24 **MR. CHURDAR:** I thought ---

25 **THE COURT:** Were you coached?



1 **MR. CHURDAR:** --- that he was pointing to me. Maybe
2 I misunderstood.

3 **THE COURT:** Okay.

4 **Q:** No, I'm saying, were you coached by the deep
5 state over there?

6 **A:** No, sir, I'm speaking as the Manager of the
7 Compliance and Enforcement Section.

8 **Q:** Okay. So, your testimony is you came here in
9 this Court and voluntarily testified as the
10 Manager of the compliance section that you have
11 seen the most egregious -- you made this speech
12 at the end, most egregious violation, yet you
13 are unable to tell this Court one incident in
14 the last 25 years? Normally, I would say five
15 years, three years, two years. I'll give you
16 25 years, that you had a penalty that you
17 issued landward of the setback line for erosion
18 control structure. You're not able to say
19 that?

20 **A:** I believe what I stated was, in my experience,
21 in the past ten years that I've been with the
22 Department, this was the most egregious ---

23 **Q:** Okay.

24 **A:** --- I've seen.

25 **Q:** Okay. In the last ten years that you've been



1 with the Department, let's not go 25, gave you
2 some more leeway, you don't want that either.
3 So, in the last ten years, have you ever issued
4 a penalty of any kind landward of the setback
5 line for erosion control structure?

6 A: No, sir. I don't believe so.

7 Q: Okay, good. The second thing you said is how
8 kind you were to me, which I appreciate, by the
9 way, seem like a nice person, about the fact
10 that Ocean Club that you issued \$700,000 in
11 penalties. Was the Ocean Club penalty not --
12 was it landward of the setback line?

13 A: The structure that was built by Wild Dunes
14 Ocean Club was not landward of the setback
15 line, no.

16 Q: Thank you. So, that's not a comparable
17 penalty. Would you also say, as this continued
18 story, that these folks built against a
19 citizen, would you tell the Court how many
20 units exist in Ocean Club?

21 A: I don't know.

22 Q: 102.

23 **OBJECTION:**

24 **MR. CHURDAR:** Objection, Your Honor.

25 **MR. REDDY:** Judge ---



1 **MR. CHURDAR:** He can testify when he's on the
2 witness stand.

3 **MR. REDDY:** Well, I asked her, she said she didn't
4 know, so.

5 **THE COURT:** Well, I think he switched up -- did you
6 switch up and ask if it was 102?

7 **MR. REDDY:** Yes.

8 **THE COURT:** Okay.

9 Q: Is it 102? 100? Any number you know, roughly?

10 A: I don't know, it's villas. I don't know ---

11 Q: More than 20?

12 A: --- exactly how many units are in those villas.

13 Q: Okay. But -- but there are lots of units?

14 A: Okay.

15 Q: Okay. No, I'm asking you, there are lots of
16 units?

17 A: I ---

18 Q: Ocean Club is not a residence, right? It's a
19 commercial building?

20 A: It's a -- it's a villa. I assume it's a --
21 some sort of condominium, yeah.

22 Q: Okay, good, good. So -- so, that's -- that's
23 -- that's the question for the penalties. Now,
24 were you involved in the Hilton Head Island
25 penalty? Were you involved in that



1 calculation?

2 A: No, sir.

3 Q: Did you check that penalty when you issued my
4 penalty?

5 A: No, sir.

6 Q: I mean, as a comparable penalty, because, to my
7 knowledge, there was a penalty there, I think,
8 but you never checked it?

9 A: That's a Bureau of Water enforcement action,
10 so, no, I didn't check that for ---

11 (Inaudible due to simultaneous speakers.)

12 Q: So, your Department is issuing penalties for
13 what?

14 A: I'm sorry, can you restate that?

15 Q: Your -- your section, that you're the manager
16 for, what penalties do you issue?

17 A: Civil ---

18 Q: I mean ---

19 A: Civil penalties.

20 Q: --- what penalties did you issue to me? I
21 mean, what -- what -- under what -- like, I
22 don't know, y'all have so many departments, so,
23 what is the penalty that was applied to me?
24 How would you categorize that penalty?

25 A: As a civil penalty.



1 Q: For?

2 A: Unauthorized utilization and alteration of
3 critical area.

4 Q: So, since that, was that same category of
5 penalty, to your knowledge, you said it was a
6 Bureau of Water or something, was that same
7 category of penalty you applied to me, was it
8 applied to the five owners at Hilton Head?

9 A: I was not an -- BCM has their own civil penalty
10 guidelines and uniform enforcement policy, so,
11 that would have -- I don't take into
12 consideration Bureau of Water's penalty
13 calculations.

14 Q: I'm sorry; I'm not asking the question right.
15 I've never been in a courtroom, so, just be
16 patient with me. Whatever category of penalty
17 you applied to me, and I really don't know all
18 the categories y'all have, you went through a
19 long litany of them, did you apply that same
20 category, that same -- whatever you applied to
21 me, let's call it a BCM penalty you applied to
22 me, was that same type of penalty applied to
23 Hilton Head, the five homeowners of Hilton
24 Head, or not?

25 A: I do not believe that the Bureau of Water would



1 have used a -- utilized the BCM penalty
2 assessment guidelines or the uniform
3 enforcement policy, but I don't know. I wasn't
4 involved in that calculation.

5 Q: Okay. So, I'm just trying to get an idea for
6 where the lines are drawn. You started off
7 your pre- -- your presentation, where you
8 actually went back to 2019. I think 2019. And
9 you put up some Google Maps, if you want, I can
10 put them up again, or if whatever I'm saying is
11 not clear, I'll put them up again. So, my
12 question to you is, you went through an
13 elaborate moving of the dunes or whatever that
14 you talked about, what -- what exactly were you
15 alleging with that? Because I'm not -- it
16 wasn't clear to me, because I thought we were
17 talking about periodic inundation. Are you
18 saying whatever we did inside our fenced yard
19 was -- the landscaping we did, was periodic
20 inundation?

21 A: No, sir.

22 Q: Was that area, to the best of your knowledge,
23 in 2019 or, frankly, anytime prior to Idalia,
24 the area you were talking about -- well, let's
25 take '23 out of it, because they've gone



1 through a lot of stuff in '23. Prior to 2023,
2 was that area, to your knowledge, recognizing
3 you've only been there ten years, so you don't
4 have to talk about the time you might not be
5 aware of it, to your knowledge, was that area
6 ever periodically inundated?

7 A: In the past ten years?

8 Q: Yeah.

9 A: I think it's been -- yes, it's been
10 periodically inundated ---

11 Q: The area we're talking about, inside the yard?

12 A: Oh, inside the yard?

13 Q: Yeah, yeah. You know, the yellow squares and
14 stuff you were showing on the Google Maps.
15 Would you be more comfortable if you put it
16 back up?

17 A: Maybe.

18 Q: Okay. Can we go back ---

19 A: The point of those exhibits was just to show
20 that established dune vegetation was removed
21 from the site, which made the site more
22 vulnerable to tidal and wave action. So, that
23 was ---

24 Q: And your idea of established dune vegetation is
25 what? It was not a dune, you know that, right?



1 Are you saying it was a dune inside my --
2 inside my yard? I couldn't have put a fence on
3 top of a dune, they wouldn't allow it.

4 A: It appeared in aerials that there was a dune
5 field seaward of landscaped area that was there
6 in 20- ---

7 Q: I can pull up ---

8 A: --- -17 ---

9 Q: --- a picture ---

10 A: --- to the beginning of 2019.

11 Q: Okay. So, you're not aware of any periodic
12 inundation that you know of? You're saying
13 that when the ren- -- there was a renovation,
14 right, y'all -- I think y'all reference a
15 renovation, or whatever that we did in 2019 to
16 that house, when we redid the yard, we moved
17 some -- some stuff around inside our yard, and
18 you were putting it down there, really not to
19 have anything to do with their case of periodic
20 inundation?

21 A: Finding of fact 3, which detailed those
22 aerials, was -- was not to speak to periodic
23 inundation during that time frame.

24 Q: Thank you. So, then I want to go -- I'm trying
25 -- I'm trying to go in the in the order you



1 went, so we don't confuse you and me.

2 **THE COURT:** Exhibit 25 is up.

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

4 **THE COURT:** Did you want to discuss that exhibit?

5 **MR. REDDY:** Yeah, no, she just testified that that
6 was not periodic inundation. It was, you know,
7 just moving around of the -- what she -- what
8 she said was dunes, what -- there were no
9 dunes, of course, inside the fence. But
10 whatever it was, it was just regrading the
11 yard.

12 Q: Do you know -- again, I want to keep your
13 knowledge, ten-year time frame, do you ever
14 know that if we were ever cited for some of the
15 things y'all are saying we shouldn't have done,
16 were we ever cited for you shouldn't have moved
17 dirt inside your yard landward of the setback
18 line?

19 A: Not by BCM, no, sir.

20 Q: Okay. Do you know that prior to Idalia --
21 because, you know, we've spent two days on
22 Idalia, and I do really want to get to my
23 witnesses tomorrow. Do you know that if prior
24 to Idalia, which under testimony, was August
25 30th of 2023, have -- to your knowledge, again,



1 I'm not asking you to speak for the Department,
2 have we ever been issued a citation for
3 anything ever?

4 A: Yes.

5 Q: Would you elaborate?

6 A: I believe in '21 there was a notice to comply
7 sent regarding sand fencing being installed
8 improperly.

9 Q: You are correct. My gosh, you got a great
10 memory. Yeah, you're exactly right, because we
11 had a 12-foot sand fence and it didn't comply
12 because supposed to be ten feet. You're right.
13 You're right about that. Yeah, we got -- we
14 got too big a sand fence. A lot of rules.
15 Okay. So, you testified earlier under his
16 questioning that there was a -- and y'all went
17 through an elaborate thing with Jose and all
18 that, you know, which we've already said we
19 agree with, stipulated to, which is, there was
20 that retaining wall. Are you saying -- it
21 wasn't clear to me whether you were saying in
22 your testimony that prior -- prior -- again,
23 I'm just going to go to Idalia because that's
24 -- that's what we spent two days on. I don't
25 want to relitigate it with you. Prior to



1 Idalia on August 30th, are you saying that you
2 are aware or not aware of any inundation that
3 ever came up to the area that Jacques claimed
4 was critical area?

5 A: I believe yesterday there were -- and today
6 there were some photos from May and June of
7 2023 that showed an erosional escarpment.

8 Q: I know. That's not -- that's not my question.
9 My question is, have -- have there ever been
10 any claims made to us that there was periodic
11 inundation, and, therefore, that's critical
12 area prior to Idalia?

13 A: I'm not sure of every claim the Department may
14 have made to you.

15 Q: Any letters, any things that you're aware of?
16 Did you look at it when you were calculating
17 your penalties to say, you know, like, I'm
18 sure, Honorable Judge here, someone shows up as
19 a repeat offender, is going to say, oh, repeat
20 offender, shew, fact. So, I'm just saying the
21 35-year prior history of that, or maybe let's
22 just stick with the time you've been there,
23 your ten-year prior history, has anyone ever
24 cited us for anything or said we didn't comply
25 with other -- sand fencing is right. We had



1 sand fencing that's two feet too big. But to
2 your knowledge, again.

3 A: Has anyone ever cited you for anything?

4 Q: Yeah, to do with, you know, DHEC or BCM or
5 OCRM.

6 A: Other than the 2021 citation that we already
7 discussed ---

8 Q: Yeah.

9 A: --- up until this issue that Compliance and
10 Enforcement was looped in on in September of
11 2023, no, not to my knowledge, any other
12 citation.

13 Q: I would like to get up that exhibit, if y'all
14 can, with -- I think it was January whatever,
15 you know, with the sand. Yeah, that one. This
16 picture, joint number ---

17 **MRS. REDDY:** 70.

18 Q: --- Joint Exhibit number 70. See it?

19 **(Joint Exhibit Number 70 was referenced at this**
20 **time.)**

21 A: I do.

22 Q: And the date on it if you look there, it's the
23 3rd of January at 7:57 a.m., do you see that?

24 A: I do.

25 Q: With your pen, can you identify maybe the



1 northern boundary of my yard?

2 A: I think it's probably somewhere in here
3 (indicating).

4 Q: Yeah, the palm tree, it's pretty close. Yeah,
5 it's a little bit towards the wall, but that's
6 fine. And all of this sand that you see is
7 what?

8 A: Sand that has been placed to protect the
9 structures landward of it.

10 Q: By?

11 A: I believe the City.

12 Q: The City. So, you accurately drew -- it's
13 actually slightly to the left of the palm tree,
14 but it's close enough for this purpose, you
15 accurately drew that. You see this gap between
16 the line you drew and that sand (indicating)?

17 A: I do.

18 Q: And there's a similar gap on the other side.
19 Are you aware of that? Because that was
20 discussed with you by the City at one point?
21 Or do you need me to pull up a picture?

22 A: I don't remember if that was directly discussed
23 with me, but I do recall a conversation where
24 the City reached out about that.

25 Q: Yes. They reached out to say, we are saying



1 -- on this thing, my question to you is, if
2 this is the limit of my wall, significantly
3 landward of this one with a big gap in here, on
4 what basis would your -- pardon me, BCM, DHEC,
5 I don't know who makes these decisions, deny me
6 the ability to bring sand myself at my own
7 expense? You testified earlier, I believe, that
8 scraping sand under the statute is not allowed.
9 And I believe you're correct. I'm not gonna
10 contest that. Under what statute would you say
11 a homeowner asking to bring in, in an emergency
12 like this, beach compatible sand approved by
13 the Department, this January 5th picture
14 clearly seems to show, as you testified, right,
15 that the sand to my neighbor here significantly
16 seaward of me, significant gap funneling the
17 water, just literally seems to be fun- -- like
18 a funnel. If you look at it, you see the
19 funnel between the line you drew and her
20 property? So, when I asked for sand that I
21 offered to pay, I don't know what it would have
22 been, probably a lot of money, why was it
23 denied and under what statute? I've got the
24 statute here, so, if you want me to pull it up,
25 I will.



1 A: Sir, I think we went over this a little bit
2 earlier with the emails that was sent from our
3 counsel to your counsel at the time. This wall
4 had been recently exposed. The Department had
5 no idea that it was previously there prior to
6 December 18, 2023. We were assessing how best
7 to handle this situation. As you can see,
8 seaward of the structure, there appears to be
9 clay debris, which we spoke to in our
10 correspondence, where we stated that it didn't
11 appear as though there was anywhere sand could
12 be brought in that wouldn't cover up the extent
13 of non-beach compatible fills and the newly
14 constructed wall. Later, when we ---

15 Q: Sorry.

16 A: --- later, when we coordinated with the City to
17 fill this gap such that there wasn't any sort
18 of void, the City actually agreed to remove the
19 riprap, the rock, the clay debris that we
20 believe originated from your site, from in
21 front of those adjacent properties, so that
22 they could place sand.

23 Q: Is it your testimony that after a nor'easter
24 that pretty much had actually more of a force
25 than Idalia, is it your testimony that the



1 repair work that was done with sand scraping
2 all across the beach north of me and south of
3 me, y'all would not scrape a single piece of
4 sand as -- if there was any type of debris on
5 the beach, is that your testimony?

6 A: No, sir. We don't conduct the scraping. We
7 authorize the scraping, and the municipality
8 and their contractors complete the scraping.
9 I don't ---

10 Q: Did you instruct them ---

11 A: --- know the extent ---

12 Q: You said, if you see -- all of the docks, well,
13 got washed out, almost every dock, right? You
14 saw that destruction happen after nor'easter.
15 So, you saw the dock, and the dock got washed
16 out, the wood, stuff all over the place,
17 debris. The gentleman before you testified,
18 granite from somewhere, maybe it was someone's
19 sink, I don't know, all over the place, and it
20 is your testimony today that you instructed the
21 City to say, if you see a little piece of
22 debris there, you will not scrape sand? Is
23 that -- is that what you're saying?

24 A: No, I instructed them not to scrape seaward of
25 the structure because it's prohibited by the



1 regulations.

2 Q: That I agree with, that's granted.

3 A: Okay.

4 Q: I'm asking a different question. I agree with
5 that, by the way, for reasons that were
6 discussed in previous testimony. Obviously,
7 it's an emergency scraping ---

8 A: Uh-huh.

9 Q: --- and you want to protect the properties that
10 are not already protected. I get that. But
11 when someone says, I can -- I'm willing to pay
12 to bring in sand myself, because I'm going to
13 come to the ECS that you talked about earlier,
14 I'm worried about that ECS not being water
15 facing, the objection was to, I believe that
16 you put up some email, one, no way, because any
17 sand is gonna be seaward of whatever. That
18 doesn't seem to be the case. There was earlier
19 testimony from Jacques, who previously
20 testified that water was being funneled into
21 the wall, and all kinds of stuff was happening.
22 I'm asking you, there's the funnel. And the
23 third question I'm asking you, are you -- is it
24 your testimony now that perhaps even if you got
25 past the gap that you eventually got past, and



1 even if you saw that sand and neighbors'
2 properties were significantly seaward, you
3 denied me sand to protect that whole structure
4 because there was some little debris on the
5 beach, and that same standard was used for
6 everyone on the beach?

7 A: No, sir. The Department had previously
8 informed you that that area was beaches
9 critical area and that any work done in that
10 area required a permit.

11 Q: Excuse me, what ---

12 A: Which you did not obtain and you installed the
13 structure in a location where we had already
14 told you to remove other non-beach compatible
15 materials.

16 Q: Excuse me, you're not ---

17 A: So, it was an unauthorized ---

18 Q: You're not ---

19 A: --- structure.

20 Q: --- you're not answering my question here. My
21 question is very simple. My question is, all
22 of these people have sand. There is a funnel
23 left on either side to funnel water in. I saw
24 this, and I requested sand be brought in, and
25 it was denied. I'm trying to understand if it



1 ties to the statute to bring in new sand. And
2 I have the statute here, I want to pull up the
3 statute and it says, like you correctly
4 testified, scraping of sand is not allowed in
5 an emergency because it's an emergency. I have
6 gone through this statute. I'm asking you if
7 you have gone through this statute, and you can
8 say that I used the statute to deny you
9 bringing in sand, or I saw a couple of pieces
10 of rock and decided I'm going to use my
11 judgment and say, by gosh, I am not going to
12 allow sand on any debris, because sand has to
13 go on a perfectly clear beach? That would be
14 a judgment you make. And I'm asking you if
15 that's a judgment you make, or a judgment these
16 unelected folks make, or how y'all make those
17 judgment when it's no connection to the law?
18 Isn't that lawlessness in a way?

19 **THE COURT:** If you could answer the question about
20 the depositing the sand first. I see a lot of
21 sand deposited on the house right next door.
22 I think I saw from some of your other pictures
23 that there was debris in front of that
24 structure, but it sounded like you said
25 earlier, and I'm not -- that's what I want to



1 be clear on, that you didn't deposit it. Y'all
2 did not allow any deposit of sand because of
3 those -- the debris that was on the -- in the
4 sand.

5 A: Well, I was noting that that debris remained,
6 and it had already been instructed to Mr. Reddy
7 to remove it.

8 **THE COURT:** Was that the reason why you didn't
9 deposit the sand there?

10 A: Not just the clay balls, it was all of it. We
11 had already instructed ---

12 **THE COURT:** So, just tell me what all of it is.

13 A: So, prior to the storm, we didn't know that
14 that wall existed. So, we had instructed, via
15 the notice to comply, to remove the non-beach
16 compatible fill materials that we knew was
17 there, that we compared to that September 1
18 data indicating that 1,255 square feet of non-
19 beach compatible fill. So, this wall was
20 constructed within that area where we had
21 already told them to remove the non-beach
22 compatible fill materials. So, to have brought
23 sand in and cover up, in any capacity, these
24 materials that had already been instructed to
25 the Reddys to remove didn't seem to fit with



1 48-39-50 (O) and (M) which provides us the
2 authority to enforce the provisions of the
3 chapter, which is, you needed authorization to
4 do this work before you did it, you did not
5 obtain it, and so it needs to be removed.

6 **MR. REDDY:** Can I go a different line of
7 questioning?

8 **THE COURT:** Go ahead.

9 **Q:** I think Matt, I think, testified yesterday that
10 when you claim something is Beach Critical
11 Area, all a person can do with it at that point
12 is put in beach compatible material in the
13 Beach Critical Area, sand or whatever, right?
14 So I have -- my first question is this, even if
15 you claim that's Beach Critical Area, why would
16 you not let us put sand in front of that --
17 beach compatible sand in front of that area,
18 even if you thought that there was some statute
19 that we haven't found, given that every wall
20 that we know of in Hilton Head and all that was
21 fully covered? But even if there was, why
22 wouldn't you just tell us, listen, you want to
23 buy your own sand, even though the City's
24 putting scraped sand for everyone else, you're
25 stupid enough to do that, you can do it, but in



1 our judgment, you need to do it one foot in
2 front of your structure full seaward. Why
3 would you unilaterally ban us from doing it
4 when -- I want to ask you a question in
5 relation to that, but that's the first
6 question, and answer that, and I'll ask you the
7 second, because I don't want to compound stuff.

8 A: So, I will say that this sand located kind of
9 linear, like, if you're drawing a line straight
10 from the wall seaward, that sand actually
11 appears to be too much too far out. And we
12 actually addressed that ---

13 **THE COURT:** What sand?

14 A: The sand ---

15 **THE COURT:** To the right?

16 A: --- I think extends a little -- a little too
17 far ---

18 **THE COURT:** To the right ---

19 A: --- seaward -- yeah, the sand that's to the
20 right of the structure, I think extends a
21 little too far seaward, and -- and I can't
22 remember exactly which ---

23 Q: Sorry, no, it's okay.

24 A: No, no, your -- which permit or order was in
25 place at the time. But, in general, when



1 there's -- if it was the emergency order, which
2 I believe was probably what was here, the --
3 the base of that is supposed to be about 20
4 feet wide. So, it appears as though this would
5 extend further than 20 feet. And this was
6 actually an issue that we addressed with the
7 City, I think ---

8 **THE COURT:** It's like you're answering about the
9 property -- the sand to the right. He was
10 asking you about ---

11 A: Yeah, I was ---

12 **MR. REDDY:** Yeah, my sand.

13 A: --- I was getting there.

14 **THE COURT:** Okay.

15 A: So, when we -- when we replied in those email
16 correspondences, we stated that, based off of
17 the information that we had, it appeared as
18 though the City was placing sand landward of
19 your structure. And there were certain --
20 maybe it was the minor renourishment permit,
21 that required that that dune line, the
22 reconstructed dune, be in alignment. And so if
23 they were installing sand basically in line
24 with your structure, there was really nowhere
25 seaward of that that would have complied with



1 that condition to be consistent with the rest
2 of the dune that was being constructed. I
3 don't know if I'm explaining ---

4 Q: It's okay. It's okay. It's okay.

5 **MR. REDDY:** I'm not gonna go ---

6 **THE COURT:** Well, I want to understand it. So,
7 there's a dune being constructed to the right?

8 A: That's right. Yeah, that -- that's sand that's
9 being pushed up because of the -- the
10 inundation to protect those homes.

11 **THE COURT:** All right.

12 A: Landward of it.

13 **THE COURT:** And you call that a dune?

14 A: Well, I mean, it's a constructed berm, that's
15 ---

16 **THE COURT:** Okay.

17 **MR. REDDY:** So, Your Honor, I think Matt testified
18 yesterday, which I agree with -- some of the
19 things I agree with, Your Honor, that the berms
20 and dunes are not effective unless they're
21 continuous, because in a situation like this,
22 what happens if the water comes and there's
23 sand on either side, it gets up behind it,
24 right?

25 Q: So, this -- actually, my question to you is,



1 why would you not let us, just at our own
2 expense, keep whatever it is criteria you want
3 to use, put enough sand or too little sand or
4 too much sand to keep us in line with everyone
5 else, so there's sand in front of our wall?
6 Let's leave that, because we've beaten that
7 horse to death. Let's go back to the wall. He
8 put up a bunch of text messages about 8:08 a.m.
9 and all that. One of those text messages, if
10 you need me to put them up, I'll put them up.
11 But I think you read them out into the record.
12 Was old Jose, he only had a flip phone, and he
13 came in and he said in that text message, so
14 I'm going to ask you if you remember,
15 otherwise, I'll put it up. Do you remember the
16 dimensions of the wall he said in those --
17 those text messages?

18 A: Not like the specifics ---

19 **MR. REDDY:** Can y'all -- can we call 'em up ---

20 A: --- two feet wide.

21 **MR. REDDY:** --- Jose's text messages? Yeah, so, no,
22 that's -- that's Travis.

23 **MR. CHURDAR:** Your Honor, it is -- I know it's after
24 5:00 and I'm not asking that we break for the
25 day, but I'm just wondering if we would



1 sometime soon, if not now, take a short break.

2 **MR. REDDY:** I'll be done in 15 minutes.

3 **THE COURT:** Then the short break will be in 15
4 minutes.

5 **MR. CHURDAR:** Okay.

6 **MR. REDDY:** Can you help us with the texts that
7 y'all put up, which is whatever the joint text
8 was from Jose.

9 **MR. CHURDAR:** It's 205.

10 **MR. REDDY:** 205, joint. Joint 205.

11 **(Joint Exhibit Number 205 was referenced at this**
12 **time.)**

13 **MR. REDDY:** Keep going until you see the dimensions
14 of the wall. Okay, stop.

15 **Q:** You see that, you read it earlier, he had put
16 it up? Where does that wall -- what does the
17 dimensions read here? Can you read them?

18 **A:** Yes, it looks like six feet deep, two wide,
19 100- -- 130 feet long. We put two number five
20 rebar.

21 **Q:** And you -- and you might not be an expert, if
22 you are not, just say, I have no idea. Okay.
23 So, would you call a six-feet wall -- six-foot
24 wall in the ground, right, retention in the
25 ground, two feet wide, would you call it an



1 erosion control structure?

2 A: Yes.

3 Q: You would, because you think it's water facing?

4 A: No. Our regulations have definitions for
5 erosion control -- well, includes definitions
6 for at least three different erosion control
7 structures, seawall, bulkhead and revetment. I
8 think this one would ---

9 Q: I agree. So, I mean, erosion control structure
10 I think by any definition, would you not agree,
11 needs to be water facing? Designed, engineered
12 to be water facing.

13 A: Bulkhead definition, I believe, is a retaining
14 wall designed to retain fill material, but not
15 necessarily to withstand wave forces.

16 Q: I know, but y'all have been calling it erosion
17 control structure, which is a very specific
18 meaning. Did y'all ever bother to consult with
19 an engineer to say, hey, to be an erosion
20 control structure, typically -- and I know a
21 little bit about that because I used to do
22 construction. I'm asking you because I would
23 ask an engineer. Does that need to be
24 engineered? Does it need to have X amount of
25 rebar, X amount of footings, X amount of



1 whatever, or you can dig a hole in the ground
2 and pour concrete to keep the soil stable, and
3 that's going to be erosion control. Did you
4 ever consult with an engineer before deeming it
5 an erosion control structure and then applying
6 erosion control structure statutes and
7 regulations to it?

8 **OBJECTION:**

9 **MR. CHURDAR:** Your Honor, I would just interject
10 that that assumes that the -- that the
11 Department needs the endorsement of a
12 structural engineer to apply the definition of
13 erosion control structure.

14 **THE COURT:** I'm gonna overrule that objection.

15 Q: Yes or no?

16 A: I'm sorry, I think that the definition that's
17 provided in the regulation matches what you've
18 described the wall as ---

19 Q: Okay.

20 A: --- a retaining wall not meant to withstand
21 wave forces.

22 Q: Yes, exactly right. So, it's not meant to --
23 you're exactly right. Call it whatever you
24 want. Erosion control structures are water
25 facing, your own regulations say that I think.



1 You're talking about a bulkhead, like a
2 retaining wall, a bulkhead? It's not meant to
3 sustain wave forces. Do you realize -- do you
4 -- did you recognize when you talked to the
5 City or when the City talked to you about us
6 offering to bring sand in and put it in front
7 of that, that we knew -- we believed that
8 there's no way that wall would face the waves
9 for more than a few days. And not surprisingly
10 standing, do you rec- -- did anyone tell you
11 that, that, hey, this is a problem; I need to
12 go look at it? Why do you want to put sand in
13 front of it, da, da, da, da, or you just said,
14 no, we're going to deem it water facing; we're
15 going to apply the rule to it, and we're not
16 going to let him bring sand -- beach compatible
17 sand in under any circumstances? I think one
18 of the things you brought up is it shouldn't be
19 covered. Well, there's nothing in the statute
20 that says that either. But let's say that's
21 the case -- you decided that was the case, and
22 you can tell us it shouldn't be covered, did
23 you do that? Did you give us any conditions,
24 or you unilaterally said you can't do anything?
25 We can pull up Doug's memo if you'd like.



1 A: That structure was installed in a location
2 where the Department had already instructed you
3 was beaches critical area and couldn't -- and
4 that you needed authorization to put anything
5 there, and you didn't receive -- you didn't
6 apply or receive any authorization.

7 Q: That's not my question. My question is that's
8 being debated, right? That's -- that's the --
9 that's the purpose of all of this, whether or
10 not they can step into the property and claim
11 authorization or inundation or some crazy
12 criteria they've come up with that they've
13 never used before. That's not the question.
14 You testified earlier you have never, in your
15 time there, ever sanctioned anyone for erosion
16 control structure landward of the setback line.
17 So, this was your first time. So, wouldn't you
18 say that the very first time you're looking to
19 sanction someone for Beach Critical Area,
20 erosion structure, whatever you're saying,
21 landward of the setback line, you would be a
22 little bit more, hey, let me understand how I
23 apply the rules of the statutes or whatever, as
24 opposed to unilaterally ruling what I am trying
25 to understand from you, so, help me understand.



1 What basis does it have to any statute that
2 simply says you cannot bring new sand -- call
3 it whatever you want, beach critical, your
4 property, that all -- we can debate that. But
5 is there any statute that says if we have beach
6 compatible sand, whatever you call it, that we
7 can't bring it in, what -- I'm just trying to
8 see if there's any anchor to the law, that's
9 all?

10 A: So, the conditions that I mentioned earlier,
11 which was that any dune would need to be
12 constructed, and I don't remember the specific
13 language, but essentially needs to be in --
14 configur- -- the configuration needs to be
15 consistent across the dune, and that it -- sand
16 cannot be placed seaward of the spring high
17 tide line when there was water still coming up
18 to this structure. So, there was -- and what
19 the Department conveyed to you was that, based
20 off of our knowledge, it didn't appear as
21 though there was anywhere that sand could be
22 placed that would conform to those
23 requirements.

24 Q: But this disputes that, and this disputes also
25 the second claim you make, which is if you have



1 sand on either side of a property, that
2 property is going to be a funnel for the water
3 coming in. And do you believe, regardless of
4 what's being said here, that, once again, this
5 Department, with its actions, continued to
6 target me? We've already said -- you've
7 already testified that they did not at all ever
8 have any sanctions landward of the setback
9 line. You've already testified that we have
10 not had any fines other than Sea Island -- not
11 Sea Island, Ocean whatever you said in Wild
12 Dunes, that was actually seaward of the setback
13 line. It's not a comparable. So, here again,
14 there is no precedent to any of this. And it's
15 saying -- it's some judgment and -- and the
16 homeowner cannot protect their property.
17 That's what you appear to be saying, is it not?

18 A: There's a lot of questions.

19 Q: It's all one question, can the homeowner
20 protect their property or not? And if the
21 answer is no, it has to tie to the law. The
22 law has to tie to the Constitution, that's how
23 it all flows. That's a civilized society, not
24 random decisions. You also testified, just to
25 finish up my time frame.



1 **THE COURT:** Mr. ---

2 A: I ---

3 **THE COURT:** Did you want her to -- Did you want her
4 to answer the question?

5 **MR. REDDY:** She already answered it. No? Okay.

6 A: Well, I want to be clear. I'm not exactly sure
7 what he's talking about -- I'm not sure what
8 he's talking about with sanctions versus fines.
9 I just want to be clear, the Department has
10 initiated enforcement action for erosion
11 control structures installed landward of the
12 setback, still working through those actions,
13 so penalties have not been assessed.

14 Q: I understand that. That's not my question.

15 A: And the -- those orders are not resolved.

16 Q: I'm saying before me, prior to me, I don't care
17 what you'll have done after that, because y'all
18 are trying to implement some new law which is
19 going to be found unconstitutional, and this
20 State could be subjected to tremendous
21 penalties. Would you agree to that if it's
22 found unconstitutional, that the State would
23 have liabilities up and down the coast? It's
24 a client -- whoever the client was, apparently
25 wants it. So, let's leave that aside. I am



1 simply saying prior to me, was I the -- in the
2 vanguard of your action? Was I the first one?
3 I've asked you. You testified earlier that ten
4 years before that, you do not know of any
5 situation.

6 A: So, the ---

7 Q: Do you want to change your testimony? Is that
8 what you're saying?

9 A: No.

10 Q: Okay. Any ---

11 A: We address compliance and enforcement actions.

12 Q: Pardon me?

13 A: So -- we address compliance and enforcement
14 issues within the State's critical areas. So,
15 there was the Summer House case that I think
16 has already been addressed before, but ...

17 Q: Okay. So ---

18 A: It's an issue only if ---

19 Q: --- we should take a break.

20 A: --- structures are built in critical area
21 without appropriate authorization.

22 Q: But it's never happened before me. That's your
23 testimony. I'm saying for your point, you can
24 only testify to your time. Now, if you want to
25 get into Summer House, we can, but we'll



1 definitely have to take the break, because,
2 yes, you're exactly right. Summer House in '98
3 was an exception, and I believe there was a
4 change -- are you aware of -- in '99 -- are you
5 aware of any changes that were made to the
6 regulation after Summer House because the
7 legislature got very concerned about being a
8 problem or no?

9 **OBJECTION:**

10 **MR. CHURDAR:** Your Honor, I object -- object to the
11 -- there is no evidence to that.

12 **MR. REDDY:** Well, we'll put it up. We'll take a
13 break and we'll put it up. We'll put up the
14 evidence.

15 **THE COURT:** Well, let's just take a break.

16 **MR. REDDY:** Okay. Can y'all find 30-10B and put it
17 up ---

18 **THE COURT:** Take a five-minute break.

19 **MR. REDDY:** --- after the break?

20 **(Off the record from 5:30 p.m. until 5:39 p.m.)**

21 **THE COURT:** All right. Let's just go ahead and
22 proceed.

23 **Q:** In the interest of time, you brought up Summer
24 House. Do you want to go there? Are you
25 familiar with Summer House? Are you familiar



1 with the regulation change after Summer House,
2 Regulation 30-10(B) change after Summer House.
3 Are you familiar with all of that? Because you
4 don't want to go there. I don't want to hold
5 you up here asking a bunch of questions that
6 you might not know anything about.

7 A: My familiarity with Summer House is that it
8 regarded activity landward of the setback ---

9 Q: Okay. So let ---

10 A: --- so that's -- and it ---

11 Q: Let's just drop that.

12 A: --- hydro section -- okay.

13 Q: Let's just drop that.

14 A: Okay.

15 Q: So, we'll handle it with someone else who is
16 familiar with it.

17 Let me, let me ask you this from coastal
18 thing, do you know the meaning of managed
19 retreat? Do you know what it means? Have you
20 heard the term managed retreat?

21 A: I feel like I've probably heard that.

22 Q: You have not?

23 A: I think I have, yeah.

24 Q: Yeah. So what's your understanding of managed
25 retreat?



1 A: To retreat in a managed way.

2 Q: It's actually -- that's actually a good, good
3 explanation. You just retreat in a managed
4 way, and just keep backing up slowly. Do you
5 know in land, if you manage -- if you manage to
6 retreat, do you understand how that works with
7 the government? In other words, you're
8 retreating. Let's say I'm in my house and I'm
9 doing a managed retreat. I'm saying I don't
10 want to fight the ocean, I don't want to do
11 anything. I'm just going to back up. And some
12 states have that, by the way. South Carolina
13 said they didn't want that in 2018. Do you
14 know why?

15 A: Well, people are actually retreating right now.

16 Q: Yeah.

17 A: That is an option for people to do to get
18 themselves out of ---

19 Q: It's against the law ---

20 A: --- harm's way.

21 Q: --- you know that? South Carolina said they're
22 not -- they passed a law that they -- that
23 they're a no retreat state.

24 A: So we ---

25 **OBJECTION:**



1 **MR. CHURDAR:** I would object to him testifying.

2 **MR. REDDY:** I'm asking her if she knows the law.

3 **THE COURT:** Well, you said it was against the law.

4 **MR. REDDY:** Okay.

5 Q: Do you know that -- do you know that South
6 Carolina passed a law in 2018?

7 A: Yes.

8 Q: Do you know what that -- how that law addressed
9 retreat?

10 A: It changed from retreat to preservation.

11 Q: You're right. It's beautiful. And how would
12 you preserve, in your opinion, if the very
13 great legislative body says, we're changing
14 from retreat to preservation, and they came to
15 you and said, hey, we're changing from retreat
16 to preservation. We'd like you to head up that
17 strategy. What would you tell them they needed
18 to do?

19 A: I would say I'm the manager of the Compliance
20 and Enforcement Section, and you need to speak
21 to somebody else.

22 Q: Well, just -- no, no, you're just having a
23 beer. They're not trying to hire you. You're
24 having a beer and someone says ---

25 **THE COURT:** He's asking you a hypothetical.



1 Q: Hypothetical, you're -- here's the new law that
2 was passed yesterday saying we're going to go
3 from retreat to preservation. What do you
4 think of that, Jessica, and what would you do
5 to -- if -- like, what -- in other words, what
6 action do you think the State would have to
7 take to actually make this law work?

8 A: I'm Morgan. I'm not Jessica.

9 Q: I'm sorry, Morgan, I'm sorry. It's late.

10 A: It is late. I believe there was testimony
11 yesterday about adding sand.

12 Q: Would you agree with that, that ---

13 A: I think, I think adding sand is a way to
14 preserve the dry sand beach.

15 Q: And would you agree with Mr. Matt's testimony
16 yesterday, that he testified that no, there was
17 no major sand renourishment. I believe he said
18 there was a tiny bit of sand added after Idalia
19 and we scraped dunes. And the sand -- he
20 testified on the permit that it was fine for
21 sand to go into that portion of the beach that
22 sand never went in. So, are all these things
23 consistent with preservation? But -- let me
24 ask that question first.

25 A: The City receiving a permit to place sand? I'm



1 not sure I understand exactly -- yeah, they can
2 place sand in that ---

3 Q: You know, Matt testified, and I agree with his
4 testimony, that scraping is not preservation.
5 You said earlier adding sand is preservation.
6 So, my question to you is simply this, after
7 the 2018 law was passed that says no more
8 retreat, preservation, to your knowledge, and
9 if you don't have knowledge just say I don't --
10 I have no idea. To your knowledge, have there
11 been any meetings, any strategies, any
12 discussions within the group or with the client
13 that says we are going to do something
14 different after 2018?

15 A: I -- what are -- what is different? I don't --
16 -

17 Q: They -- the no retreat law was withdrawn in
18 2018, the State said we won't retreat anymore.
19 We're going to preserve and protect. And I
20 believe, if you actually read into the guts of
21 it, says preserve, protect and maintain a
22 vegetative dune. That's their idea of
23 preservation. I'm saying, has any -- based on
24 that 2018 law, was there any meetings within
25 the Department, any strategy sessions, any --



1 you know, like private businesses would do, we
2 got to implement the strategy. The big bosses
3 have passed a strategy. We gotta implement the
4 strategy. Has any of that, any of those
5 discussions happen within the group, or is
6 there any change in practice that was approved
7 by the client and within the Department to say,
8 yes, we're doing something different to comply
9 with that law?

10 A: Not that I would've been involved in from the
11 Compliance and -- I mean as the ---

12 Q: Okay.

13 A: --- Compliance and Enforcement Section Manager.

14 Q: Okay. That's -- that's -- that's good. So,
15 you had a -- one of your -- one of your -- what
16 do you call those things, exhibits. You had on
17 there -- I think that I objected to with Mr.
18 Blair Hahn saying something about nighttime
19 work and this and that and what have you.
20 Where'd you get the communication -- did he
21 come to you directly?

22 A: That may have been forwarded.

23 Q: It's -- it's in that same thing ---

24 A: Right. I think it was ---

25 Q: --- we can pull it up if you'd like.



1 A: --- forwarded.

2 Q: Yeah. Do you know who it came from?

3 A: Coastal Conservation League.

4 Q: Yeah. So, Blair Hahn, his -- when the earlier
5 conversation happened about the client, who do
6 you think they were referring to?

7 A: The ---

8 Q: Sorry, I withdraw the question. So that -- so
9 that -- so, the previous email you -- that was
10 put up came to you from Coastal Conservation
11 League, came to the Coastal Conservation League
12 from Mr. Hahn.

13 A: Okay.

14 Q: Correct?

15 A: I believe so, yes.

16 Q: And that -- did you ever make any attempt, once
17 you saw that from Coastal Conservation League,
18 did you ever make any attempt to verify that
19 information being factual? Did you say, hey,
20 we got this complaint. Is this right or can
21 you investigate it? Or did you go back to the
22 City and say, hey, what -- were there trucks
23 lined up at night and all that? Did you do
24 anything to verify that communi- -- validate
25 that communication?



1 A: We've conducted site inspections pretty
2 regularly, so if there were reports of concrete
3 trucks, and then the next time we go, there's
4 concrete there that wasn't there before, I
5 think that ---

6 Q: (Inaudible due to simultaneous speakers.)

7 A: --- that would comprehend that they're
8 somewhere, somehow ---

9 Q: Well, that's not my question, let me clarify
10 the question. There is no issue -- we're not
11 denying it, or no one is denying it on the
12 concrete, so leave that aside. That memo you
13 put up specifically dealt with somehow there
14 was some -- I think -- I think he -- he
15 claimed, and I objected to the -- this
16 continued discussion about the penalties, he
17 said that he had to show that there was
18 something secret going on so you could
19 calculate your penalties. And that email
20 seemed to imply that we were doing something at
21 night under secrecy, which actually would be
22 kind of concerning to me if I got something
23 like that, and I said what, what, they're not
24 supposed to do something at night, like, let me
25 go find out. Did y'all make any attempt to



1 clarify whether any of that was true. Did you
2 make any attempt to -- there's cameras all over
3 the -- that neighborhood, it's a wealthy
4 neighborhood as many of you have told the
5 media, so did you make any attempt or even ask
6 the City, hey, you know, we got this. Is that
7 true? Can you verify this? In other words, I
8 -- I don't know, it's -- it's why ---

9 **MS. PHELAN:** Objection.

10 Q: --- was it validated in any way?

11 **THE COURT:** Okay.

12 A: I mean, to be honest, I don't remember
13 specifically. We had a large number of reports
14 and complaints coming in from a lot of
15 different people and entities, and I -- sitting
16 here right now, I can't remember specifically
17 what sort of follow up might have been done on
18 that specific ---

19 Q: Okay.

20 A: --- complaint.

21 Q: That's all. That's all. I'm not -- I'm just
22 asking if there was anything done.

23 A: I mean ---

24 **THE COURT:** Well, was that your belief that things
25 occurred at night? Was that part of your



1 penalty determination? I'm -- Mr. Churdar
2 brought it up.

3 A: Right, right.

4 **THE COURT:** I assume it was, but I ---

5 A: My belief is certainly that activities were
6 taking place that we were not being informed of
7 on purpose. The original wall that went in, we
8 had no idea it was there until it became
9 uncovered.

10 **THE COURT:** My question was, was the fact that you
11 had information that it occurred at night, was
12 that part of your penalty determination?
13 That's -- it's a simple question.

14 A: Yes, I believe -- yes.

15 **THE COURT:** Okay. That's it.

16 Q: Only two more questions. Sorry, Morgan. I
17 know you've been there a long time. Were you
18 aware -- no, I don't -- I honestly think I
19 asked this because I don't know the connections
20 within your group. Were you aware that Mr.
21 Matt Slagel actually investigated some of the
22 sand that was brought in by homeowners north of
23 me, you know, they paid and brought in the
24 sand. Were you aware that a complaint went
25 back to Mr. Slagel that that sand contained



1 clay, and Mr. Slagel actually investigated it?
2 Are you aware of that whole thing about the
3 clay in the sand that was dropped in by
4 homeowners north of us?

5 A: I know at one point there was a number of
6 concerns coming in about materials that were
7 being trucked in. And I do know that Matt
8 followed up on some of those. And I also
9 followed up.

10 Q: Did you find clay in any of the sand?

11 A: I did not find clay in the sand that I
12 inspected.

13 Q: Do you know -- did you coordinate with Matt?
14 Do you know Matt in his complaints found sand
15 with clay in it?

16 A: I don't remember right now.

17 Q: Okay. It's okay, it's fine. That's a great
18 answer. Are you aware of large amounts of clay
19 at Fifth Avenue, north of us, that's been there
20 for a significant amount of time?

21 A: No.

22 **OBJECTION:**

23 **MS. PHELAN:** Objection to form. This -- objection,
24 it assumes facts not in evidence, Your Honor.
25 And this is ---



1 **MR. REDDY:** I'm asking her if she's aware.

2 **MS. PHELAN:** --- several questions that ---

3 **THE COURT:** He asked if she was aware of a
4 significant amount of clay?

5 **MS. PHELAN:** Of the clay that had been there.

6 **MR. REDDY:** Yeah.

7 **THE COURT:** Well ---

8 **MS. PHELAN:** He asked if she's aware of whether the
9 clay is there.

10 **THE COURT:** Well ---

11 **MR. REDDY:** Okay. You want me to say it again
12 differently?

13 Q: Are you aware of whether clay has been at Fifth
14 Avenue, and, if so, for what length of time?

15 A: I am not aware.

16 Q: You're not, okay. We're gonna -- we're gonna
17 go to something totally different. Can we pull
18 up ---

19 **MR. REDDY:** Your Honor, I have to enter this into
20 evidence in some way because they haven't
21 approved it, although it's their own
22 communication. So, may I enter R61, which is
23 the -- a communication from the Department to
24 the Senate, which is a public communication.

25 **(Respondent's Exhibit Number 61 was referenced at**



1 **this time.)**

2 **THE COURT:** Are y'all going to put it up?

3 **MR. REDDY:** Yes. Can you? We have to show it.

4 **THE COURT:** Here you go.

5 **MR. REDDY:** Your Honor, with all the long days, I'm
6 not sure if I'm supposed to offer it into
7 evidence first or talk about it first.

8 **THE COURT:** Normally you lay a foundation, but ---

9 **MR. REDDY:** Okay.

10 **THE COURT:** --- take your best shot.

11 **MR. REDDY:** Okay.

12 Q: So, there is -- this is an email to the Senate
13 for the Senate committee's discussion of the
14 change of regulation, sent on 4/21/24 from Ms.
15 Elizabeth something, Kolnitz. It's a public
16 document, obviously, that -- my understanding
17 in your deposition testimony is that you worked
18 with the work group that put together this
19 recommendation and was involved in in some way,
20 is that correct?

21 A: I don't know exactly what ---

22 Q: Can I ---

23 A: --- you're talking about.

24 **MR. REDDY:** Can I show it to her?

25 **THE COURT:** For the record, he's showing you Exhibit



1 Number what?

2 A: 61.

3 Q: Number R61.

4 A: Okay.

5 Q: Are you familiar with that?

6 A: I don't know that I've seen that whole -- pages
7 before.

8 Q: Do you want to change your deposition that you
9 were actually familiar with the final work
10 group report?

11 A: I believe what I said in my deposition was that
12 I was a note taker for this. So, I collected
13 notes and pro- ---

14 Q: I understand.

15 A: --- provided them for somebody else to complete
16 the final report.

17 Q: Correct.

18 A: And I believe ---

19 Q: And there is a -- there is -- I can pull it up
20 if you want, your deposition, which is almost
21 verbatim this, except this has a little bit
22 more color to it.

23 So I'm asking, are you familiar with this
24 or not? This, this communication that was sent
25 to the Senate.



1 A: No.

2 Q: Okay.

3 **MR. REDDY:** Your Honor, I'd like to enter this into
4 evidence because it directly relates -- relates
5 to the -- their view of jurisdiction.

6 **OBJECTION:**

7 **MR. CHURDAR:** Your Honor, I would object for a
8 couple reasons. First of all, I don't know
9 where there is any kind of relevance to what
10 we're here about. Certainly, that email is not
11 legislative intent. It shows -- it is hearsay,
12 and I have not heard anything that would be an
13 exception to the rule. It's hearsay.

14 **THE COURT:** Can you pull it up so I can see what
15 we're talking about?

16 **MR. REDDY:** Can I make one more comment?

17 **THE COURT:** Okay.

18 **MR. REDDY:** This is a self authenticating document.
19 It has their seal at the bottom.

20 If she needs me to pull out the sealed
21 deposition, I could.

22 **THE COURT:** No, I just need to see the exhibit ---

23 **MR. REDDY:** Okay.

24 **THE COURT:** --- you're offering.

25 **MR. REDDY:** I have it.



1 **THE COURT:** Okay. Just drop it down.

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

3 **THE COURT:** Just drop it right there. Oh, I got it
4 now. Go on down. All right. Stop. That's
5 it? Okay. And how far -- eight pages. Okay.
6 And so what is your objection again?

7 **MR. CHURDAR:** Your Honor, well, first of all, in
8 trying to get it through Ms. Flake, she said
9 she wasn't familiar with this, so I ---

10 **THE COURT:** No foundation.

11 **MR. CHURDAR:** Pardon me?

12 **THE COURT:** You're objecting to the foundation of
13 it?

14 **MR. CHURDAR:** Right. Yes, sir. And then -- and
15 then for purposes of showing relevance of -- I
16 believe legislative intent with regard to
17 beaches critical area, will -- what, what she
18 has provided to Rebecca Sproles, I don't think
19 shows any kind of legislative intent.

20 **MR. REDDY:** Your Honor, I -- this is all circle
21 talk. This is a public document, it's self
22 authenticating. It's got the DHEC seal on it.
23 I can -- we can spend more time here, I know
24 it's late, we can pull out her deposition and
25 in the deposition, unless she wants to retract



1 it ---

2 **THE COURT:** Do you question it's authenticity?

3 **MR. CHURDAR:** It appears to be authentic. I mean, I
4 have no reason to ---

5 **THE COURT:** So, if it's authentic, then he doesn't
6 need to lay a foundation. We're past that,
7 aren't we? I mean the whole purpose of
8 foundation is to authenticate the exhibit.

9 **MR. CHURDAR:** That's -- that's correct.

10 **THE COURT:** So, the next question is relevancy. I
11 think that was your next objection or not?

12 **MR. CHURDAR:** Yes, sir.

13 **THE COURT:** So, how is it irrelevant?

14 **MR. CHURDAR:** Well, because what -- what Elizabeth
15 von Kolnitz says to Rebecca Sproles has -- has
16 nothing to do with legislative intent and what
17 the legislation intended as far as the extent
18 of the Department's jurisdiction in beaches
19 critical area.

20 **THE COURT:** All right.

21 **MR. REDDY:** Your Honor, it says on here, it says the
22 attached is what was provided to the Senate
23 subcommittee for their discussion. This is not
24 Rebecca writing some internal email. It's on
25 a DHEC self authenticating document saying the



1 attached was what was provided to the Senate.
2 What are they trying to hide? This -- everyone
3 in the Senate's seen this.

4 **THE COURT:** Well, as far as my purpose here today,
5 I'm going to, on this one, I'm going to sustain
6 the objection, but you can make an offer of
7 proof on this. And I'm -- I may look into this
8 further to determine whether I should admit it
9 or not.

10 **MR. REDDY:** Okay, yes, I would -- I would proffer it
11 for sure into evidence.

12 **THE COURT:** It's admitted as a proffer.

13 **(Respondent's Exhibit Number 61 was admitted into**
14 **evidence as a proffer.)**

15 **MR. REDDY:** And I would also point out, in terms of
16 relevance, which I didn't get to argue about
17 what he said, we -- I believe we're in this
18 Court to argue beachfront jurisdiction, and
19 that -- the very heading there says, beachfront
20 jurisdiction. So, how this is not relevant is
21 absolutely beyond me.

22 **THE COURT:** Well, I'll give you an example where
23 you'll understand where I'm coming from. If a
24 legislator was to walk into this Court, take
25 the stand and testify as to the legislative



1 intent when they passed a statute, my correct
2 ruling would -- would be to sustain an
3 objection that he could not testify. And the
4 reason is, courts don't allow that type of
5 evidence, as far as legislative intent. This
6 is somewhat similar to that, so, that's why I'm
7 making my ruling right now. And I'm going to
8 look into it further though.

9 **MR. REDDY:** Okay. Can I make one comment, Your
10 Honor?

11 **THE COURT:** Yeah.

12 **MR. REDDY:** The first page -- and I don't mind if
13 you want to exclude the other pages, the first
14 page is not legislative intent. The first page
15 says background.

16 **THE COURT:** Okay.

17 **MR. REDDY:** It says, this is where things are today.
18 Background. This is the background on what it
19 is. It says the law, dah, dah, dah, dah, dah.
20 The purpose of these lines -- this is the
21 background. This is the background
22 information.

23 **THE COURT:** All right, let's take a --- that's not
24 going to legislative intent, it's background.
25 Do you have an objection as to that?



1 **MR. CHURDAR:** So, if I'm understanding correctly, he
2 -- Mr. Reddy wants to just admit ---
3 **THE COURT:** The background.
4 **MR. CHURDAR:** --- page one, the page 3762?
5 **THE COURT:** Yeah.
6 **MR. CHURDAR:** Just that email?
7 **MR. REDDY:** Yes.
8 **THE COURT:** Or just that portion.
9 **MR. REDDY:** No, it's this one, the beachfront -- the
10 one that says -- at top on the screen, that
11 says ---
12 **THE COURT:** Right there in front of us.
13 **MR. REDDY:** --- Jurisdictional Lines.
14 **THE COURT:** Right here.
15 **MR. REDDY:** Background.
16 **MR. CHURDAR:** Without -- without the other pages?
17 **MR. REDDY:** Yeah.
18 **THE COURT:** Yes. That's what I understand he said.
19 **MR. CHURDAR:** Just page one. Just a second.
20 **THE COURT:** That was his words, just page one.
21 **MR. CHURDAR:** I think I'm confused because I thought
22 Mr. Reddy said just ---
23 **THE COURT:** He is ---
24 **MR. CHURDAR:** --- Bates number 3762, just that one
25 page.



1 **MR. REDDY:** No, sir.

2 **MR. CHURDAR:** Just the email.

3 **MR. REDDY:** No, I'm sorry. I'm sorry if you're
4 confused. This is 37 -- Exhibit Number 61 ---

5 **MR. CHURDAR:** Uh-huh.

6 **MR. REDDY:** And this, it says, attached is what was
7 provided. And the first page of that is the
8 background. That's all I want to do, just the
9 background. This is not legislative intent.
10 This is not some future thing. This is just
11 saying, this is our view of the world, my
12 friends in the very robust Senate body.

13 **MR. CHURDAR:** Just a second.

14 **MR. REDDY:** Your Honor, if we need to take a break
15 so they can talk to the client ---

16 (Laughter.)

17 **MR. REDDY:** --- you know, whatever.

18 **MR. CHURDAR:** Your Honor, I don't have any objection
19 other than what I said previously.

20 **THE COURT:** Okay. Ms. ---

21 **MS. MILTON:** So, is that -- if I'm going to be clear
22 here, it's about this -- not the email page,
23 but the DHEC Beachfront Jurisdictional Lines
24 page, is that correct?

25 **THE COURT:** DHEC Beachfront Jurisdictional Lines,



1 Background, one page.

2 I'll tell you what, Ms. Milton, I'll make
3 it easier for you.

4 **MS. MILTON:** No, I think -- I mean, my question
5 would be, is that -- I mean, if what it is is
6 that we're providing a document here to the
7 Senate, I would say that whatever questions are
8 sure to follow this would probably be calling
9 for a legal conclusion.

10 **THE COURT:** Well ---

11 **MS. MILTON:** I can't see how else this is going to
12 go, but ---

13 **THE COURT:** Well, that's projecting.

14 **MS. MILTON:** Okay.

15 **THE COURT:** I'm going to admit it, that one page ---

16 **MR. CHURDAR:** Okay.

17 **THE COURT:** --- so.

18 **(Respondent's Exhibit Number 61 - Background page -**
19 **was admitted into evidence.)**

20 Q: Would you read it?

21 A: I have a copy.

22 Q: Oh, great. Thank you. Read the first two
23 paragraphs, please.

24 A: The first two?

25 Q: Yeah.



1 A: Did you say yes?

2 Q: Yes. Yes, ma'am.

3 A: Okay. "DHEC's Office of Ocean and Coastal
4 Resource Management (OCRM) is required by SC
5 Law Section 48-39-280 to establish and review
6 the position of the state's beachfront
7 jurisdictional lines every seven to ten years.

8 The purpose of these jurisdictional lines
9 is to delineate the extent of DHEC OCRM's
10 direct permitting authority for activities
11 within the defined beaches and beach/dune
12 system critical areas."

13 Q: How do you read that? What's your
14 understanding of it?

15 **OBJECTION:**

16 **MS. MILTON:** Objection, Your Honor.

17 A: I just read it.

18 **MR. REDDY:** What's the objection? I'm asking her
19 how ---

20 **THE COURT:** Well, you're asking how she interprets
21 that document.

22 Q: I'm just simply saying, do you look at this
23 document and say that the limit of the direct
24 permitting authority is -- is determined by
25 these jurisdictional lines, the baseline and



1 setback lines, or not?

2 **OBJECTION:**

3 **MS. MILTON:** Objection, Your Honor, my speculative
4 objection is now coming, I think, to fruition.

5 **THE COURT:** You can ask her about her view of the
6 law.

7 Q: Based on this reading, what is your view of
8 what this is saying?

9 **THE COURT:** No, I don't think you can ask her about
10 what this is saying. You can ask her about the
11 law.

12 Q: What is your view of the law as to the -- I'm
13 gonna use the same word. The purpose of the
14 two jurisdictional lines, the setback line and
15 the baseline, what is the purpose that you
16 believe is the law?

17 A: The setback line defines the landward extent,
18 the beach/dune system critical area.

19 Q: So, your belief of the law is in conflict with
20 what was submitted by Elizabeth von Koln- --
21 Chief of OCRM, to the Senate on 4/20/21, it
22 conflicts with it. So, within the Department,
23 it is your testimony today that you all have
24 disagreements as to what the direct permitting
25 authority is? It appears that you're saying



1 you don't agree with this. Is that what you're
2 saying?

3 **OBJECTION:**

4 **MR. CHURDAR:** Your Honor, I object. That's not -- I
5 think that's misstating what Ms. Flake's
6 testimony was.

7 **MR. REDDY:** How, Your Honor?

8 **THE COURT:** You could ask -- I don't want her
9 interpreting this document. I let it in for
10 background, but ---

11 **MR. REDDY:** I get it, but this document is ---

12 **THE COURT:** --- but you can ask her if -- without
13 referencing the document, you can ask her if
14 there's conflict within the Department as to
15 the interpretation of this law. I'll tell you
16 what ---

17 Q: Do you believe that there's a conflict within
18 the Department as to the interpretation of the
19 law?

20 A: No.

21 Q: No. So, you believe then that what you worked
22 on in the work group under deposition, is
23 different than this? Because we're going to
24 pull that out next. I didn't want to go in
25 there because I didn't want to, you know, waste



1 everyone's time, but, you know, we'll pull it
2 up.

3 **MR. REDDY:** Let's pull up R31. And let us submit
4 R31, Fact Sheet.

5 **(Respondent's Exhibit Number 31 was referenced at**
6 **this time.)**

7 **THE COURT:** Is this already in evidence?

8 **MS. MAPLES:** No, Your Honor.

9 Q: So, I am going to offer this work group, which
10 I believe you testified in your deposition, if
11 I correctly -- do you want me to pull it out
12 and see what you said about it or do you
13 remember testifying to this? That you were
14 involved in it?

15 A: I believe my testimony was that I was a note
16 taker for the stakeholder work group, and that
17 I provided notes to someone else who put
18 together a final report.

19 Q: Okay.

20 A: I believe that was my testimony.

21 Q: So, your note taking, was it consistent with
22 the final report or do you want to go over it?

23 A: I haven't read the -- I don't think I've read
24 the full extent of the final report, so I don't
25 ---



1 Q: Well ---

2 A: --- I don't remember my notes from ---

3 Q: This is the final report that I just submitted
4 into evidence, which was sent to the Senate.
5 It's basically saying this is what was
6 submitted to the Senate as the recommendation
7 coming out of the final report. So are you
8 saying your notes are inconsistent with the
9 final report?

10 A: I'm not saying that, no.

11 Q: So, you're saying your notes are consistent
12 with the final report?

13 A: I'm saying I took notes years ago that I
14 provided for someone to review and look at in
15 compilation with many other note takers and to
16 provide ---

17 Q: So, what ---

18 A: --- put together a report.

19 **MR. REDDY:** We're gonna submit this into evidence.
20 Do you have any objection?

21 **MS. PHELAN:** What number?

22 **MR. REDDY:** It is R ---

23 **MS. PHELAN:** The one you just showed?

24 **MR. REDDY:** Yes.

25 **OBJECTION:**



1 MS. PHELAN: Yes.

2 MR. REDDY: You object?

3 MS. PHELAN: Yes.

4 MR. REDDY: You are objecting or not?

5 MS. PHELAN: Yes.

6 MR. REDDY: Yes, you're objecting?

7 MS. PHELAN: Yes.

8 MR. REDDY: Okay. Object away.

9 THE COURT: All right. You need to offer it, Mr. --
10 are you offering it into evidence?

11 MR. REDDY: Yes. Yes, Your Honor.

12 THE COURT: It's marked as Respondent's ---

13 MR. REDDY: They objected.

14 THE COURT: No, what's the exhibit number?

15 MR. REDDY: 31.

16 THE COURT: 31, okay.

17 MR. REDDY: 31.

18 THE COURT: All right. Is this something that is --
19 is this a document that's on the Department's
20 website?

21 MR. CHURDAR: Is this a document what?

22 THE COURT: I've heard testimony about some document
23 on the Department's website, I thought. Is
24 this the document that ---

25 MR. CHURDAR: No, sir.



1 **THE COURT:** All right. So, what's your objection?

2 **MR. CHURDAR:** Relevance. Relevance is one.

3 **THE COURT:** How is it relevant?

4 **MR. REDDY:** This has directly to do with that, which
5 is directly to do with jurisdictional lines.
6 That's what we're here about. We're not here
7 to, you know, talk about the rocks and
8 equipment. We're here to say, do they have the
9 ability -- do they have the jurisdiction to
10 step into my yard. And that's what we're here
11 for. If that's not relevant, then we're
12 fighting the wrong case here. I was prepared
13 to waive the penalties and just bet the entire
14 ranch on that one issue.

15 **OBJECTION:**

16 **MS. MILTON:** Your Honor, if I could jump in. I also
17 have an objection to relevance here. The
18 bottom of this document that I just saw said
19 that it's from 2003. I don't think it has a
20 Bates label. I don't know where it came from.
21 There's not been any foundation laid for it.

22 **MR. REDDY:** 2003? No, it's 2019.

23 **MS. MILTON:** The document that is pulled up on the
24 screen right now, which is Respondent's Exhibit
25 31, has a date on the bottom right corner that



1 says March 7, 2003.

2 **MR. REDDY:** Okay. Well, the -- 2003? This is the
3 Fact Sheet. Maybe you pulled up the wrong
4 document. So, what we're trying to find is the
5 2019 -- let me ask Morgan this.

6 Q: Have -- did you -- were you involved in the
7 drafting of Exhibit R35?

8 **MR. REDDY:** Sorry.

9 **THE COURT:** That's all right.

10 **(Respondent's Exhibit Number 35 was referenced at**
11 **this time.)**

12 Q: Were you involved in drafting of Exhibit R35?

13 A: I don't know what that exhibit is.

14 Q: That's the Beachfront Jurisdictional Line
15 Stakeholder Workgroup, Final Report.

16 A: No, other than providing notes to whoever
17 drafted it.

18 Q: So, during your deposition ---

19 A: Uh-huh.

20 Q: --- we discussed the 2019 notice of drafting
21 for Department regulations. You don't remember
22 that? You don't remember discuss- -- saying
23 that -- talking about that in your deposition?

24 A: The notice of drafting?

25 Q: Yeah, for the -- for the final report, for this



1 report.

2 **MR. CHURDAR:** Your Honor, I believe Mr. Reddy is
3 mistaking the deposition testimony of Ms.
4 Boynton.

5 **MR. REDDY:** Your Honor ---

6 **THE COURT:** I think what I'm going to do at this
7 point, because I think it'll work more
8 efficient, more efficiently anyway, is I'm
9 going to break for today. And ---

10 **MR. REDDY:** I -- I'm finished. I don't have any
11 more questions.

12 **THE COURT:** Oh, you're done?

13 **MR. REDDY:** Yeah.

14 **THE COURT:** All right.

15 **MR. CHURDAR:** I can be pretty quick.

16 **THE COURT:** Well, I've seen evidence to the contrary
17 in the past, but let's see if you can add
18 verason to that statement.

19 **MR. CHURDAR:** Okay, yeah. I will -- I will
20 certainly do my best.

21 And I think if there has -- just as kind
22 of an administrative thing, both Your Honor and
23 Mr. Reddy has picked on me -- picked up on me
24 referring to my client, that Mr. Chris Stout is
25 the Bureau of Coastal Management Director, and



1 he's here in the room, that's who I was
2 referring to prior. Just thought I would
3 mention that.

4 **MS. FLAKE - RE-DIRECT EXAMINATION BY MR. CHURDAR:**

5 Q: All right. So, Ms. Flake, the Reddys have
6 altered the critical area more than once, is
7 that correct?

8 A: That's correct.

9 Q: Okay. And were each of those alterations of
10 the critical area a violation? Like, for
11 instance, just the clay and the artificial
12 turf, was that its own violation?

13 A: Yes, that was -- yes.

14 Q: Okay. And was the construction of the original
15 wall its own violation?

16 A: Yeah.

17 Q: Okay. And the repair of the original wall, its
18 own violation?

19 A: Yes.

20 Q: Okay. Construction of the second wall, was
21 that its own violation?

22 A: That was a violation, yes.

23 Q: Okay. And then installation of additional
24 artificial turf, that was a violation?

25 A: That's right.



1 Q: Okay. And could you have brought a compliance
2 and enforcement action for each one of these
3 individually?

4 A: (Inaudible.)

5 Q: Okay.

6 **COURT REPORTER:** I'm sorry; I didn't hear your
7 response.

8 A: I believe so.

9 **COURT REPORTER:** Thank you.

10 Q: Okay. And are there other -- are there other
11 structures that were being built, or
12 contemplating being built, that's landward of
13 the setback line in the beaches critical area
14 that have stopped construction when asked by
15 the Department?

16 A: Yes.

17 Q: Okay. And so did you have to issue a penalty
18 in those cases?

19 **OBJECTION:**

20 **MR. REDDY:** Your Honor, this is not relevant. This
21 is -- this is post this law that this
22 regulation thing they passed. What they're
23 trying to do is pre the regulation thing that
24 they passed. And so the only thing -- the only
25 thing relevant is whether or not prior to me



1 has it ever been used the way it was. So,
2 we're going down now into the future. They're
3 using me to open up the future.

4 Q: Let me ask you, were the other instances prior
5 to the reg change? The initiation of the
6 Department's beginning of the enforcement
7 proceedings in those other cases, or at least
8 the interaction with the client, prior to the
9 reg change?

10 A: Yes.

11 Q: Okay. Now, earlier today, Mr. Reddy talked
12 about two properties, one in Beachwood East and
13 one at 122 Ocean Boulevard, which Mr. Prevost
14 testified to earlier, but I'll just ask you
15 about those two properties. The status of the
16 one at 122 Ocean Boulevard, he said he believed
17 was in the beginning of an enforcement action.

18 A: That's right.

19 Q: Okay. At Beachwood East property that Mr.
20 Reddy asked about earlier today, what is the
21 status of that structure that is in front of
22 that property?

23 A: The only structure I -- vertical wall that I
24 know of on Beachwood East is at 18 Beachwood,
25 and that's a grandfathered structure.



1 Q: Okay. And so by grandfathered, meaning this
2 was something that was, what, in place before
3 the Act went into effect?

4 A: Well, something that would've been in place
5 before the prohibition on beachfront erosion
6 control structures, right?

7 Q: Okay.

8 A: So, it's not something that the Department
9 would address from a compliance or an
10 enforcement perspective.

11 Q: Okay.

12 **THE COURT:** Hold on, Mr. Churdar. I think you've
13 exhausted my patience on your quickness. I
14 think I'm going to just take a break.

15 **MR. CHURDAR:** Yes, sir.

16 **THE COURT:** All right. Or do you -- can you finish
17 up in two minutes?

18 **MR. CHURDAR:** I can finish up in a few minutes, just
19 one or ---

20 **THE COURT:** I didn't say a few, two.

21 **MR. CHURDAR:** Oh, two. Okay, sure.

22 **THE COURT:** All right.

23 Q: Can you tell, in your time as section manager,
24 approximately how many penalties the Department
25 has issued? Is that something that you would



1 have an approximation for?

2 A: That would be combining consent and
3 administrative orders, and I'm not sure exactly
4 how many in the last ten years.

5 Q: Okay. All right.

6 A: Or in the -- yeah.

7 Q: Okay. All right.

8 **MR. CHURDAR:** That's all the questions.

9 **THE COURT:** All right.

10 **MR. CHURDAR:** I think I met your two minutes, Your
11 Honor.

12 **THE COURT:** You did.

13 Ms. Milton? Ms. Milton?

14 **MR. CHURDAR:** I'm sorry?

15 **THE COURT:** Ms. Milton?

16 **MR. CHURDAR:** Oh.

17 **MS. MILTON:** Oh. Nothing further.

18 **THE COURT:** Any?

19 **MR. REDDY:** Could I do the rebuttal in the morning,
20 Your Honor, because I don't think I can keep to
21 your schedule.

22 **THE COURT:** Okay. That would be re-cross on new
23 matters raised. All right. We're breaking.

24 **MR. REDDY:** What time?

25 **THE COURT:** Be back 9:00 o'clock again. All right.



1 **MR. REDDY:** Thank you.

2 **THE COURT:** Yippy ki yay.

3 **(The hearing adjourned at 6:23 p.m.)**

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1 DAY 3 - MAY 8, 2025

2 (The hearing reconvened Thursday, May 8th, 2025 at
3 8:59 a.m.)

4 CALL TO ORDER:

5 COURT REPORTER: All rise.

6 THE COURT: Be seated. Be seated, y'all.

7 PRELIMINARY MATTERS:

8 THE COURT: Come on up.

9 MR. REDDY: Your Honor, may I address the Court?

10 THE COURT: Yes, sir.

11 MR. REDDY: My wife and I are here, we have a 14-
12 year-old at home. We got three days set up for
13 this thing. We're going through two days
14 testimony. We're barely halfway through the
15 witnesses. If Your Honor would allow me, I am
16 going to object more to cumulative evidence.
17 I think the burden of proof is for them to show
18 jurisdiction and periodic inundation so that no
19 nonlittoral exists. Instead, it's been two
20 days of character assassination. So, I hope
21 you will bear with me.

22 THE COURT: All right. You have the privilege to
23 object and my job is to rule on the evidence.

24 MR. REDDY: Thank you.

25 THE COURT: Hold on, give me a second to log on.



1 All right. You're still under oath.
2 Proceed.

3 **MS. FLAKE - RE-CROSS EXAMINATION BY MR. REDDY:**

4 Q: You seem really stressed, so I'm not going to
5 ask you a lot of questions. I'm just going to
6 ask you one and just stop. On the re-direct,
7 he once again brought up stuff about penalties
8 and all this kind of stuff. I just want to be
9 clear and be on the record, which you
10 previously testified to, and ask you the same
11 question again in response to his question.
12 Has there, in your knowledge, in your time
13 there, has there ever been an enforcement
14 against anyone anywhere in this state for a
15 erosion control structure of any kind, call it
16 whatever you want, bulkhead, whatever, landward
17 of the setback line prior to me?

18 A: Yes. We initiated the actions regarding other
19 properties with structures landward of the
20 setback around the same time as you.

21 Q: No, I'm just saying prior to me. So I'm the --
22 I'm saying just prior to me, in 20- -- go back
23 to 1999 if you want. But I know you said
24 you've only been around for ten -- ten years,
25 so you don't have to go back to 1999 because



1 I'm just trying to see what you know. To your
2 knowledge, prior to me, so that's a hard date,
3 meaning I'm at the vanguard of this. I am the
4 test case, if you will, if you think of it that
5 way. Prior to me, has there any -- has there
6 been any that you know of? And consistent with
7 your testimony yesterday.

8 A: I don't remember the specific dates that we
9 initiated those notice of alleged violation and
10 admission letter actions in comparison to
11 yours, but I do know it was around the same
12 time. So, I don't want to say no, because I
13 don't remember specifically what date we opened
14 those in comparison to yours.

15 Q: So, maybe I should ask the question a different
16 way. Has there ever been a fine -- since you
17 testified on fines, has there ever been a fine
18 levied and sustained against anyone prior to
19 me?

20 A: Yes.

21 Q: Landward -- I mean, landward of the setback
22 line for an erosion control structure? Sorry.

23 A: I don't remember right now if the Summer House
24 case involved a fine, a penalty.

25 Q: Thank you. Thank you. Sorry you were so



1 stressed yesterday.

2 **MR. REDDY:** No more questions.

3 **THE COURT:** Re-direct on his limited examination. I
4 guess that would be re-re -- re-re-direct.

5 **MR. CHURDAR:** Your Honor, I don't have any.

6 **MS. MILTON:** None, Your Honor.

7 **THE COURT:** All right. You may step down.

8 And you're now officially in a role of a
9 lawyer. You know why? You said I only have
10 one question and every time a lawyer tells me
11 they have one question ... Except for one
12 time, I think, in the entire history of my
13 courtroom, a lawyer said I have only one
14 question, and asked only one question.

15 (Laughter.)

16 **MR. REDDY:** Your Honor, I think after this
17 experience that you've been kind enough to let
18 me have, but I might get my -- go get my bar
19 license.

20 (Laughter.)

21 **THE COURT:** All right. Call your next witness.

22 **MS. PHELAN:** Your Honor, the Department calls
23 Jessica Boynton to the stand.

24 **THE COURT:** Okay.

25 **COURT REPORTER:** Raise your right hand, please.



1 (Witness complies.)

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

6 **MS. BOYNTON:** I do.

7 **COURT REPORTER:** Thank you.

8 **MS. JESSICA BOYNTON,** being first duly sworn,
9 testifies as follows:

10 **MS. BOYNTON - DIRECT EXAMINATION BY MS. PHELAN:**

11 Q: Good morning, Ms. Boynton.

12 A: Good morning.

13 Q: Can you state your full name and your position
14 with the -- your current position with the
15 Department, please?

16 A: Jessica Boynton, Coastal Services Section
17 Manager.

18 Q: Can you please tell us about your education?

19 A: Certainly. I have a Bachelor's degree in
20 biology from Western Maryland College and a
21 Master's degree in biology, with an emphasis in
22 GIS and remote sensing, from Murray State
23 University.

24 Q: Could you please explain what GIS is?

25 A: GIS stands for Geographic Information Systems,



1 which is a software platform that allows users
2 to view, analyze and map spatial data or data
3 with location information.

4 Q: And do you have any training in GIS or -- GIS?

5 A: I do. My Master's degree had a strong emphasis
6 in GIS, and I took a number of courses at that
7 time. I've also taken a series of GIS courses
8 since then. I've taken approximately 15 to 20
9 courses related to that subject.

10 Q: And do you have any experience with GPS -- GPS?

11 A: Yes, I do.

12 Q: And what is -- what is -- what does GIS stand
13 for?

14 A: GPS.

15 Q: Okay.

16 A: GPS stands for Global Positioning Systems,
17 which is a satellite constellation, though the
18 larger term is GNSS, which stands for Global
19 Navigation Satellite Systems, which is a series
20 of constellation systems that we use to collect
21 high resolution data in the field.

22 Q: Okay. And did you already tell us what GIS
23 stood for?

24 A: I did.

25 Q: Okay, thank you. All right. And aside from



1 the GIS training, do you have any training in
2 -- for vegetation, identification of
3 vegetation?

4 A: I do. I took a wetlands vegetation training
5 with the U.S. Army Corps and South Carolina
6 Department of Natural Resources, and I've taken
7 several vegetation -- critical area vegetation
8 trainings from the Department.

9 Q: Can you please go over your relevant work
10 history?

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

24 Q: And approximately for how long were you there?

25 A: I was there for just over five years. And at



1 the Marine Resources Division, I again provided
2 GIS analysis and mapping for oyster resource,
3 for sea turtles and various fishery programs
4 doing feature interpretation and analysis.

5 Q: And can you tell -- explain to us what feature
6 interpretation analysis is?

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

12 **THE COURT:** What do you mean by features?

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



1 what kind of vegetation you had. So, you can
2 really do feature analysis on any features on
3 the ground.

4 Q: Does feature analysis include identification of
5 escarpment?

6 A: Yes, it would.

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

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

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

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

17 Q: What is a shoreline specialist?

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

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

24 A: The team lead had similar responsibilities in
25 terms of the technical side of things, but also



1 additional management and supervisory
2 responsibilities.

3 Q: And how about section manager?

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

9 Q: Do you have any responsibilities related to the
10 -- to the beach/dune system critical area?

11 A: I do. Our section leads the effort to review
12 the baseline and setback line. Setback line
13 being the landward extent of the beach/dune
14 system critical area. We take a lead on that
15 -- that review.

16 Q: Okay. And as a part of that, do you do any
17 analysis of vegetation?

18 A: We do. We both collect vegetation shorelines
19 in the field, and then also digitize on screen
20 and analyze those vegetation shorelines.

21 Q: Okay. And what is the purpose of looking at
22 the vegetation shorelines for -- in the context
23 of the beach/dune critical area?

24 A: The vegetation line is a biological indicator
25 of the landward extent of regular inundation,



1 such that vegetation cannot be established
2 seaward of that. And ---

3 Q: Is that because they're not salt tolerant of
4 the -- the wave ---

5 A: That's right. They can't be inundated on a
6 regular basis. And the vege- -- vegetation
7 lines serve when we are working on establishing
8 or reviewing the baseline, specifically in the
9 unstabilized inlet erosion zones, which guides
10 -- the statute guides us to look for the most
11 landward point of erosion at any time in the
12 last 40 years.

13 Q: And the vegetation is an indicator of that?

14 A: That's correct.

15 Q: Are you a member of any professional groups or
16 organizations?

17 A: Yes. I serve as the coastal program
18 representative to the South Carolina State Map
19 Advisory Committee. I am a founding member of
20 the Coastal GIS User Group. I serve on the
21 Coastal States Organization's Coastal Hazards
22 Working Group. And I was the state
23 representative to the Governor's South Atlantic
24 Alliance technical team for hazard assessment.

25 Q: Have you received any professional awards for



1 your work?

2 A: In 2016 I received the Director's Award from
3 the Department. And in 2024 I was part of the
4 team that received the State Library's Notable
5 Documents Award for our efforts with our
6 Coastal Atlas story map, which has a lot of GIS
7 features.

8 Q: I want to talk to you a little bit about your
9 familiarity with the South Carolina coast. Are
10 you familiar with the South Carolina coast?

11 A: Yes. In my role with the coastal program, as
12 well as my time with the South Carolina
13 Department of Natural Resources, I've spent
14 countless hours, hundreds and hundreds of hours
15 on the coast, on the beachfront, collecting
16 data. I think it's fair -- while I may not
17 have walked every linear foot of the coast,
18 I've walked almost every linear foot of the
19 coast.

20 Q: Does some of the data that you collect relate
21 to the vegetation?

22 A: Yes, that's correct.

23 Q: Before moving on to talk about the specifics of
24 the case, would you summarize for us how many
25 years of experience you have with GIS and



1 feature identification analysis using aerials?

2 A: Certainly. I've been using GIS for a variety
3 of analysis, including feature interpretation,
4 for more than 20 years. I have been collecting
5 GPS scale data, for which I've been certified
6 to do by multiple entities for also more than
7 20 years.

8 Q: So, I want to talk now about what you looked at
9 in this case. Did you look at shoreline
10 movement in the area of -- of the Isle of
11 Palms?

12 A: I did.

13 Q: And what did you look at?

14 A: I reviewed -- I reviewed historic and modern
15 shorelines in the Department's database to see
16 what kind of -- what kind of data we had and
17 what kind of trends I might see.

18 Q: Okay. And did you see any trends?

19 A: Yes. Broadly speaking, as one would expect in
20 an unstabilized inlet erosion zone, I saw that
21 there was a lot of -- a lot of shoreline
22 movement and a lot of dynamic movement.
23 Looking back in history, if I was looking, you
24 know, at the early 1900s and 1920s and '30s
25 into the 1960s, there was a lot of seaward



1 movement of the shoreline, or accretion. And
2 then we get into the '70s, and there was some
3 accretion, but also some erosion. The '80s saw
4 additional landward movement or erosion. And
5 then in the '90s and early 2000s the shoreline
6 moved -- moved seaward, or there was accretion.
7 Since 2006, or the more modern shorelines,
8 we've seen -- we've seen erosion coming between
9 2006 and 2023. So, broadly, it's been a period
10 of -- of landward movement of the shoreline.

11 **MS. PHELAN:** Exhibit 57, please.

12 We're having a technical issue, I think.

13 Q: Do you recognize this?

14 **(Joint Exhibit Number 57 was referenced at this**
15 **time.)**

16 A: I do.

17 Q: And what is this, please?

18 A: This is a map that I created. The base map
19 there that we're looking at is from September
20 of 2023 and overlaid on top of that are a
21 series of vegetation, or scarp lines. We can
22 see there the most seaward one is in 2006.

23 Q: Okay. Do you want -- before you go into that,
24 can you just tell us a little bit about how you
25 create these maps?



1 A: Oh, sure. So, using the GIS software platform,
2 the different data layers are added into the
3 program. So, the base layer is a aerial image,
4 that's a raster data set, that's added in first
5 and then the vector data sets, or these points
6 and lines are added in on top of that raster
7 data set, and they overlay so you can see where
8 different data sets align with one another.

9 Q: So, I notice that there's a scale on this map.
10 Is this -- is this appropriate for measurement?

11 A: Yes. This -- this map has been geo rectified,
12 and what that means is that the map has
13 accurate loca- -- location information embedded
14 in it, and so the map and the features within
15 it sit on the face of the earth where they
16 should. So, you can -- yes, you can make
17 measure- -- measurements on this map.

18 Q: Okay. Now, go ahead and walk us through what
19 this images shows us, please.

20 A: So, there's really two sets of data here. We
21 have the vegetation lines that we can see there
22 in a number of different colors. And then we
23 have the location of where the seawall was
24 captured by the -- by the Bureau in December of
25 2023, and that's the black dots there. As I



1 mentioned, the purple line that we see there is
2 the 2006 line. That's the most landward line
3 that we have in our database. Moving landward,
4 we get to 2011. Landward from that, 2019 --
5 or, sorry, 26- -- we get to 2016 is in the
6 green line. Then we can see that there was a
7 little bit of seaward movement between 2016 and
8 2019, meaning accretion. And then from 2019 we
9 can see landward movement in -- in June,
10 September and December.

11 Q: Okay. And I noticed that there's a dotted line
12 for December.

13 A: Yes.

14 Q: Can you tell us why that line is dotted?

15 A: I think Mr. Matt Slagel testified earlier that
16 he used the hand held GPS device to collect up
17 to the edge of the vegetation line to the very
18 edge of the Reddys' property, and then picked
19 it up immediately on the other side of their
20 property. Similarly, with the pool, he did not
21 wade through the pool.

22 Q: All right. And was there any natural
23 vegetation on Mr. Reddy's property at the time
24 to assess?

25 A: Not to my knowledge.



1 Q: It was all artificial turf grass?

2 A: That's my understanding, yes.

3 Q: So, what did you deter- -- what did you
4 determine from looking at these lines in their
5 relative positions?

6 A: Well, as I said before, you know, broadly
7 looking at the database, the data shows a lot
8 of variability in this area, which would be
9 expected given the beach zone it's in. Since
10 2006 we've really seen kind of that landward
11 movement of the shoreline, which would really
12 indicate repeated erosional events, or the
13 chronic erosion system, rather than a single
14 event.

15 Q: And are these vegetation lines collected in the
16 field or digitized from aerials?

17 A: Both. The hist- -- more historic lines are
18 digitized from aerial imagery. And the more
19 recent lines, the 2016, 2019, 2023, are
20 captured in the field.

21 Q: Have you determined in your review whether this
22 movement of the lines, the vegetation line and
23 the erosion, is due to a single event?

24 A: No, it -- I -- it is multiple events over time.
25 Given the time frame that we have here, a --



1 almost 20 years, it would be a recurring
2 erosive events over time, not a single event.

3 **OBJECTION:**

4 **MR. REDDY:** Your Honor, this is speculation again.
5 How -- is it -- is she some sort of a expert on
6 some recurring events?

7 **THE COURT:** She's offering an opinion when she
8 stated that, so. She's not been qualified as
9 an expert, so.

10 **MS. PHELAN:** Your Honor, the statute -- there's --
11 there's a statute that allows this Court to
12 consider the knowledge and the skill and their
13 work experience.

14 **THE COURT:** Well, that's the APA. So, you're saying
15 the APA Statute is applicable to these
16 proceedings?

17 **MS. PHELAN:** Yes, Your Honor, I believe so.

18 **THE COURT:** It was -- the statute was amended.

19 I'm going to allow her to go into this and
20 I'm gonna review the statute 'cause there was
21 an amendment in the statute, Mr. Reddy ---

22 **MR. REDDY:** Yes, sir.

23 **THE COURT:** --- and I'm not sure if it ...

24 **MR. REDDY:** So, Your Honor, if -- if -- if --
25 because I don't know, I'm asking ---



1 **THE COURT:** I'll tell you the statute. It says, I
2 can't quote it exactly, but it says that
3 scientific, technical, or otherwise special
4 knowledge -- well, that might be the -- that's
5 probably Rule 60. 70 -- 7.02. It's something
6 to that effect, that I can take notice of the
7 general scientific or technical knowledge
8 within the agency's experience. So, but that's
9 the APA. Historically that doesn't apply to
10 our Court because -- but then there was an
11 amendment that I'm gonna have to go look at.

12 **MR. REDDY:** So, as a citizen, Your Honor, can I ask
13 a question?

14 **THE COURT:** Yes.

15 **MR. REDDY:** If I prove -- if I can prove that she --
16 this is provely truly false, can we disqualify
17 her entire testimony as perjury?

18 **THE COURT:** Well, what you can do is you can impeach
19 her on cross examination, and then I will weigh
20 the value of her evidence -- of her testimony
21 and I could determine that, if you were
22 successful in doing so, that her testimony
23 would not have probative weight.

24 **MR. REDDY:** Thank you, Your Honor.

25 **THE COURT:** The perjury aspect is a criminal charge



1 that would be brought separately.

2 **MR. REDDY:** Can I do that? Can I ---

3 **THE COURT:** The state ---

4 **MR. REDDY:** --- from this proceeding, do that?

5 **THE COURT:** The State of South Carolina can bring --

6 -

7 **MR. REDDY:** Okay.

8 **THE COURT:** --- criminal charges.

9 **OFFER AS EXPERT:**

10 **MS. PHELAN:** Your Honor, I'd like to tender her as
11 an expert.

12 **THE COURT:** Okay.

13 **MS. PHELAN:** In GI- -- GIS, feature identification,
14 in shoreline -- shoreline changes ---

15 **THE COURT:** All right.

16 **MS. PHELAN:** --- in South Carolina.

17 **THE COURT:** You can't -- y'all can't be talking to
18 her.

19 **MS. PHELAN:** I can't ask her ---

20 **THE COURT:** No.

21 **MS. PHELAN:** --- any -- okay.

22 **THE COURT:** Well, you ask her questions, you just
23 can't be having a ---

24 **MS. PHELAN:** No, no.

25 **THE COURT:** --- private conversation.



1 Q: Is there anything else that you consider in
2 your expertise?

3 A: I would say GPS field collection.

4 MS. PHELAN: GPS field collection.

5 THE COURT: Okay. All right, she's offered her as
6 an expert in GPS field collections, and I
7 didn't -- the first part?

8 MS. PHELAN: GIS.

9 THE COURT: GIS.

10 MS. PHELAN: GPS field collection, feature
11 identification, and shoreline change.

12 THE COURT: Okay.

13 So, Mr. Reddy, she's seeking to qualify
14 her as an expert. You can object to those
15 qualifications. And if you wish, you can voir
16 dire her about her qualifications.

17 OBJECTION:

18 MR. REDDY: I object to her qualifications. I have
19 no opportunity to review this now. She's
20 changing it on the fly as an expert witness.
21 How do I know that she's saying -- she just
22 speculated on something, and now, because she's
23 speculating, she says she's an expert witness.
24 I don't have any way of ---

25 THE COURT: Normally ---



1 **MR. REDDY:** Can I ask her a question?

2 **THE COURT:** Stop for just a second. Normally, y'all
3 -- and I don't know what happened here with the
4 transition with lawyers. Normally, most
5 parties identify the experts, and that's how
6 the depositions are conducted. And ---

7 **MS. PHELAN:** Your Honor, we -- we identified --
8 under our expert disclosures, we identified the
9 specialized skill and knowledge and expertise
10 of the staff, and we specifically identified
11 Ms. Boynton.

12 **THE COURT:** As an expert witness?

13 **MS. PHELAN:** As a -- as one of the staff members we
14 were calling.

15 **MR. REDDY:** So, Your Honor, she says their entire --
16 everyone that testifies as part of the deep
17 state is an expert witness. How is that
18 possible? I'm going to make my wife an expert
19 witness then, because she's part of my staff.

20 **MS. PHELAN:** And they also had the opportunity to
21 depose Ms. Boynton. They -- she -- they didn't
22 note her personal deposition. They -- she was
23 presented as a 30(B)(6) witness on something,
24 but they failed to depose her.

25 **THE COURT:** Well, I mean, they wouldn't have deposed



1 her if they didn't know she was going to be an
2 expert.

3 **MS. PHELAN:** They did have notice she had
4 specialized ---

5 **THE COURT:** Yeah, I understand that.

6 **MS. PHELAN:** Okay.

7 **MR. REDDY:** She -- we were never notified that she
8 was going to be an expert witness. If she was
9 going to be an expert witness, we definitely
10 would have deposed her.

11 **THE COURT:** Hold on one moment.

12 **MS. PHELAN:** And ---

13 **THE COURT:** Hold on one moment.

14 **MS. PHELAN:** Okay.

15 Your Honor, I also have the statute now,
16 the cite, if you'd rather do it that way.

17 **THE COURT:** Give me the statute.

18 **MS. PHELAN:** Okay.

19 **THE COURT:** Not the APA one.

20 **MS. PHELAN:** There's -- the one that we have is
21 Section 1-23- 330, evidentiary matters and
22 matters in contested case.

23 **THE COURT:** I think there was a ---

24 **MS. PHELAN:** Subsection four.

25 **THE COURT:** --- another provision added somewhere



1 else.

2 **MS. PHELAN:** There -- I think there is too, and I
3 should have it. I'm sorry.

4 **THE COURT:** It might've been added when y'all
5 created the DES, is what -- as I remember. So,
6 I'm gonna -- I'm gonna let her testify, not as
7 an expert. I don't believe she was properly
8 disclosed in that regard. So, for the agency's
9 -- there's a specific provision of law. I
10 mean, I understand your objection, but I think
11 there's a specific provision of law that will
12 allow her to testify regarding -- and I -- the
13 language that I remember is very similar to the
14 330, so let me pull that up.

15 **MR. REDDY:** Your Honor, if she's an expert, then I
16 would like for ---

17 **THE COURT:** Well, I didn't ---

18 **MR. REDDY:** --- her to testify ---

19 **THE COURT:** I'm not allowing her to testify as a
20 expert, I'm -- under -- I'm allowing her --
21 hold on a second. Notice may be taken of the
22 generally recognized technical and scientific
23 facts within the agency's specialized
24 knowledge. I don't know if GIS, GPS and all
25 that is within the agency's specialized



1 knowledge, because really that statute was
2 getting at him. Her knowledge of what she's
3 learned in the field from a --from recognizing,
4 you know, an escarpment line, recognizing, you
5 know, what is natural vegetation and all that.
6 GPS is something that is obtained outside of
7 her -- there's many witnesses or people who
8 learn GPS knowledge that is not within the
9 agency's specialized knowledge. Do you wish to
10 respond to that?

11 **MS. PHELAN:** Can I question ---

12 **THE COURT:** Yeah.

13 **MS. PHELAN:** --- can I ask her a few questions?

14 Q: Do you use GPS in your -- in your work at the
15 Department?

16 A: Yes, I do.

17 Q: Is that one of your major job responsibilities?

18 A: Yes, it has been for the positions I've held
19 with the program.

20 Q: Okay. Have you had any training during the
21 time that you've been there on GPS?

22 A: Yes. I received GPS certification from the
23 authorized Trimble dealer for the Carolinas on
24 the survey and mapping grade GPS units.

25 Q: And do you train any staff on GPS?



1 A: I do. As the section manager for Coastal
2 Services, I oversee the training for all Bureau
3 staff on mapping and survey grade GPS hand
4 units.

5 Q: How many times do you think you've use GPS in
6 your job responsibilities?

7 A: Over the course of my career?

8 Q: Yes.

9 A: Hundreds.

10 **MS. PHELAN:** Your Honor, I would ---

11 **THE COURT:** All right. I found the provision.
12 Y'all should've known it.

13 **MS. PHELAN:** I agree, Your Honor.

14 **THE COURT:** 49-30-60, and it sets forth -- when I
15 say I found it, my law clerk found it, helped
16 me. The Court shall give consideration to the
17 provisions of Section 1-23-330, but it limits
18 it, interestingly, regarding the Department's
19 specialized knowledge. So, I'm going --
20 pursuant to that statute, I'm going to allow
21 her to testify in this ---

22 **MR. REDDY:** Your Honor, she's -- once again, all the
23 questioning is about her knowledge of GPS.

24 **THE COURT:** Yeah.

25 **MR. REDDY:** So, if she wants to testify, or expert



1 knowledge -- I know GPS because I've used it.
2 I've owned hundreds of pieces of equipment that
3 have GPS because we've done field -- installed
4 fields. But if she wants to testify about her
5 knowledge of GPS and expertise in that field,
6 that's one thing, but it doesn't mean she can
7 say there's some ex- -- GPS doesn't predict
8 periodic inundation. It has nothing to do with
9 it. It's how you use a field instrument to
10 actually take data points, which I -- which we
11 will ask her about, to actually get data
12 points. It doesn't mean that, if you go
13 collect data points, you can speculate that
14 that data point goes back ten years and can
15 only be created by this.

16 **THE COURT:** I see your point.

17 **MR. REDDY:** Yeah.

18 **THE COURT:** And she could be cross examined on that,
19 Mr. Reddy.

20 **MR. REDDY:** All right. Thank you.

21 Q: Let me just back up a question. In your job
22 responsibilities, since you've been with the
23 Department, is using the GPA -- GPS data, and
24 the other data that's collected in the field as
25 part of evaluating shoreline changes, part of



1 something you do?

2 A: Yes. In my role, all three roles with the
3 Department, I have run or overseen shoreline
4 change analysis for the entire State of South
5 Carolina looking at shorelines that have been
6 in the Department's database, as well as
7 collecting those in the field, as well as
8 digitizing those on screen.

9 Q: And ---

10 **THE COURT:** Can I ask you a question, since we're --
11 we're having to launch into this analysis. It
12 just appears to me that the exhibit that you've
13 got up in front of us impeaches your testimony.
14 And maybe you can explain that, because I've
15 got the -- the 9th -- September 1, 2023 yellow
16 line, and then I've got the -- what color did
17 you call the '23 line?

18 A: Teal.

19 **THE COURT:** Teal. The teal makes a substantial move
20 inward, or landward, and then -- so, that's in
21 December 18, 2023.

22 A: Uh-huh.

23 **THE COURT:** The photo, the imagery photo, was
24 September 1, 2023. I see a significant amount
25 of vegetation in that picture that really



1 corresponds more with the yellow -- with the
2 yellow line. So, can you explain what I'm ---

3 A: Let me make sure -- I want to make sure I
4 understand your question. Your question is
5 that between the yellow line and the teal line,
6 you're seeing a lot of vegetation at the
7 properties south and north of -- or south of
8 the property?

9 **THE COURT:** Yeah.

10 A: Yeah, that's a great question. So, the imagery
11 that you're seeing here corresponds to the
12 yellow line, and we'll see a closer up version
13 of that.

14 **THE COURT:** Okay.

15 A: So, the yellow line is capturing the edge of
16 the vegetated escarpment in September of 2023.
17 The December line, like some of the older
18 historic lines, is laid over there for sort of
19 a future reference, this is what happened in
20 the future.

21 **THE COURT:** Okay.

22 A: But it doesn't correspond to the base map.

23 **THE COURT:** Okay. There you go. All right. You
24 may proceed.

25 Q: Is there anything else you want to say about



1 this image, Ms. Boynton?

2 A: No, I don't think so.

3 Q: Do you recognize this exhibit?

4 **(Joint Exhibit Number 84 was referenced at this**
5 **time.)**

6 A: Yes, I do.

7 Q: Can you tell us what these photos are?

8 A: Sure. This is a site visit from September 1st,
9 2023, when I was collecting vegetation --
10 vegetative escarpment line at the southern end
11 of Isle of Palms. And we continue to collect
12 that line at the Reddys' property and north of
13 their property. At the Reddys' property, the
14 escarpment was not vegetated, as it had the
15 artificial turf. So, you'll hear me refer to
16 that as the top of the escarpment, or the
17 artificial turf escarpment. And we also
18 collected site photos on that day.

19 **THE COURT:** What did you say? What did you say, the
20 last thing?

21 A: I said we also collected photos on that day.

22 **THE COURT:** Oh, okay.

23 Q: Next image. What does this image show?

24 A: So, this image is looking south. I'm
25 continuing to collect, along that artificial



1 turf, the top of the escarpment there. Similar
2 to the first picture -- and actually, if you
3 could go back to the first picture, again. You
4 know, we can see that the water is up here.
5 This is actually after high tide. Now, the
6 Department is not out on the beach 24/7,
7 obviously, and so, you know, you may not see
8 the water hitting something, which is why we're
9 looking for the indicators of periodic
10 inundation as guided by statute. The number
11 one is that looking for that littoral or lack
12 of littoral vegetation. So, we don't see any
13 vegetation here, but we also see other
14 indicators. The escarpment line being one,
15 indicating erosive forces from the water. We
16 also see that wrack that Mr. Slagel talked
17 about earlier, that organic material, typically
18 marsh -- dead marsh grass.

19 Next photo. And again, similar here, we
20 see the indicators of inundation, the wrack,
21 the escarpment.

22 Next photo.

23 **OBJECTION:**

24 **MR. REDDY:** Objection, Your Honor. Again, they're
25 using the word inundation loosely. She, being



1 the expert, she should know better. Of course,
2 the thing we're trying to discuss is periodic
3 inundation. So, she keeps using the word
4 inundation. In what context? Can she clarify
5 when she's -- I don't know what the case is
6 they're making. This is the day after the
7 storm.

8 **THE COURT:** Again, you can cross on this. But I
9 recognize word -- the word periodic, and the
10 difference in inundation.

11 Can you back up two photos?

12 A: Sure.

13 **THE COURT:** The plant that's in the -- it's like
14 it's right beside the steps going down.

15 A: Uh-huh.

16 **THE COURT:** Is that a -- is that littoral
17 vegetation?

18 A: So, as you'll see in the data that was
19 collected, the escarpment line went landward of
20 that. The reason for that is we -- when we
21 were out on site, we were looking at was there
22 -- where was the periodic inundation getting.
23 And it was clearly getting landward of that --
24 that single palm, which was falling into the
25 beach and not in good health at the time that



1 I was there. So, the escarpment went landward
2 indicating that this example of periodic
3 inundation was landward of that.

4 **THE COURT:** But you didn't answer my question.

5 A: Sorry. Can you ask it again?

6 **THE COURT:** Is that plant -- what type of plant is
7 it?

8 A: Well, it's not -- it's not -- it's not
9 littoral.

10 **THE COURT:** It's not, okay.

11 A: Yeah, which is why, because it was being
12 inundated, it was not in good health.

13 **THE COURT:** It's not littoral because it was not in
14 good health, or it's not littoral?

15 A: So, we're looking for nonlittoral vegetation as
16 the edge --

17 **THE COURT:** Nonlittoral.

18 A: --- is it present, and if we see that period-
19 -- periodic inundation is -- so you might have
20 nonlittoral vegetation that is now being
21 inundated, and it takes more than five minutes
22 for a plant to die. So, this plant was not in
23 good health. The escarpment was landward,
24 which is where we collected it.

25 **THE COURT:** All right.



1 Q: So, did you have any difficulties collecting
2 this line on September?

3 A: You know, you can see sort of various debris --
4 debris materials here. The one thing I'll just
5 draw the attention -- the Court's attention to
6 is that this area here is kind of sloping. The
7 artificial turf is sloping down, which made it
8 difficult for me to reach that -- that landward
9 edge of the escarpment without climbing up it,
10 which I did not do. So, that will come into
11 play a little later. (Indicating)

12 Q: I'm showing you Exhibit 57, page three. Is --
13 does this portray the data you collected?

14 **(Joint Exhibit Number 57 was referenced at this**
15 **time.)**

16 A: It does.

17 Q: And can you explain this to us?

18 A: Certainly. So, we're looking at the aerial
19 image. We saw an example of this earlier. And
20 I've overlaid the location of the future
21 seawall. It wasn't, of course, here in
22 September of 2023. Overlaid that with the veg
23 line/artificial turf scarp. And I had
24 mentioned that one area of the artificial turf
25 where I was struggling to get to the top of the



1 escarpment because of the sloping of the turf.
2 You can see there that short segment that is
3 just -- here, I'll circle it. That is the area
4 where I was struggling to get to the landward
5 edge of the escarpment. But for the rest of
6 this, I kept -- I collected the line along the
7 escarpment. The distance there from that
8 yellow line to the future location of the
9 seawall is between 10 and 12 feet, indicating
10 that this is an example of periodic inundation
11 in September of '23 that is landward of where
12 the wall would be installed. I'll mention that
13 this is one of the examples of inundation. So,
14 there's been a lot of discussion about the need
15 to demonstrate periodic inundation, and the
16 series of maps that I'm going to show today, or
17 discuss today, are going to show repeated
18 examples. So, this is -- this is one --
19 another example of inundation in this area
20 landward of where the seawall would be.

21 **MR. REDDY:** What exhibit, can you tell us that?

22 **MS. DEBRUHL:** 57.

23 **MS. PHELAN:** Exhibit 57, page 3.

24 **MR. REDDY:** 57, page 3.

25 **Q:** And when you're collecting this data, is it one



1 data point?

2 A: No. What you see here is a single line, but it
3 is made up of data points that are collected
4 every second.

5 Q: Do you have an explanation of why this line is
6 so squiggly?

7 A: Well, escarpment lines can vary. But as you
8 can see here, the -- there was artificial turf
9 that was overlaid onto the beach there, and I
10 think that affected the line.

11 Q: Does the vegetation on the adjacent properties
12 tell you anything?

13 A: It does. You can see there, to the -- to the
14 south, that the natural vegetat- -- vegetated
15 escarpment line, you can see how far landward
16 that is from the future location of the
17 seawall, indicating that there was inundation
18 happening landward of the wall.

19 Q: Anything else on this image?

20 A: No.

21 Q: I'm going to show you Exhibit 95.

22 **(Joint Exhibit Number 95 was referenced at this**
23 **time.)**

24 Q: I want to talk about your October 9th, 2024
25 site visit and data collection.



1 A: Okay.

2 Q: Can you please walk us through these photos?

3 A: Sure. So this was a site visit on October 9th,
4 2024. This is taken at the northern end of the
5 property looking south. I'll draw your
6 attention to a few things. There are several
7 indicators of periodic inundation. The first,
8 of course, is that there's no vegetation at
9 this adjacent property. We see wrack washed
10 landward of the extent of the seawall and --
11 and the sand in that area is -- is wet from
12 tidal inundation.

13 **THE COURT:** Where is it wet?

14 A: It's wet -- it's wet where I'm standing, and
15 it's wet landward where I was standing.

16 **THE COURT:** Let's mark it.

17 **MS. PEREZ:** You can circle.

18 A: Sorry. So when I was out there, this whole
19 area in here (indicating). I'm not sure -- I
20 didn't collect -- I didn't collect the line,
21 Your Honor, but you can see my footprints going
22 into the -- into the wet sand. And we'll see
23 -- we'll see some additional pictures that will
24 show this a little bit better.

25 Next. So, this is looking north. And we



1 were here after high tide, but this whole area
2 right up to the wall and here and up here
3 (indicating), all of this is wet.

4 Q: And this is page two of this exhibit?

5 A: Yes. We can also see the wrack that has
6 accumulated, that has come up through --
7 carried with -- the water has carried that up
8 and deposited that up to and landward of the
9 wall.

10 Next slide. Sorry, let me clear that. In
11 this photo, again, we can see the wet sand up
12 to and around the wall. This was wet in here
13 when we were there (indicating). The other
14 thing I'd like to draw your attention to is
15 that we have this -- this natural vegetated
16 scarp line here to the property to the south,
17 indicating -- and as you can see, there's --
18 there's no vegetation in this area, no
19 vegetation in -- in any of this area here.

20 Next slide. Looking south, you can see
21 that that scenario continues in terms of the
22 vegetated escarpment. And even though we are
23 well past high tide, you can still see how far
24 up the water is getting here.

25 Next slide. And I think this is the last



1 slide in the series. Just now, looking fully
2 south of the wall and looking at this
3 vegetative escarpment here, in- -- and the lack
4 of vegetation in this area.

5 Q: And could you circle where the vegetation --
6 where you're seeing the vegetation on the
7 escarpment?

8 A: Yeah. This is -- sorry, I'm not very good with
9 this (indicating).

10 Q: I'd like to talk a little bit about the
11 relationship between an escarpment and the
12 vegetation that you see.

13 A: Sure.

14 Q: Can you -- I have them pulling up an image, but
15 while they're getting it, can you go ahead and
16 explain a little bit of the relationship
17 between vegetation and escarpment?

18 A: For sure. So, the escarpment, I think has been
19 mentioned before, is that vertical cut in the
20 sand dune that occurs when you have erosive
21 forces such as waves and water impacting the
22 sand dune. And when that happens, you get --
23 you get that vertical cut. If that -- if that
24 is a fully vegetated dune, this is an example
25 of what you see. So, when we talk about the



1 veg line, or the scarp line, you know, it's, in
2 some areas, sort of one in the same. So, you'd
3 be collecting, you know, along here
4 (indicating). And you don't have vegetation
5 out here, but it is a vegetated scarp line.
6 You can have unvegetated scarp lines. So, if
7 you have a berm that is unvegetated, and then
8 it has erosive forces impacting it, then, you
9 know, you could get an escarpment cut there.
10 The escarpment is key to the definition of
11 active beach, but not key to the definition of
12 beaches.

13 Q: So, if the vegetation -- we see a picture here
14 where the vegetation is right along the
15 escarpment, so they're kind of one in the same,
16 is that right?

17 A: Yes.

18 Q: If there's no vegetation on the escarpment,
19 then where would the vegetation be located?

20 A: Landward of that.

21 Q: Is it -- will it ever be located seaward of the
22 escarpment?

23 A: In the 17 years that I've been working on the
24 South Carolina coast, I don't know that I can
25 recall seeing a vegetation seaward of an



1 escarpment, because the escarpment indicates
2 that you've got erosive forces coming up to cut
3 the dune. So, I don't think I've seen that
4 scenario.

5 Q: And the erosive forces are?

6 A: Would be the inundation by water.

7 Q: Ms. Boynton, you just walked us through your
8 data collection photos and two site visits.
9 Could you summarize what you learned from the
10 visits?

11 A: At both of those visits, I learned that there
12 was inundation sufficient to limit vegetation
13 up to and landward of the wall, indicating that
14 wall -- the wall was in beaches critical area.

15 Q: So ,did it tell you anything about periodic
16 inundation?

17 A: Well, the -- the first site visit was in
18 September of 2023 and the next visit was just
19 over a year later, in October of 2024 and there
20 was still inundation happening at that point.
21 Indicating that the inundation in September was
22 not an isolated, single incident.

23 Q: There was no -- there was no vegetation that
24 got reestablished from the two periods that you
25 looked at?



1 A: That's correct.

2 Q: So, we're going to talk a little bit about your
3 feature analysis that you did in this case.
4 Can you just briefly remind us what feature
5 analysis is?

6 A: Sure. So, feature analysis is looking at
7 features on remotely sensed imagery to
8 interpret what those features are, how they
9 relate to one another. You can make
10 measurements.

11 Q: So, I'm showing you page three of Exhibit 65.
12 **(Joint Exhibit Number 65 was referenced at this**
13 **time.)**

14 Q: Can you please tell us what this is?

15 A: Sure. So, this is the first of a three map
16 series, June of 2023, October of 2023, and
17 November of 2023. And the purpose of these
18 maps is to highlight the location of the future
19 and buried seawall relative to periodic
20 inundation, and to demonstrate that there has
21 been periodic inundation over time. Before I
22 jump into the details of this map, I want to
23 mention that this, like the previous images
24 that we've looked -- looked at has been geo
25 rectified, so it is -- it has coordinate and



1 location information in this imagery, and it is
2 sitting where it should on the face of the
3 earth, making it possible to overlay other
4 spatial data, such as the location of the
5 seawall. I'll also draw your attention to a
6 few features on this map. So, we can see the
7 location of the future seawall here in the
8 black dots. And I analyzed this image to see
9 if there was indicators of inundation that were
10 up to and seaward of the -- of where the future
11 wall would be. One of the things that I noted
12 was the location of this escarpment line here
13 (indicating). And I wasn't able to see where
14 it went after that because of the overlaid
15 artificial turf there, but that escarpment line
16 was an indicator of inundation and was landward
17 of the future location of the wall. And the
18 portion that I could see covered about 60
19 percent of the wall. This image -- feature
20 interpretation that I did here was further
21 collaborated by survey data that was collected
22 by the Reddys' surveyor in July. Mr. Jones
23 will talk about that a little bit more, but
24 their location of this escarpment just a few
25 weeks after this image was captured is very



1 similar to what I'm showing here. So that was
2 an indicator of periodic inundation, at least
3 the portion of the escarpment that I was able
4 to see in this image, landward of the wall.

5 So, now I want to move into -- sorry, let
6 me clear that off.

7 So, now I want to move into the feature
8 analysis that I did on this image. And this
9 image, as I said, is geo rectified, but the two
10 subsequent images that we're gonna -- we're
11 gonna see in October and November, they're
12 aerial photos, they're high resolution aerial
13 photos, but they have not been geo rectified,
14 which means you can't -- you can't just make
15 straight measurements on them. And so what I
16 wanted to do using this image and those two
17 images, which was try to identify some features
18 that I could see across all three images, to
19 see if that would help me identify where the
20 location of the wall was relative to those
21 features. And the feature that drew my eye,
22 that I identified across all three images was
23 these -- these tile -- tile pavers that you see
24 here. They appear consistent in size and
25 spacing, and they appear across all three



1 images. So, to set the stage, the first thing
2 that I did ---

3 **OBJECTION:**

4 **MR. REDDY:** Your Honor ---

5 A: --- in this image ---

6 **MR. REDDY:** --- I object to this, again.

7 A: --- and ---

8 **THE COURT:** Whoa, whoa.

9 **MR. REDDY:** Is she a tile expert now? That turf was
10 reinstalled by me, and that tile was moved
11 several times. So, she's geo rectifying it
12 against moved tiles? Every time we install the
13 turf, we move the tiles, and now she's
14 measuring it against something that she's -- is
15 she now an expert on artificial turf
16 installation?

17 **THE COURT:** Well, if you offer testimony to that
18 effect, ultimately, that will certainly impeach
19 your testimony.

20 A: Okay.

21 **THE COURT:** So -- but that's something that will
22 have to be done later.

23 **MR. REDDY:** Okay.

24 Q: You may continue.

25 A: Okay. So, to account for any tile movement and



1 shifts, we -- I started this by pulling a
2 starting point from a fixed location. So, I
3 selected the pool next door and pulled that
4 purple line that you see across, and that
5 became the starting point from a fixed, non-
6 moving location. And you'll see that I did
7 that across all of the images in the series to
8 account for any movement in the starting point
9 of my analysis. So, on this image, which is
10 geo rectified, I was able to measure. So, I
11 measured from that starting point to the
12 location of the seawall. And you can see there
13 that was 59.5 feet. The next thing I did was
14 take a measurement from the starting point to
15 the tile indicated there in that bracket, which
16 was 46.4 feet. I selected those tiles because
17 they again appeared consistent in size and
18 spacing, and that was 17 tiles and 17 tile
19 spaces. Now, the reason I was doing that is
20 because, as I said, the next two images are
21 just aerial photos, and so I wanted to create
22 a feature that I could use as a unit of
23 measurement. And so just doing some simple
24 math there, 46.4 divided by 17 gives me 2.7
25 feet as an average tile and tile spacing. Now



1 I thought about the fact that that these tiles
2 may have shifted, the spacing may have -- that
3 they may have been removed. So, not only did
4 I do this analysis on this June image, which
5 we're seeing here and that I use, I also did it
6 on three other time frames. So, I did it on
7 geo rectified images from January and March of
8 2023, on the June image, on September imagery,
9 and again in February of 2024 to get a better
10 sense of this average tile and tile spacing
11 unit of measurement, to make sure this wasn't
12 a one-off.

13 Q: So, let me, let me just ask you ---

14 A: Sure.

15 Q: --- that all those that you just mentioned were
16 geo rectified ---

17 A: That's right.

18 Q: --- photos? So you could -- they were
19 accurate for measurement?

20 A: Correct.

21 Q: Why didn't you just use -- on the next two
22 aerials that we see that weren't geo rectified,
23 why didn't you use geo rectified aerials there?

24 A: Well, aerial photos are collected for a variety
25 of purposes. Some of them are geo rectified



1 and some aren't. Those were simply collected
2 just as photos.

3 Q: And were you able to locate any geo rectified
4 photos for those time periods?

5 A: I was not.

6 Q: And why did you pick the time periods to do
7 this analysis?

8 A: Those were the time periods just before and
9 just after the wall was installed.

10 Q: Thank you.

11 A: So, I looked at multiple different time frames
12 for this to try to develop this average tile
13 and spacing. Of the four time frames I looked
14 at, three of the four had consistent average
15 tile and spacing of 2.7 feet. The fourth one
16 had 2.5 feet. Now I could have averaged them
17 to get 2.65 feet, or I could have used the 2.5,
18 but I went with the 2.7 because it created a
19 more conservative estimate for the location of
20 the wall, meaning an estimate that was further
21 seaward. If I had gone with a lower number, it
22 would've -- as I carried through the math, it
23 would've been further landward. So, I went
24 with the more conservative number. So, the two
25 numbers to take away from this are the 59.5



1 feet and the average tile and spacing of 2.7.

2 Next slide. So, here we are in October of
3 2023. And this is just before the wall was
4 installed. Similar to the first image, you'll
5 see that I pulled that purple line from that
6 fixed location, and that acted as my starting
7 point. I counted the number of tiles and their
8 spacing, 26 tiles, 26 spaces, and I multiplied
9 that by our tile unit of measurement that I
10 created from the previous image of 2.7 feet,
11 and that gave me 70.2 feet. Now, 70.2 feet is
12 greater than the measurement from where the
13 wall was, 59.5 feet. So ,I knew that the wall
14 was not all the way out there at the edge. So,
15 the difference between 70.2 and 59.5 was 10.7
16 feet and -- or approximately four tiles. So,
17 I counted in that distance and located the wall
18 where it would be just a few weeks later. As
19 you can see here, landward of where that wall
20 is, there's no vegetation, and that's true
21 north of the property to the right and south of
22 the property to the left. Based on the tile
23 spacing, the distance to the property to the
24 south within the beaches critical area, I
25 estimated to be approximately five feet.



1 Next slide. This last slide, again,
2 pulled that -- the purple line from that fixed
3 starting point, counted the number of tiles and
4 the spaces. It was 22 tiles. Multiplied that
5 by my tile unit, 2.7 feet, to get 59.4. Now,
6 you'll see that that's very similar to the
7 original measurement of 59.5 feet, indicating
8 that the wall was just a smidge seaward of
9 where that last tile is located. You'll note
10 to the north seaward and to the south, there's
11 no vegetation. And based on the tile
12 measurements, estimating that this is beaches
13 critical area going four to five feet landward
14 of the wall's location at this point.

15 Q: We have looked at the data, the photos -- let
16 me ask you something. Do you want to add
17 anything to this ---

18 A: No.

19 Q: --- feature analysis, did you? So, we have
20 looked at the data, photos and feature
21 identification that you were involved with.
22 Can you summarize what your assessment has
23 shown?

24 A: Certainly. So, we heard testimony yesterday
25 and day before from Mr. Slagel, Mr. Prevost and



1 Ms. Flake about inundation. We saw photos over
2 a number of different timeframes. And my
3 testimony is focused on the data and the
4 feature analysis showing periodic inundation.
5 All of those collectively show repeated
6 inundation, which would be periodic, sufficient
7 to restrict the growth of vegetation landward
8 of the wall -- seaward of the wall and at
9 adjacent sites. And the time frame runs from
10 May of 2023; we see that again in June of 2023.
11 I think Mr. Jones will talk about July of '23.
12 We've seen September of '23. I've just talked
13 about October and November of '23. We've also
14 seen December of '23 and other dates in '24.
15 And my site visit was in October of 2024
16 indicating periodic inundation over more than a
17 year's period at the site.

18 Q: Thank you, Ms. Boynton. No further questions.

19 **THE COURT:** Ms. Lenhardt?

20 **MS. LENHARDT:** No questions, Your Honor.

21 **MR. REDDY:** Your Honor, can we take a break ---

22 **THE COURT:** Yes, you may.

23 **MR. REDDY:** --- with the expert here? We got to
24 look at her expert thing and I need to use the
25 restroom.



1 **THE COURT:** That's fine. That's fine.

2 **MR. REDDY:** What's the ---

3 **THE COURT:** Ten-minute break?

4 **MR. REDDY:** How much?

5 **THE COURT:** Ten? Will that ---

6 **MR. REDDY:** Ten's good. Thank you.

7 **(Off the record from 10:06 a.m. until 10:25 a.m.)**

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

9 **MS. BOYNTON - CROSS EXAMINATION BY MR. REDDY:**

10 Q: How are you, Jessica?

11 A: I'm well, thank you.

12 Q: Excellent. So, you said you were a GIS, GPS
13 expert. Is -- if you went out and let's say
14 you were surveying something you wanted to buy,
15 saw a piece of land, wanted to buy it, buying
16 it is a legal transaction. Would you be able
17 to buy it with a GIS or would you need a
18 certified surveyor? In your opinion, would a
19 certified surveyor for a legal transaction to
20 buy a piece of land be accepted or would
21 someone said -- say we have an agency with a
22 GIS and we're going to accept that?

23 A: You would want a certified professional land
24 surveyor.

25 Q: Thank you. So here, would you agree that this



1 is a unelected agency taking land, and instead
2 of spending taxpayer money with all of this
3 stuff you were doing at the GIS, would you not
4 want to verify your stuff with a certified
5 surveyor?

6 **OBJECTION:**

7 **MS. PHELAN:** Objection. It's argumentative.

8 **MR. REDDY:** Asking her a question.

9 **THE COURT:** She didn't like the part where you said
10 unelected something taking land, but the rest
11 of the question is fine.

12 **MS. PHELAN:** That's right.

13 Q: So, in this situation where -- how do I say
14 that? It really is that, so let me be the
15 kinder, gentler person. If you were asserting
16 jurisdiction like you are, would you not want
17 to just get a certified surveyor instead of
18 running around with that GIS? I ask you that
19 simply because, like I said earlier, having
20 used that, it would not be accepted legally for
21 what I did. So, I'm asking if you would accept
22 it?

23 A: Could you restate the question? If I would
24 accept what?

25 Q: I'm saying for asserting jurisdiction, right,



1 which is, which is what was in front of this
2 Court, you went around with the GIS, drawing
3 lines and doing all this kind of stuff, that's
4 fine. No problem with that. And so to me that
5 would say -- would it not say to you, oh, I
6 potentially have a problem here with this
7 property, so I should get a certified surveyor
8 to validate my GIS?

9 **OBJECTION:**

10 **MS. PHELAN:** Objection, calls for speculation.

11 **MR. REDDY:** She's the expert, Your Honor. They just
12 qualified her as an expert. I'm just simply
13 asking her ---

14 **THE COURT:** Yeah, he's on -- he's on cross, so he's
15 testing her -- her opinion ---

16 **MS. PHELAN:** I don't ---

17 **THE COURT:** --- so what would be erroneous about
18 that?

19 **MS. PHELAN:** Well, I think it's speculation because
20 he didn't give -- he just said if you had a
21 problem.

22 **MR. REDDY:** If you have a problem?

23 **THE COURT:** I'm gonna let him -- yeah, I'm gonna
24 give him latitude on that one.

25 **MR. REDDY:** Well, she ---



1 **MS. PHELAN:** Thank you, Your Honor.

2 **MR. REDDY:** --- she -- I believe she answered the
3 question, that yes, typically you would use a
4 certified surveyor.

5 Q: Why it wasn't used here, I'm trying to ask you
6 why you wouldn't use it here?

7 A: Okay. So, the department doesn't have any
8 requirements for this type of work to use a
9 certified professional land surveyor. We're
10 guided to use the best available scientific and
11 historic data available to us.

12 Q: But again, as was testified by Morgan, this is
13 the first time that this type of jurisdiction
14 is being asserted prior to me. I mean prior to
15 my case. So, I'm asking you ---

16 **OBJECTION:**

17 **MS. PHELAN:** Objection, misstatement.

18 **THE COURT:** Why is that a misstatement?

19 **MS. PHELAN:** Because Ms. Flake referenced the '98
20 case, that was her testimony.

21 **THE COURT:** And she also said she wasn't sure about
22 whether this was the first time ---

23 **MS. PHELAN:** About the penalty.

24 **THE COURT:** Okay.

25 **MS. PHELAN:** And she said that asserting



1 jurisdiction ---

2 **MR. REDDY:** Okay. Can I rephrase that?

3 **THE COURT:** Yeah.

4 **MR. REDDY:** I want to keep moving on with all these
5 things. They shouldn't be objecting to
6 anything. They should be open to us disclosing
7 stuff. So, let me rephrase that.

8 Q: The very nice Ms. Morgan said that from 1999
9 and certainly from the time she's been here,
10 which is, she said, was ten years, she is not
11 aware of any assertion of jurisdiction on
12 erosion control structure or any penalties that
13 have been assessed landward of the setback
14 line, so this would be the first time. Would
15 you not want to say we should verify this with
16 a certified surveyor?

17 **OBJECTION:**

18 **MS. PHELAN:** I'm gonna object again for
19 misstatement.

20 **THE COURT:** I'll tell you what, I'll just -- if I
21 can make it more simple, I'll ignore the part
22 where you said the first time and then let the
23 rest of the question stand.

24 A: It's not up to me to make those judgment calls.
25 We're guided by statute and regulation as to



1 what we're required to do, and we follow that.
2 And we did so in this case.

3 Q: So, the statute says all you're required to do
4 is use a GIS to assert jurisdiction?

5 A: Statute guide says to use best available
6 scientific and historic data. The GPS units
7 that we use are highly accurate. I've been
8 certified to use them, as have the staff.

9 Q: Okay. So, having said there is a -- I think
10 you testified that you would use a certified
11 surveyor if you were buying land. So, you
12 would be saying then that certainly there is a
13 better way to do this than a GIS?

14 A: I'm not making that statement.

15 **THE COURT:** Would a land survey be the best
16 available ---

17 A: The Department does not have a certified
18 professional land surveyor on staff.

19 **MR. REDDY:** Don't have the money, Your Honor.

20 Q: So, what is your opinion -- since you're an
21 expert on shoreline that you testified to, what
22 is your opinion on managed retreat? What is --
23 what do you think managed retreat is?

24 A: I believe there was some testimony to that
25 effect yesterday. I think it's retreat from



1 the coast in a managed way. I don't have
2 specifics on that.

3 Q: Once again, you testified you were an expert on
4 shoreline for many, many years, 17, I think you
5 said. So ---

6 A: I testified that ---

7 Q: --- when the General Assembly changes the rule
8 on shoreline, would you -- should you not
9 incorporate that into what you're doing?

10 A: I'm not sure what you're referring to.

11 Q: I'm referring to the 2018 law where they --
12 where they banned retreat. They said we no
13 longer retreat, we're a replenish, renourish,
14 vege- -- maintain a dune. So, did you do
15 anything different in your shoreline management
16 expertise, or plans, or strategies, or anything
17 that happened in -- in your area of the
18 department, I know there's many, many different
19 areas, that says we need to do something
20 different based on this law to comply with this
21 new General Assembly requirement? Did you do
22 anything different?

23 A: So first, the General Assembly did not ban
24 retreat, they established a policy of beach
25 preservation. Following that, the Department



1 did assemble a group of stakeholders and held
2 the beach preservation stakeholder work group
3 to examine that new policy of beach
4 preservation.

5 Q: Oh, I'm glad -- I'm glad you brought it up.
6 So, the stakeholder work group you were
7 involved in, correct?

8 A: Yes.

9 Q: Excellent.

10 **MR. REDDY:** So, Your Honor, this is something that -
11 - Your Honor, they -- all of our exhibits, they
12 have -- have a blanket objection to, which is
13 what's delaying this thing each time. So, this
14 is -- I want to authenticate this and put this
15 into the record, which is the Beachfront
16 Jurisdictional Line Stakeholder Workgroup,
17 Final Report.

18 **(Respondent's Exhibit Number 35 was referenced at**
19 **this time.)**

20 **THE COURT:** See if she can identify it.

21 Q: Are you familiar with this?

22 **MS. PHELAN:** Your Honor, I would like to see what
23 the relevance is.

24 **THE COURT:** Well ---

25 **MR. REDDY:** (Inaudible due to simultaneous speakers.)



1 **THE COURT:** --- first, see if she can identify it
2 and then -- and then we'll get into relevance
3 when he offers it or when he asks questions
4 regarding ---

5 **MS. PHELAN:** I thought he was offering it, I'm
6 sorry.

7 **THE COURT:** I thought he was just laying the
8 foundation.

9 **MR. REDDY:** Okay, yes.

10 Q: So, now we're going to establish ---

11 **THE COURT:** Well, first you ask her -- I think, Mr.
12 Reddy, you asked her if she could identify it.

13 **MR. REDDY:** Oh, sorry. She said yes, I thought.

14 **THE COURT:** Oh, she did?

15 A: I did not.

16 Q: Oh, you did not, okay.

17 **COURT REPORTER:** What's the number?

18 **MR. REDDY:** It's -- I'm sorry, Respondent's Exhibit
19 Number 35.

20 **COURT REPORTER:** Thank you.

21 A: And what's the question?

22 **THE COURT:** Can you identify that?

23 A: Yes. This is the Beachfront Jurisdictional
24 Line Stakeholder Workgroup, Final Report from
25 May of 2019, as it says on the cover here.



1 Q: So, could you read to me the ---

2 MR. REDDY: So, Your Honor, can I move it into
3 evidence?

4 THE COURT: You can make ---

5 MR. REDDY: I have.

6 THE COURT: --- or you can make the motion.

7 MR. REDDY: Can I make the motion?

8 OBJECTION:

9 MS. PHELAN: Objection, Your Honor, relevance.

10 MR. REDDY: Okay, relevance.

11 THE COURT: Why?

12 MS. PHELAN: It's not even -- he just asked her
13 about the -- the Beachfront Stakeholder
14 Workgroup and gave her a jurisdictional line
15 report.

16 MR. REDDY: I'm gonna have her -- you want me to go
17 have her read it and establish it?

18 THE COURT: No, no. Can you tell me what -- why you
19 believe it's relevant?

20 MR. REDDY: Because it talks directly to
21 jurisdiction. It addresses jurisdiction. She
22 just brought up the workgroup. I said -- but
23 I talked about the 2018 law.

24 THE COURT: This is a document that was prepared by
25 DHEC and you're saying ---



1 **MR. REDDY:** Yeah.

2 **THE COURT:** --- regarding this area of law and you
3 think it's irrelevant?

4 **MS. PHELAN:** The work -- the workgroup has
5 conversations about what the law may or may
6 say, or what it needs to say, or whatnot. Is
7 not law. It doesn't establish law. It doesn't
8 establish policy.

9 **MR. REDDY:** Can I -- can I first try to establish
10 it, and then she can make her arguments against
11 her own document?

12 **THE COURT:** Well, you're offering it into evidence.

13 **MR. REDDY:** I'm offering it into evidence and I'm
14 going to try to establish the relevance.

15 **THE COURT:** How about if you could ask her questions
16 to establish the relevance.

17 **MR. REDDY:** Ask her, yeah, that's what -- that's
18 what I'm trying to do but they keep objecting
19 to it.

20 **THE COURT:** Okay. Well ...

21 **Q:** So, Jessica, if you would mind going to page
22 four of that. And then if you go down to where
23 it says -- I think it's in blue, hopefully in
24 your copy, as well. It says law 48-39-280.
25 Can you read that section from there for the



1 next two sentences?

2 **OBJECTION:**

3 **MS. PHELAN:** Objection. It's not into evidence.

4 **THE COURT:** She can't read it until it's in
5 evidence, but ---

6 **MR. REDDY:** Oh.

7 **THE COURT:** --- you can ask her about ---

8 **MR. REDDY:** Okay.

9 **THE COURT:** --- aspects of this document that would
10 enlighten us about whether or not it's
11 relevant. Can y'all have what's -- do y'all
12 have that document? Can you put it up so I can
13 look at it?

14 **MR. REDDY:** Yeah.

15 **THE COURT:** Hold on a second. All right. What page
16 are you on?

17 **MR. REDDY:** Page 4. No, page 4.

18 **MS. MAPLES:** This is page 4.

19 **MR. REDDY:** Oh, yeah. Okay, yeah, that's good.

20 **THE COURT:** Okay. What area are you asking her
21 about now?

22 **Q:** So, I'm gonna ask you here, Jessica, does that
23 document in front of you talk about the purpose
24 of the jurisdictional line?

25 **A:** It does.



1 Q: Is -- since this entire proceeding is supposed
2 to be about jurisdiction, and this is not
3 trying to establish law, it is just saying,
4 here is, on a DHEC stamped document, the law as
5 we see it.

6 MS. PHELAN: Your Honor, I'm really confused because
7 he -- he said he was going to question her
8 about Exhibit 95 Beachfront Jurisdictional Line
9 Report, but what we're seeing up on the screen
10 I do not think is that report.

11 MR. REDDY: No, ma'am. I did not say that. The one
12 I handed you is the Beachfront Jurisdictional
13 Line Stakeholder Workgroup, Final Report.

14 MS. PHELAN: What Exhibit?

15 MR. REDDY: 35, I believe.

16 MS. PHELAN: Is that what you have in front of you?

17 THE COURT: It appeared to me when he was handing it
18 up that that's what it said.

19 A: Yes, that's what I have in front of me.

20 MS. PHELAN: I'm sorry, then. I -- I misunderstood.

21 MR. REDDY: Okay. Can we -- is there a limit to
22 these objections? No?

23 MR. REDDY: So, this merely provides the background
24 as to what this work -- this workgroup is going
25 to come up with some recommendations later,



1 which turns into law or whatever. I'm not
2 interested in that. I'm not even trying to
3 speculate about that. I'm just saying this
4 document provides an introduction to the law
5 that was submitted to -- publicly submitted to
6 many people who you are asking to change the
7 law, and it simply talks about the purpose of
8 the jurisdictional lines, and that's why it's
9 relevant.

10 **THE COURT:** All right. Could I cut to the chase?
11 Why -- so this document contains
12 recommendations, but it's got an introduction
13 that talks about DHEC's view of the law. Why
14 would the introduction not be relevant? Now,
15 maybe the aspects of recommendations down the
16 road, which may or may not have been adopted by
17 the General Assembly, I could see that not
18 being relevant.

19 **MS. PHELAN:** I don't think we have a foundation
20 established of who wrote this, what the purpose
21 was for it. And I ---

22 **MR. REDDY:** Why are they trying to hide this?

23 **OBJECTION:**

24 **MS. LENHARDT:** Well, I have an objection on hearsay,
25 which is distinct. So if you want to -- if



1 Your Honor wanted to address the relevancy
2 first of all ---

3 **THE COURT:** I'll hear on hearsay, but this is a
4 document submitted by -- a final report by
5 DHEC. I mean it's -- you're talking -- if
6 there's ever been an admission of a party
7 opponent, a final report by DHEC would be an
8 admission of a party opponent. So, you could
9 object on hearsay, but it's -- it's going to be
10 a tough one, Ms. Lenhardt. But let's -- let's
11 deal with -- she wants you to lay the -- what
12 was the point you made, because I'm only
13 dealing with the introduction part, whether
14 she's familiar with it. I mean -- and
15 remember, when you make an objection you've got
16 to have a reasonable basis for it. I mean, is
17 there a reasonable basis that this is not a
18 final report by DHEC?

19 **MS. PHELAN:** Your Honor, it contains recommendations
20 by the workgroup, and ---

21 **THE COURT:** I said I wasn't going to ---

22 **MS. PHELAN:** Yeah.

23 **THE COURT:** --- consider the recommendations.

24 **MS. PHELAN:** So, just the introduction ---

25 **THE COURT:** Yes.



1 **MS. PHELAN:** --- is what we're talking about?

2 **THE COURT:** I mean, Mr. Reddy may wish to offer the
3 recommendations, but then you're going to have
4 a tougher road on that.

5 **MR. REDDY:** I'm fine. I mean all their
6 recommendations were approved by the General
7 Assembly anyway, and they've become law, so
8 it's not speculation anymore.

9 **THE COURT:** Okay.

10 **MR. REDDY:** But I'm not even getting into that. I'm
11 just talking about -- why are we spending so
12 much time when they are -- we're on day three,
13 and they keep objecting to their own documents.

14 **THE COURT:** Yeah.

15 **MS. PHELAN:** The introduction, Your Honor, I have no
16 objection to the introduction.

17 **THE COURT:** All right. Do you understand my ruling?
18 At this point in time, the portions of the
19 exhibit that are the introductions, before we
20 get the recommendations, I'm allowing that into
21 evidence.

22 **(Respondent's Exhibit Number 35 - Introductions -**
23 **were admitted into evidence.)**

24 **MR. REDDY:** Okay.

25 **THE COURT:** Not the remaining aspect of the



1 document.

2 **MR. REDDY:** Sure.

3 **THE COURT:** At this point in time.

4 **MR. REDDY:** At this point in time, yeah.

5 Q: So, would you -- would you mind going back to
6 where we were ten minutes ago and start with
7 the blue part that says law, and then read down
8 from there till the next couple of sentences?

9 A: The -- you're talking about the part in blue
10 that says South Carolina Code of Law 48-39-280?

11 Q: Yes, yeah.

12 A: Okay.

13 Q: Starting there. Thank you.

14 A: All right. "S.C. Code of Laws 48-39-280
15 requires the Department of Health and
16 Environmental Control's Office of Ocean and
17 Coastal Resource Management (DHEC OCRM) to
18 establish and periodically review the
19 beachfront jurisdictional lines, referred to as
20 the baseline and setback line. The purpose of
21 these jurisdictional lines is to delineate the
22 extent of DHEC OCRM's direct permitting
23 authority for activities within the defined
24 beaches and beach/dune system critical areas."
25 South Carolina- ---



1 Q: Thank you, that's good. So, given that these
2 laws, like our Honorable Judge said, we're not
3 going to get into the recommendation.
4 Actually, I don't care about the
5 recommendation. Given that these laws -- would
6 you say that these laws, as interpreted here,
7 were in effect at the time of the enforcement
8 action against me?

9 A: Which laws?

10 Q: The one you just read?

11 A: 48-39-280?

12 Q: Which says that it is the -- on DHEC
13 letterhead, it says it is "the extent of DHEC
14 OCRM's direct permitting authority for
15 activities within the" "beaches and beach/dune
16 system critical areas." Would you say that,
17 prior to the enforcement against me, that the
18 law was not changed from that?

19 A: So, prior to the enforcement activity that
20 we're talking about here, the Department -- the
21 statute has not changed. The Department has
22 always had authority given by statute in
23 beaches and beach/dune system. I think ---

24 Q: Excuse me, Jessica, I'm just asking a simple
25 question. I just like you to answer. This



1 specifically says your -- DHEC's interpreted --
2 this a DHEC document. It's not something I
3 wrote. This is a DHEC document coming out of
4 a workgroup going to the General Assembly,
5 where you are asking for some recommendations,
6 that we're not even going to get into, that
7 eventually became law. So we should get into,
8 which I'll -- which will handle in a different
9 part of this, this deposition -- not
10 deposition, testimony. But I just want to talk
11 about here and now. This is what was provided
12 by DHEC OCRM in a public document to --
13 circulated to the General Assembly. Is it your
14 testimony that me, the citizen, here
15 representing myself with my beautiful wife,
16 should be reading this any differently than
17 you're telling every lawmaker to read it?

18 A: So, I -- I can't talk about your reading of it
19 versus the lawmake- ---

20 Q: I want to know your reading of it. What does
21 your reading of it say here? Your reading of
22 it, you are the citizen, and you just -- just
23 -- just take -- let's take -- let's, let's say
24 you are a citizen and reading it. How would
25 you read it?



1 A: Well, that's a hypothetical situation. I can't
2 really speculate about how I might read it.

3 Q: I'm not -- I'm not hypothetical, I'm just
4 saying ---

5 A: But my ---

6 Q: --- that's the English language. It says ---

7 **MS. PHELAN:** Can she finish her answer, please?

8 **THE COURT:** Yeah. Let her finish her answer.

9 **MR. REDDY:** Okay.

10 A: So reading this as a member of the Department,
11 I read this in the context of the South
12 Carolina coastal environment and the history of
13 the coastal program. So, the Department has
14 always had authority in beaches and the
15 beach/dune system. That has been true. And
16 since the passing of the Beachfront Management
17 Act, and -- historically, the typical situation
18 along South Carolina coast is that our
19 jurisdictional lines have been landward of --
20 either at or landward of the primary oceanfront
21 sand dune.

22 Q: Excuse me. You're not answering my question.

23 A: So as ---

24 Q: I'm not asking you to go through a litany of
25 historical -- I'm just asking you to interpret



1 this document.

2 **MS. PHELAN:** Your Honor, she was explaining how she
3 interprets the document. He asked her how she
4 reads it and she says ---

5 **THE COURT:** You're asking her to interpret it as a
6 citizen, and she's not a citizen, so you're ---

7 **MR. REDDY:** Okay. If ---

8 **THE COURT:** --- asking her to speculate.

9 **MR. REDDY:** Your Honor, I'm going to ---

10 **THE COURT:** You're asking her to speculate.

11 **MR. REDDY:** I'm going to simply say -- this is not
12 speculation. I'm simply going to say, I'm
13 going to read this myself.

14 **THE COURT:** Okay.

15 **Q:** The purpose of these jurisdictional lines is to
16 delineate the extent, extent, that is to -- it
17 defines the limit of DHEC OCRM's direct
18 permitting authority for activities within the
19 defined, defined beaches and beach/dune system
20 critical areas. All I'm saying is this is the
21 document put together by you all and circulated
22 for -- to lawmakers as part of a proposal to
23 change the document, potentially because of
24 pressure from your client, whoever that is.
25 But my only question is, does that law -- did



1 that law, whatever is here, was that changed in
2 any way prior to your enforcement against Ms.
3 Renee Reddy and me?

4 A: Following the beach -- following the workgroup
5 that you're referencing here, the Department
6 passed a regulatory package related to the
7 beachfront jurisdictional lines.

8 Q: Would you tell me when that was?

9 A: Well, the Beachfront Management Act passed in
10 May of 2018, the jurisdictional line package
11 would have been presented and then this was in
12 May of 2019. I believe that it was presented
13 to the General Assembly during the 2020
14 legislative session, so that would have passed
15 in the spring and summer of 2020 for the
16 updates to the process for the jurisdictional
17 lines.

18 Q: It wasn't. It was 24 of May. Why -- what ---

19 A: The regulatory package ---

20 Q: --- what proof do you have that something
21 changed in 2020 on jurisdictional lines? What
22 -- what passed?

23 A: This -- this workgroup ---

24 Q: I'm not -- I'm not ---

25 A: --- predated ---



1 Q: --- talking about the recommendations ---

2 A: --- the ---

3 Q: --- of the workgroup. I'm just talking about
4 this.

5 **MS. PHELAN:** Your Honor, she's trying to answer the
6 question.

7 **THE COURT:** I -- I'm okay 'cause it appeared to me
8 she'd finished answering the questions. But,
9 I'll tell you what, I'll let you -- were you
10 going to say something else?

11 A: I was.

12 **THE COURT:** All right. I'll let you proceed a
13 little longer.

14 A: Okay. So this workgroup preceded a regulation
15 package by the Department. The Department had
16 a subsequent workgroup after this workgroup and
17 after that regulatory package that resulted in
18 another regulatory promulgation, to which I
19 think you're referring.

20 Q: Okay.

21 **THE COURT:** So, where I can be clear, there was two
22 workgroup final reports?

23 A: That's correct.

24 **THE COURT:** Thank you.

25 Q: My only -- my only comment was as far as the



1 Department's direct permitting authority, that
2 the Department claimed here in this document
3 that was circulated, did that change, and was
4 any document or anything published about that
5 change from their position here prior to the
6 enforcement against me?

7 A: The Department's direct permitting authority
8 has always been in -- for beaches and the
9 beach/dune system.

10 Q: I understand that, but that's not how it was
11 interpreted here, was it?

12 A: As I said, when -- when I read this, I read
13 this in the context of the coastal history and
14 coastal management, and typically the historic
15 situation is that the setback line was well
16 into the dune environment, which would make it
17 landward of both the beaches and the beach/dune
18 system. That's still the case today for the
19 vast majority of properties. The properties
20 that are most vulnerable and most dynamic have
21 seen the beaches critical area erode landward
22 of the setback line.

23 Q: Would you agree, Ms. Jessica, that it is not
24 the intent of this thing that I just said, that
25 the General Assembly -- that the General



1 Assembly intended to up --they recognize
2 everything you said, that there's erosion,
3 there is accretion, there is all this kind of
4 stuff going on, but would you agree that every
5 seven to ten years, these lines are updated?
6 These -- the baseline and setback line?

7 A: That's the requirement.

8 Q: Why do you think that is? Why do you think
9 they want to go through an elaborate process of
10 millions of dollars of taxpayer money?
11 Unfortunately, only -- we don't have any real
12 taxpayers here other than us, millions of
13 dollars of taxpayer money to update these lines
14 every seven to ten years? What is the purpose
15 of doing that?

16 A: To evaluate the lines based on the current
17 conditions along the coast.

18 Q: Thank you. So ,the Assembly is saying, I
19 recognize that, I recognize accretion and all
20 of these things, so every seven to ten years we
21 are going to re-evaluate what the impact of
22 erosion has been and pass it and not designate
23 it to like you put up in your testimony, all of
24 these things about, which we're going to get
25 into right now, you testified a palm, if I'm



1 not mistaken, is, what you say, littoral, or
2 something like that? So -- so, to avoid that,
3 the General Assembly -- and you get very, very
4 slippery slope. Now it, as you testified
5 earlier, that if you were buying land, that
6 typically you would use a surveyor, right?
7 Now, it is seven to ten years the General
8 Assembly is looking at ---

9 **MR. REDDY:** She's standing up to object. Your
10 Honor, what she's objecting to?

11 **THE COURT:** She hasn't objected yet.

12 **MR. REDDY:** Okay. So, sit down then, you're getting
13 me nervous.

14 **THE COURT:** Well, you can't ---

15 **MS. PHELAN:** I'm waiting for a question.

16 **THE COURT:** Go ahead, Mr. Reddy.

17 Q: So would you not agree that the General
18 Assembly, every seven to ten years, does this
19 to -- to actually do what you're saying, to
20 evaluate erosion/accretion, but not do it on a
21 day-by-day basis? They look at it over a seven
22 to ten year period and re-evaluate it.
23 Otherwise, why would they do it, Jessica?

24 **OBJECTION:**

25 **MS. PHELAN:** Objection to form. I mean objection,



1 speculation. She can't be expected to testify
2 to ---

3 **MR. REDDY:** Well, I thought she's ---

4 **MS. PHELAN:** --- what the General Assembly does ---

5 **MR. REDDY:** --- an expert on shoreline.

6 **THE COURT:** Well, she's -- he's asking her the
7 purpose of the ---

8 **MS. PHELAN:** If he asks the purpose as she
9 understands it. But if he's asking us why the
10 General Assembly does things ...

11 **MR. REDDY:** I'm trying to ask her.

12 Q: What is the -- why -- what is the purpose and
13 what is the reason that a setback line and
14 baseline every seven to ten years would be
15 created if it wasn't for the purpose of re-
16 evaluating the shoreline, and some of the
17 things you testified to?

18 A: As I've stated, the -- the statute guides the
19 Department to review and establish
20 baseline/setback line and the long term erosion
21 rate every seven to ten years to capture the
22 current situation along the coast.

23 Q: And if you assume that, that you just said, if
24 you say that is, in fact, what they want to do,
25 then doesn't it make sense it -- that what I



1 just read out from this workgroup, which is the
2 position of the DES or DHEC, or whatever
3 they're called, at that point in time, says,
4 yeah, my permitting authority stops there. And
5 if the General Assembly, in fact, moves the
6 line, then my permitting authority moves with
7 it. If not, what is the purpose of these
8 lines?

9 A: The purpose of the lines is to delineate the
10 extent of the beach/dune system critical area.

11 Q: That's not what it says, Jessica. You just
12 read it. It said the direct permitting
13 authority to beaches and beach/dune. So, let
14 me -- let's -- let's move on in the interest of
15 time.

16 So, where do we start with this fun place?
17 Let us start -- why not start with May of 2023.
18 What a beautiful month. So, this is a picture
19 from May of 2023 after the so-called --
20 whatever storm -- nor'easter that happened.

21 **(Exhibit Number 69 was referenced at this time.)**

22 Q: Would you agree, Jessica, that this is a line
23 of vegetation with the very famous palm in it?

24 A: It's hard to see where the artificial turf
25 ends, but there is, there is sporadic



1 vegetation along that escarpment line.

2 Q: Sporadic? Are you saying that's sporadic,
3 Jessica, in your estimation? So, let's go into
4 that if it's sporadic. So, what is your idea
5 of vegetation? Is it one, five, ten, sporadic,
6 random? Because I believe there was testimony
7 from Matt that said first sign of vegetation.
8 What is the definition of that?

9 A: Statute provides guidance that we're looking
10 for a line of stable natural vegetation.

11 Q: Really? What part of the statute says that?

12 A: That's associated with the definition for
13 active beach.

14 Q: Active Beach is -- do you have any part of the
15 statute that ties active beach to jurisdiction?

16 A: Active Beach is defined as the area seaward of
17 escarpment or the first line of stable natural
18 vegetation as, whichever occurs first, measured
19 from the ocean.

20 Q: I get that.

21 A: That being said ---

22 Q: I get that. I'm not, I'm not ask ---

23 **MS. PHELAN:** Your Honor, she's trying to answer his
24 question.

25 **MR. REDDY:** No, I get that. But that was not my



1 question.

2 **MS. PHELAN:** Please let her.

3 **MR. REDDY:** She's defining active beach, which I
4 don't have a problem ---

5 **THE COURT:** I'm okay with how he handled this aspect
6 of it. Go ahead.

7 Q: So active beach, I agree with you, is a defined
8 term in the tidal coastal whatever, whatever
9 act, D something. It's a defined term, I agree
10 with that. But a defined term has to be used
11 in the actual statute to actually be effect- --
12 that's why it's a defined term. So, my
13 question to you, before we get off into what
14 active beach is, which is where you were going,
15 where in jurisdictional terms is active beach,
16 the defined term, used?

17 A: So, the jurisdiction is set by beaches which
18 refers to no nonlittoral vegetation.

19 Q: I believe that is not correct. Would you read
20 the definition of beaches or would you like me
21 to read it to you?

22 A: I mean, the definition of beaches is the lands
23 subject to periodic inundation from tidal and
24 wave actions, so that no nonlittoral vegetation
25 is established.



1 Q: So does it ever say anything about active
2 beach?

3 A: It does not.

4 Q: It's a random thing. So that, meaning cause
5 and effect. Would you agree with that? Is
6 that what so that means? Periodic tideland --
7 so that.

8 A: I would agree that ---

9 Q: Okay.

10 A: --- no vegetation is the indicator of period
11 inundations.

12 Q: Right. Interestingly enough, Jessica, you
13 know, I'm going to just read from the statute.
14 Says, coastal waters means this, and there's a
15 geographic boundary, which is the mean high
16 tide line. Tidelands means this. There is a
17 geographic boundary. Beaches means the
18 definition you just said, subject to periodic
19 inun- -- then it says primary oceanfront sand
20 dune means this, both beaches and primary ocean
21 dune doesn't set a geographic boundary. Then
22 it says critical area means coastal waters,
23 defined, tidelands, defined, beaches, defined,
24 beach/dune system, which is -- it doesn't say
25 means. It says which is. So, would you not



1 agree that what it's trying to do with
2 beach/dune is set a geographic boundary because
3 the geographic boundary for beach and dune is
4 not set in the definition?

5 A: What I would say is that the beach/dune system
6 description highlighted there is listed under
7 the definition section under 48-39-10. It's
8 listed under the definition section for 270,
9 and under the definition section in regulation.
10 So, if that's not a definition, I'm not sure
11 why it's listed in three definition places.

12 Q: A definition, by definition, says what it
13 means. Any definition -- you can read, any
14 definition in the statute, it will say this
15 means that. That's just law. That's how --
16 that's how business law is written, as well.
17 So, my question is, this seems to be the way
18 the Department has interpreted stuff all the
19 way through, including what you just read as an
20 introduction. And now there is a change, but
21 that's okay. Let's -- let's move on from
22 there. Just -- I just want it established that
23 nowhere in here does it talk about active
24 beach. And I wanted to also establish ---

25 MR. REDDY: Can I go back to that? Why'd you turn



1 it off? I love that beautiful vegetation, so
2 beautiful. It's actually calming.

3 Q: So, I want to go back to it. And I wanted to
4 just point out that vegetation, as you just
5 said, you looked at that and said, oh, that's
6 sporadic. Someone else might look at it and
7 say it's not sporadic. And that's the whale of
8 one making decisions on jurisdiction. So I'm
9 going to show -- put this up again and show you
10 this vegetation, and let's decide whether
11 that's considered vegetation or not. My
12 beautiful yard. It's starting to hurt my
13 feelings.

14 **MR. REDDY:** Why'd you turn it off?

15 Your Honor, can I admonish my co-counsel?

16 **THE COURT:** No, sir.

17 **MR. REDDY:** Until I tell you to turn it off, don't
18 turn it off.

19 (Laughter.)

20 Q: So, while they're messing with this thing ---

21 **MRS. REDDY:** There it is.

22 **THE COURT:** There it is.

23 **MR. REDDY:** There you are.

24 Q: So, that -- let's go back to that, I just want
25 to make a point. That's May of 23 after the



1 nor'easter. Would you not agree that
2 vegetation, call it whatever you want, but
3 would you not agree that that is all
4 vegetation?

5 A: Yes, there's vegetation.

6 Q: Would you not agree that that is a fence, which
7 is a line of the fence, the back fence that
8 existed at that time?

9 A: I can see fence that appears to be seaward of
10 the escarpment.

11 Q: Correct. Can we go to the next picture? This
12 is in June. So this is what happened in June.
13 You see that beautiful palm there? Did you
14 see? Did you recognize that palm from the
15 previous picture?

16 A: I see the palm.

17 Q: Correct. From yesterday's testimony for --
18 that Matt made, do you see the turf that we --
19 that was stapled to the top of the embankment
20 to protect the escarpment? I think Matt
21 testified we took out those plants that you
22 call sporadic so we could staple turf.

23 A: I see the turf.

24 Q: Excellent. So, now let's go to the next
25 picture. So, I'm going to give you a different



1 view of your own drawings. I don't know what
2 to -- how else to say it, but this is your
3 drawing. It's a squiggly line that I believe
4 -- how many data points went into that line,
5 Jessica?

6 **(Exhibit Number 65 was referenced at this time.)**

7 A: Well, it collected a point every second as I
8 walked along there.

9 Q: Every second, okay. No, that's not -- that's
10 not a question. How many days went into this?
11 In other words, what is the -- you know, you
12 said you use GIS GPS. It's the -- gosh, when
13 you get to my age you don't remember the words,
14 but there's a pornography of -- you know, when
15 I look at GPS, we look at how many data points
16 over how many days. So, is that the data point
17 from one day?

18 A: The line represents the site visit from Novem-
19 -- or September 1st.

20 Q: Okay, great. And that's what was used to claim
21 the 1235 (sic) square feet?

22 A: I believe so, but I am not the enforcement
23 project manager on this.

24 Q: Who took this picture, by the way?

25 A: This image was captured by Coastal Science and



1 Engineering.

2 Q: And the -- and the yellow line was you?

3 A: I created the -- yes, I cre- -- I collected the
4 ---

5 **MR. REDDY:** I can't reach that. Can y'all give me
6 one of those highlighters or pens or something?
7 Okay.

8 Q: So ---

9 **THE COURT:** I will tell you, Mr. Reddy, you can
10 also, I think, touch that screen.

11 **MR. REDDY:** Oh, yeah, yeah, yeah. Thank you, Your
12 Honor. I didn't know there was a secret place
13 here.

14 Q: So, do you see the palm right there? Can I
15 circle it?

16 A: I do.

17 **MR. REDDY:** Huh?

18 **MRS. REDDY:** Your finger.

19 **MR. REDDY:** Oh, finger? My f- -- my hands shake.

20 Q: Do you see the palm right there (indicating)?

21 A: Yes.

22 Q: Do you see vegetation right there (indicating)?

23 A: Yes.

24 Q: And my eyes.

25 **MR. REDDY:** Co-counsel, can you come up here? Like



1 your hands and your eyes are better than mine.

2 Can you come up here? You, you.

3 **MRS. REDDY:** May I approach?

4 **THE COURT:** Yes.

5 **MRS. REDDY:** Okay.

6 **MR. REDDY:** Can you draw that third one?

7 **THE COURT:** Oh, I --

8 **MR. REDDY:** You deleted all mine, Your Honor.

9 **THE COURT:** I thought that was the purpose.

10 **MR. REDDY:** Okay. One, two.

11 Q: So -- so, is there a reason those squiggly
12 lines that came up with one data point bypassed
13 all of that?

14 A: As I testified to earlier, I was collecting the
15 landward edge of inundation, which was
16 represented by the vegetative scarp line to the
17 south of your property, and at your property
18 was the top of the bank, similar to what your
19 surveyors collected. For the locations that
20 you've highlighted, I testified earlier to the
21 palm that was falling in to beaches and to the
22 health of that vegetation, which is a similar
23 testimony for the other two circles that you've
24 given there.

25 Q: All right. We've gotta -- we're gonna have to



1 back up. Let's go back to the beautiful June
2 picture and the May picture. You think that
3 palm was falling in, all of these things were
4 falling in? What is -- so, we're getting into
5 a really slippery slope here. So, this is all
6 your judgment of whether -- not -- now, it's no
7 longer first line of sight of vegetation, it's
8 whether it's sporadic or not, whether it's
9 falling in or not, whether it's whatever or not
10 because if I go back -- let's go back to the
11 one I was. Yes. If I go back to this, you're
12 making a lot of judgments when vegetation is
13 actually there, and you're coming up with
14 judgments it sounds like to take regulatory
15 authority over these yellow lines. Is that not
16 what you're doing? And then you're now saying
17 you're going to go into the neighbor's house
18 and look at some vegetation, the neighbor's
19 house and make some projection onto my house.
20 And all this means is you're going to now
21 classify my house as Beach Critical Area.
22 Let's say you do that, like you did. What does
23 it mean when you classify it as Beach Critical
24 Area? Can my wife put back a beautiful palm in
25 that Beach Critical Area? My 14 year-old was



1 very upset about that palm when we took it out.
2 Can she put it back, in beach critical?

3 A: I'm not a project -- a permitting project
4 manager, but I believe there's a authorization
5 review process for that.

6 Q: I believe you are mistaken, because Mr. Matt
7 testified yesterday that we can only put back
8 in beach compatible material, which palm is
9 apparently not or any other thing, grass, dirt.
10 Once you've claimed this, like y'all did with
11 the squiggly line, with one data point,
12 vegetation there, I can only put sand back.

13 A: I -- I don't think that's accurate.

14 Q: It's what he testified to, beach compatible.
15 You know, we were actually -- I won't get into
16 that. I'll get into it in my testimony because
17 Your Honor will say I've gotta ask a question.

18 Okay. So, let's move on from there to the
19 next thing, which is the survey. In our case,
20 we use a survey. Let's go to the original
21 survey. So, here is the original survey. And
22 if you -- there's a -- there's a couple of
23 things I want to point out to you. Here is --
24 you see this little -- this little X little
25 thing, that's the fence. The green line,



1 that's the fence line. Okay. And then you see
2 that beautiful palm marked on there. So,
3 remember that palm, because we're going to keep
4 scrolling through. Let's go to the next one.
5 This is the survey. Now you can see on this
6 survey you got both the original and the
7 landward reinforcing -- original retaining
8 wall, landward reinforcing wall on there. You
9 can see the fence line again here that we
10 talked about from the -- from the previous one.
11 You saw the palm right there. And so all we
12 did is we just took those two and overlaid
13 them. Just like -- go to the next one, which
14 is a demonstrative slide, and there is the
15 infamous palm, the wall, the fence and all of
16 that. So, that is a survey, as opposed to a
17 handheld GIS unit that, as we demonstrated
18 previously, bypassed plants and other stuff,
19 used one data point. Would you agree you made
20 assumptions and conjecture from there about
21 periodic inundation? What proof, in all your
22 expertise, would show periodic going back --
23 and I'm happy to walk past that slide when you
24 saw that line of vegetation established right
25 along the back of the fence line.



1 **(Exhibit Number 50 was referenced at this time.)**

2 **THE COURT:** Mr. Reddy, what question do you want her
3 to answer?

4 Q: Where is the proof of periodic inundation?

5 **THE COURT:** Okay.

6 A: The definite- -- definition for beaches says
7 periodic inundation by tidal and wave action so
8 that no nonlittoral vegetation is established.
9 So, the area seaward of the line of vegetation
10 would be in beaches.

11 Q: Okay. So, in May of 23, we can go back to the
12 beautiful picture if you want, if you would
13 like, you would show -- you would -- we would
14 be -- that could be -- a vegetation is there.

15 **(Exhibit Number 69 was referenced at this time.)**

16 A: Correct.

17 Q: Correct. We have also established that after
18 that -- so clearly, everything you can see on
19 there, you can see the vegetation, and you can
20 see the fence line right -- right of the -- if
21 you look at the corner of it. We can go back
22 as far as you want and keep looking at these
23 pictures multiple times, the ones we went
24 through. Then we're going to show, as we
25 showed, that from here, the only -- the next



1 storm was Idalia, right? And we had the Idalia
2 pictures up. After Idalia -- by the way, there
3 were no data points here, right? No one took
4 GIS to -- or made any claim of jurisdiction.
5 Maybe I should ask you this. Prior to that
6 1235 (sic) square feet you claimed with that
7 one squiggly line, has there ever been a claim
8 of jurisdiction?

9 A: What do you mean by a claim of jurisdiction?

10 Q: Where you said, oh, I see periodic inundation,
11 so that is Beach Critical Area.

12 A: Are you asking if we've reviewed photographs or
13 collected data related to that?

14 Q: No, no, no, no. Have you ever notified me
15 prior to this 1235 (sic) square foot Idalia
16 when you claimed 1235 (sic) square feet with
17 what we established as one data point, prior to
18 that date, ever in the history of this
19 property, going back 35 years, has there ever
20 been a claim of critical area?

21 **OBJECTION:**

22 **MS. PHELAN:** I'm gonna object to the misstatement
23 and preface.

24 **THE COURT:** You object to misstating the ---

25 **MS. PHELAN:** His pre- -- the whole preface of his



1 question was misstating the testimony.

2 **MR. REDDY:** Okay, I'll rephrase it.

3 **THE COURT:** Okay.

4 Q: To your knowledge, prior -- okay. Do you
5 recognize that the Department claimed 1,235
6 (sic) square foot of jurisdiction as Beach
7 Critical Area on my property after Idalia?

8 A: I have to defer to the enforcement folks on the
9 exact square footage, but I understand that
10 there's been some square footage.

11 Q: Okay. So, using that same logic, to your
12 knowledge, has there ever been a claim of
13 critical area landward of the setback line on
14 my property in the history of that property?

15 A: Again, I'm not a permitting manager or
16 enforcement and compliance, but to my
17 knowledge, there has not been.

18 Q: Okay, thank you. So, you testified earlier, if
19 I -- I actually wrote down what you test- --
20 what you testified. I think the question was,
21 would vegetation ever be seaward of the
22 escarpment. That was the question your
23 attorney asked you, I think. And your answer
24 was, in 17 years I have not seen that. Was
25 that your answer?



1 A: Vegetation seaward of an escarpment?

2 Q: Correct.

3 A: I mean vegetation that's seaward of the
4 escarpment is being inundated. So, if there is
5 vegetation like we see here, that's falling
6 into the beaches, it's going to be in poor
7 health, basically, on its way out.

8 Q: Yet, some of your testimony kept showing the
9 wall and kept circling stuff saying, look at
10 all this water coming up there and inundating
11 all of this and there's no vegetation.

12 A: Uh-huh.

13 Q: So, don't those two things conflict, that
14 there's no -- that is my escarpment. So, there
15 is never vegetation seaward of the escarpment.
16 So, why would we be looking for vegetation on
17 the beach? Is the first question. I don't
18 want to ask a compounded question. And then
19 I'll ask a second question.

20 A: Well, looking for vegetation on the beach would
21 give us the indicator of the landward extent of
22 periodic inundation.

23 Q: So, if there was vegetation on the beach, would
24 you consider that littoral?

25 A: Well, we're looking for nonlittoral vegetation



1 that would be representative of the landward
2 extent of periodic inundation, because it
3 wouldn't be able to handle regular salt water
4 intrusion.

5 Q: So, this would be, for a normal person, would
6 be a -- I don't know if this is a word, an
7 oxymoron, wouldn't it be? Because if there was
8 vegetation on the beach, which you were
9 circling, saying, look at all this, there's no
10 vegetation here a month after the storm. If
11 there was vegetation there, it would be
12 littoral anyway, wouldn't count?

13 A: (No audible response.)

14 Q: I confused you. Let's go on to something else.
15 Are you -- are you aware of your board making
16 a decision for certain property owners that did
17 not have vegetation, that they allowed them to
18 actually plant vegetation and then water it
19 with water irrigation, and then they -- the
20 board said in 30 days, if that irrigated thing
21 took, they would move the line. Are you aware
22 of that?

23 A: I'm broadly familiar with that board meeting.

24 Q: What part of the statute was the board using to
25 say that they could move the line by planting



1 vegetation and watering it with a hose?

2 A: I'm not privy to the board's decision making
3 process. That's generally in executive
4 session. I just know what was said publicly.

5 Q: So, once again, I ask you this question in a
6 very humble fashion. As a citizen of this
7 great State of South Carolina, with my
8 beautiful wife sitting here, with these random
9 decisions being made by the board, by
10 vegetation, by all these interpretations, would
11 you say that this would all work if we just
12 followed it like it was written and interpret
13 it over many years?

14 A: I'm not sure I'm clear. What would all work?

15 Q: If we said that the General Assembly had
16 certain defined terms and simply used
17 beach/dune to -- a combination of beach/dune in
18 the critical areas, simply used that to define
19 a geographic limit of beaches and dunes,
20 everything works. Everything works when we
21 don't have all this random stuff of watering
22 plants and trying to move the line, or you
23 deciding whether that palm is falling into the
24 beach or not. How -- I'm gonna go back to a
25 commercial transaction. How could a home be



1 sold in this environment, Jessica? So, just
2 tell me how, without -- with no certainty.
3 Yesterday Mr. Jacques over there testified that
4 if there were five homes along the beach, and
5 I was this rich beachfront guy that everyone
6 calls me, and I was going down the beach, and
7 I wanted to buy one of these five homes, that
8 I would have to consult with him, or one of his
9 people to say, what is the limit of my property
10 where can only use beach compatible? My wife
11 gets upset. Is that -- is that -- is that
12 chaos?

13 A: I don't think the Department operates in chaos.
14 I think we follow the prescribed statutes and
15 policies.

16 Q: All right. So, I'm gonna go to one more --
17 couple more things, and then we're going to
18 move on.

19 I just want to ask you one simple question.
20 What -- what -- what is your definition, since
21 you're -- you said you would consider yourself
22 a shoreline expert. What is your definition at
23 this point in time of periodic so that no
24 nonlittoral? So, can you put those two terms
25 together for me? A, what is periodic in your



1 definition. And what is it's so periodic that
2 no nonlittoral is established, not exist, but
3 established? What is your definition? What is
4 the criteria you, as the shoreline specialist,
5 would use to evaluate that? Let's start with
6 periodic. Is that ten, one, five, six? Would
7 you count a named storm as periodic? Let's
8 start with that.

9 A: So, I think periodic generally is something
10 occurring at an interval. And I think the
11 statute provides the additional guidance that
12 it has to be periodic enough such that there's
13 no establishment of -- there's -- stops
14 establishment of nonlittoral vegetation.

15 Q: So, help me a little bit more. What is peri-
16 -- put some structure on periodic for me, since
17 it's now come down to an interpretation of that
18 where -- by you or them or whoever. Put some
19 definition for periodic for me. Would you call
20 ten periodic? Ten events that -- ten storms,
21 ten hurricanes, ten -- I don't know. Ten what?
22 And please answer the question too on named
23 storms.

24 A: You know, periodic is something that's going to
25 be occurring repeatedly over time. The statute



1 does not provide guidance on the time. It
2 provides the guidance on the indicator of
3 whether something is being periodically
4 inundated, which is the appearance or the
5 establishment of vegetation or the lack of
6 establishment of vegetation.

7 Q: So, you wouldn't say periodic -- I think what
8 you're saying is you wouldn't say periodic
9 ocean is the gravitational pull of the sun and
10 the moon that moves the tide up and moves the
11 tide down on a regular basis. And the
12 gravitational pull of the sun and the moon is
13 not really a factor in a category three
14 hurricane?

15 A: Sorry, I'm confused. You were talking about
16 the sun and the moon and then you were talking
17 about hurricane.

18 Q: So, yeah. I'm trying to -- I'm trying to put
19 those together. Maybe we should break them up.
20 Do hurricanes and named storms belong in
21 periodic?

22 A: They could certainly provide periodic
23 inundation.

24 Q: So, would you separate them? In other words,
25 would you have to have periodic hurricanes, or



1 do you combine a hurricane with the up and down
2 movement of a tide on a regular basis?

3 A: You could have tidal inundation. You could
4 have wave inundation from hurricanes. You
5 could have either.

6 Q: So, let me -- maybe -- I'm terrible at these
7 questions. I'm gonna have to bring my co-
8 counsel up here soon. So, let me be -- maybe
9 ask the question differently.

10 So, let's say there's a -- there's a up
11 and down, up and down tides happening, but it
12 doesn't impact the property at all, right? And
13 then, boom, you get one major storm. I don't
14 know, let's say a category three, category two,
15 doesn't matter, but it's a named storm. It
16 comes in there and says, the periodic always
17 went to here (indicating). If this is the --
18 this is the property, periodic went to here
19 (indicating). The hurricane comes and goes
20 through here, and it takes everything out in
21 its path or named storm of any kind
22 (indicating). So would you combine the
23 periodic where you would start making some
24 judgment, saying, if the periodic had been
25 here, then the hurricane would have come here



1 (indicating). I'm trying to understand this
2 combination. Do you look at them separately or
3 not?

4 A: I mean, you look at them in combination.

5 Q: Okay. So, your testimony would be if periodic
6 just kept coming here at most, and never
7 actually got into this property, and one
8 hurricane came all the way back and took out
9 all the vegetation, you would say that one --
10 that one storm is enough to claim this as beach
11 critical area (indicating)?

12 A: I mean, this is a hypothetical situation, so,
13 I have no idea what the site conditions are.
14 I have no idea what the hurricane was, and I
15 don't know what kind of recovery might happen
16 after that storm. So, it's going to depend on
17 a lot of different factors. I think -- I'll
18 leave it there. I think it's going to depend
19 on all those site conditions.

20 Q: Okay, okay. But you're saying it's largely
21 going to be dependent on the judgment of you or
22 Jacques?

23 A: Well, the project managers, or the managers
24 reduce -- they base their decisions on the
25 condition at the site.



1 Q: I think, Jessica, believe it or not, you might
2 be actually done with this thing, unless my co-
3 counsel says otherwise.

4 Oh, yeah. She wanted me -- she also wants
5 me to clarify. She says your memory is so bad
6 you asked her a question and then you didn't
7 clarify it. She said the second part of that,
8 so that no nonlittoral is established. Would
9 you -- what is your definition of established?
10 Is the definition -- like what does that mean?

11 A: Well, I think Mr. Slagel testified the other
12 day that it would not mean that someone runs
13 out, sticks a plant in the ground and throws
14 their hands up and says it's established,
15 right? I don't think anyone would really agree
16 that that's an established piece of vegetation.
17 So, vegetation would need to be present and
18 establish, have a root system that he referred
19 to, and be growing and in a healthy condition.

20 Q: So, you're saying your board was wrong, because
21 that's what they said. The board said plant
22 the plant, right?

23 **OBJECTION:**

24 **MS. PHELAN:** Assumes facts not in evidence, Your
25 Honor.



1 **MR. REDDY:** What is that? I did not -- I don't know
2 what she ---

3 **THE COURT:** She said assumes facts not in evidence.
4 In other words, the fact that the board was
5 wrong is a fact that was not in the evidence.

6 **MS. PHELAN:** And the fact that he keeps saying that
7 they said that they -- there was 30 days.
8 That's not ---

9 **MR. REDDY:** All right. Do you -- it's in the joint,
10 Your Honor. Do we want to bring it -- it's in
11 our -- in our Respondent's thing, which they --
12 by the way, Your Honor, all the Respondents,
13 all 91 of them, they have objected to. So,
14 this is what's dragging this thing out. So I
15 can -- I can introduce it. I got all the board
16 information in there. She knows it. So, the
17 question is, why are they hiding all this?

18 **MS. PHELAN:** I would rather him use the actual
19 document, Your Honor, so that everybody can see
20 what it says.

21 **MR. REDDY:** Okay.

22 Q: So, let me ask you the question, are you
23 familiar with the ruling your board made with
24 certain property owners?

25 A: I'm broadly familiar with it.



1 Q: Can you tell us what do you think it is?

2 A: I -- I would need to review the document to be
3 certain of the specifics.

4 Q: Okay. But let's go back to established.

5 A: Okay.

6 Q: So, I'm going to go back to the periodic
7 question. So, there is a line of vegetation
8 and one storm takes it out, right? Takes it
9 out, just like I said, it comes in and (claps
10 hands) gone. Does that mean that's no longer
11 a line of vegetation there? And that is --
12 that would be said it's not established? Or do
13 you say, well, I'm not going to make that
14 judgment the day after the storm, I'm going to
15 see if the vegetation can come back and be
16 established? What is the judgment on
17 established?

18 A: As I said, that you'd want to see the
19 vegetation that had been located, planted, or
20 if it was growing, that it had established root
21 system. I think Mr. Slagel referenced to the
22 roots kind of growing out into the dune system,
23 that was in healthy condition. I think those
24 are the ---

25 **THE COURT:** Well, he was asking about the time



1 frame. Everything's destroyed ---

2 A: Right.

3 **THE COURT:** --- what is the time frame that y'all
4 allow for -- to make a determination about
5 whether nonlittoral vegetation can come back
6 and be established.

7 A: And I think -- again, I would have to look at
8 the board documents. I think that they ---

9 **THE COURT:** No, I'm asking you, from your
10 perspective of what the Department does.

11 A: I mean, if you're assessing the vegetation,
12 we're assessing it at its condition when we're
13 out there that day. In terms of if the
14 property owner would say, I'd like you to come
15 back and reassess this situation in 60 days, we
16 could come back and reassess the situation.

17 **THE COURT:** And what if the property owner said, all
18 right, a hurricane came through. It's going to
19 take six months for the vegetation to come
20 back. Would y'all agree to that?

21 A: Would -- would we go back out and reassess in
22 six months?

23 **THE COURT:** Yeah.

24 A: We would go out -- we would go back out and
25 reassess in six months, if that was requested.



1 **THE COURT:** And then if you saw it there, you would
2 change the critical line?

3 **A:** I mean, that was what the guidance from the
4 board was, was that we -- they wanted to -- for
5 us to take a reassessment on can vegetation be
6 established in a location. Because if the
7 vegetation is not being inundated, then it'll
8 become reestablished.

9 **THE COURT:** Okay.

10 **MR. REDDY:** So, Your Honor, I wanna go back to this
11 beautiful picture because this is a -- it just
12 keeps me calm.

13 **Q:** So this is a May picture, May 2023. You know
14 y'all do all these aerals. You can go back,
15 I don't know, 20 years, I guess, with aerals
16 and see the vegetation, right? Some of them
17 were put up yesterday. I think Morgan put up
18 some aerals from 2019 yesterday, so you have
19 access to that information, do you not?

20 **(Exhibit Number 69 was referenced at this time.)**

21 **A:** Yes.

22 **Q:** So, why wouldn't you just look back and use
23 that for established? And you go back and look
24 for, I don't know -- again, there's no standard
25 but say ten years. And say for ten years the



1 vegetation is there, we're going to think it's
2 established. Even though there's no standard,
3 right? You could say that. And this
4 vegetation has been there for a long time. So,
5 really what you're saying is, if one storm
6 comes in and takes this vegetation out, is that
7 what you're saying? It's no longer considered
8 established, isn't that -- isn't that what
9 you're saying?

10 A: I think what I testified to a little while ago
11 was that we -- if a storm came through, that we
12 would do a site condition assessment and see
13 what things look like.

14 Q: Did you -- did you all do that with me?
15 Because it's -- it -- what -- what you
16 testified to earlier with all the squiggly
17 lines, is you came out the day after the storm.
18 You never looked to see if vegetation had been
19 established, right? You could have looked back
20 20 years and see if it had been established,
21 you didn't. You came out the day after the
22 storm, with this squiggly thing, the yellow
23 thing you talked about, GIS. You took the GIS
24 line, you chose to actually bypass some of the
25 vegetation like you testified to because you



1 said -- whatever. So my question is, isn't --
2 isn't this -- even -- even if you have
3 jurisdiction, which is a whole different issue
4 that hasn't been established, how could you
5 apply beaches with all this random stuff?

6 A: We apply beaches as it is in statute, looking
7 at periodic inundation and looking at whether
8 or not nonlittoral vegetation is established.

9 Q: That's what I'm trying to get to, Jessica. I
10 want to get you off the stand, because I know
11 you're tired. The Honorable Judge is tired.
12 We're all tired. I'm just saying, if you were
13 looking at the statute, why would you just use
14 established instead of exist? It seems like
15 using the word exist and getting it confused
16 with established, is it not? Because
17 established would mean, has it -- is there a
18 history of it? You testified earlier, did you
19 not, that you could see if there's a history of
20 it?

21 A: Well, the statute says is established, it
22 doesn't say was established. So, I think the
23 stat- -- statute is guiding us to see what is
24 out there, not necessarily what was out there
25 prior, ten years ago.



1 Q: Okay. So we're going to go back to the
2 statute. I just love this document. It's like
3 -- I read the statute so many times last three
4 days, it's like reading the Constitution. It
5 says, beaches means those lands subject to
6 periodic tidal and wave -- tidal and wave
7 action, which you said periodic means ongoing,
8 whatever, so that, cause and effect, no
9 nonlittoral vegetation is established. So, you
10 either have to look at established as history,
11 saying it's -- it's been there, or you have to
12 say, I'm going to have some time frame for it
13 to reestablish. You cannot make a decision,
14 can you, Jessica, that says, if I look at
15 history it's been there, but I didn't give you
16 any time to reestablish it because I claim
17 Beach Critical Area after one day? That's what
18 y'all did, is it not?

19 A: I don't -- I think we're establishing where
20 beaches critical area is based on the
21 definition. I don't know about claiming. But
22 the Department establishes the location of
23 beaches as it's defined in statute based on
24 what is there on the site.

25 Q: Jessica, is it not true, that is looking at



1 established as either past established or
2 future established, so we should have to give
3 some time to make sure that the past can be the
4 future, you are actually making a decision on,
5 does the vegetation exist the -- a day after a
6 named storm? That's a totally different
7 interpretive statute. I don't understand how
8 you could say that's an interpretation of this.

9 **THE COURT:** Do you wish to answer the -- are you
10 going to answer the question?

11 A: I'm sorry. Can you repeat the question? I
12 wasn't sure what the question was.

13 Q: You said the statute said periodic,
14 nonlittoral, so no -- so that, cause and
15 effect, no nonlittoral is established. The
16 word established has to be used in one of two
17 ways. Doesn't matter how you interpret it.
18 Would you agree it has to be established, which
19 means it's established in the past, which you'd
20 have to go back and look at it, or you give it
21 a chance to reestablish in the future? You --
22 you can't say, oh, the past, it's always been
23 there. And I can see it's been there. Well,
24 the future, we're going to talk about the
25 future. We're going to talk about one day.



1 That's not established, that is saying there's
2 no vegetation present on the day I looked at
3 it. That's a totally different interpretation.

4 **MR. REDDY:** Your Honor, I'd like to enter this
5 Exhibit Number 39, which is the board meeting
6 that they had, into evidence to further address
7 this issue on what established -- the
8 interpretation of the established.

9 **(Respondent's Exhibit Number 39 was referenced at**
10 **this time.)**

11 **OBJECTION:**

12 **MS. PHELAN:** Your Honor, I object. The board
13 meeting and what the board discussed is not
14 what's in the law and it's -- it's not what's
15 in the regulation. It's not what the
16 Department is mandated to follow.

17 **MR. REDDY:** Your Honor, what the board discussed in
18 this thing is what they did. So, if it's not
19 in the law, then the board breaks the law. If
20 the board breaks the law, how can these
21 unelected bureaucrats not break the law?

22 **MS. PHELAN:** Your Honor, another ground is hearsay.
23 Not hearsay, but there's a lot of witnesses in
24 there that aren't before the Court, that have
25 made statements in that hearing, I believe.



1 **THE COURT:** Are you offering a specific aspect ---

2 **MR. REDDY:** I'm offering the specific aspect of
3 established, what was read into this as
4 established.

5 **THE COURT:** Is there a specific area of that exhibit
6 you're offering as opposed to the ---

7 **MR. REDDY:** Yes. I'm happy to do that, but I'm not
8 -- Your Honor, we -- we didn't object to any of
9 their exhibits. And why are we picking and
10 choosing our exhibits? Are they covering up
11 something? Is this Watergate?

12 **MS. PHELAN:** I'm sorry, which exhibit ---

13 **MR. REDDY:** --- I mean, in which case it should be
14 in a criminal court.

15 **MS. PHELAN:** What exhibit?

16 **MR. REDDY:** Number 39.

17 **THE COURT:** Is there a specific page number?

18 **MR. REDDY:** Page number 29 is what I want to ask her
19 specifically to refer to.

20 **THE COURT:** Ms. Phelan, page number 29.

21 **MS. PHELAN:** Do you have lines for me? The whole
22 page?

23 **MR. REDDY:** It's page number 29. I would like to
24 actually have the beautiful Ms. Jessica read
25 from line 20 on the right side of the page.



1 Y'all have to excuse, I usually have people who
2 read all this for me, I'm not used to doing
3 this.

4 **MS. PHELAN:** I'm sorry, on exhibit -- page 29 line?

5 **THE COURT:** I think they're ---

6 **MR. REDDY:** I'm gonna show it to you, because I
7 don't know how to read all these notations.

8 **MS. PHELAN:** That's fine.

9 **MR. REDDY:** It's got several things. There's page
10 29, bracket 113 ---

11 **MS. PHELAN:** Okay. These are the -- these are the
12 page numbers. So it's page 115

13 **MR. REDDY:** Okay, okay.

14 **MS. PHELAN:** That's why I couldn't find it. And
15 what lines are you going to ---

16 **MR. REDDY:** This -- again there's many, many numbers
17 for the line, but it's going to be this,
18 starting at 23.

19 **COURT REPORTER:** You said -- I'm sorry, I just want
20 to make sure your record is clear. You said
21 Exhibit 39?

22 **MR. REDDY:** Yes, ma'am. Exhibit 39.

23 **COURT REPORTER:** Is it your exhibit ---

24 **MR. REDDY:** Respondent's.

25 **COURT REPORTER:** --- 39?



1 **MR. REDDY:** Yes, Respondent's Exhibit 39.

2 **COURT REPORTER:** The Respondent's Exhibit 39 that
3 you provided digitally is not that.

4 **MR. REDDY:** Oh.

5 **COURT REPORTER:** Can you pull the actual marked
6 Exhibit 39? I just want to make sure ---

7 **MR. REDDY:** Yeah, no, we gotta get it right. Can
8 y'all get the numbers right? I think I'm going
9 to fire that co-counsel, as well, Your Honor
10 (laughing).

11 So, I'm gonna show you this. It's a --
12 that's the marking on it.

13 **COURT REPORTER:** Right. I just need to -- the one
14 that has the brown sticker, not your blue
15 sticker.

16 **MR. REDDY:** Ah.

17 **COURT REPORTER:** I'm sorry.

18 **MR. REDDY:** You have the one that has the brown
19 sticker, not the blue sticker? Seems to be the
20 same one, but.

21 **COURT REPORTER:** It is. It is not the one that was
22 provided digitally to me. So, maybe I can get
23 an update on ---

24 **THE COURT:** The digital. Y'all've got it digitally
25 over there. If y'all could just, later on,



1 update us with what y'all have. Thank you. We
2 can provide you a flash drive if you need one.

3 **MS. MAPLES:** I gave her one. I pulled the same
4 thing up using my computer, so I'm not sure
5 what happened.

6 **THE COURT:** Okay.

7 **MS. MAPLES:** But we can figure it out.

8 **THE COURT:** All right.

9 **MR. REDDY:** Do I have to establish the relevance of
10 this?

11 **THE COURT:** Well, they're discussing you're being
12 able to use this.

13 **MR. REDDY:** It's their own board, Your Honor.

14 **THE COURT:** A long discussion.

15 **MR. REDDY:** Their client's not there.

16 **MS. PHELAN:** How far do you want to -- I'm trying to
17 see if I have an objection.

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

19 **MR. REDDY:** Hold on. Just a few, 20 -- just a few.

20 **THE COURT:** Short. I like short.

21 **MR. REDDY:** It's short, from like there to there
22 (indicating). Page 116.

23 **MS. PHELAN:** I don't have any objection, Your Honor.

24 **THE COURT:** Okay. Yay.

25 **MR. REDDY:** So, can I read it, Your Honor?



1 **THE COURT:** You can read it and then ask her a
2 question.

3 **MR. REDDY:** Okay.

4 **THE COURT:** If you wish.

5 Q: So, I'm gonna say, Chairwoman Patel.

6 **THE COURT:** Can you -- can y'all -- can you show me
7 what page so I can read along with it? Or not.
8 There it is, there you go.

9 **MR. REDDY:** So, I'm at -- I'm at line 21 on what
10 appears to be page 115.

11 **THE COURT:** I see it.

12 **MR. REDDY:** Okay. So it says, Chairwoman Patel.
13 This is the DHEC Chairwoman. "Yes. If you'd
14 -- I can entertain a motion if anybody wants
15 to." Dr. Brown. "Madam Chairwoman, I'd like
16 to make the motion to remand the staff to work
17 with the requesters to replant and resurvey in
18 30 days, not to exceed 60 days." Dr. Morgan.
19 I second that. Chairwoman Patel. Any
20 discussions? And then it goes on to say, Mr.
21 Kinney, Yes. I'd like to comment that both
22 sides did an excellent job. Law has restricted
23 a great deal of our ability to do what we'd
24 like to do immediately, but I -- we hope that
25 -- I know that at the time the storm hit,



1 vegetation was out considerably more. I know,
2 I live on the island. I know it did. The
3 storm was devastating. It removed that
4 vegetation, or it was covered up with massive
5 amount of sand and dirt that were brought in.

6 Your Honor, this is the board, they give
7 them 30 days, not to exceed 60 days to
8 reestablish the vegetation. People are out
9 there planting stuff. How is that not -- why
10 is that not policy?

11 **THE COURT:** Are you -- so now you've moved to a
12 question?

13 **MR. REDDY:** Yes.

14 **OBJECTION:**

15 **MS. PHELAN:** But I'm going to object to the
16 misstatement.

17 **THE COURT:** Okay. What misstatement, I'm sorry?

18 **MS. PHELAN:** Well, he said that the board gave them
19 30 days to establish the vegetation. That is
20 not what that says. It says that they have 30
21 to 60 days to work with them, work with the ---

22 **THE COURT:** It says replant and resurvey in 30 days,
23 not to exceed 60 days.

24 **MR. REDDY:** That's right, I just read it out.

25 **MS. PHELAN:** So, resurvey.



1 **THE COURT:** Yeah.

2 **MR. REDDY:** No, it says resurvey and replant.

3 **MS. PHELAN:** Right.

4 **MR. REDDY:** Replant and resurvey. So, replant ---

5 **MS. PHELAN:** If you ---

6 **THE COURT:** Well, go ahead. I've got it.

7 **MR. REDDY:** You've got it.

8 **Q:** Do you have any -- can I -- did you -- do you
9 want me to read it to you again because she
10 said something. Do you have it in front of
11 you?

12 **A:** I do have it in front of me.

13 **Q:** Okay. So it says -- would you agree then, that
14 that board made a determination that they were
15 prepared to give these homeowners, because of
16 the storm, a one-time storm that did damage,
17 according to one of the board members, an
18 opportunity to replant and resurvey in 30 not
19 to exceed 60 days? Would you agree the board
20 made that decision?

21 **A:** Yes. They remanded the staff to work with the
22 homeowners to replant, and then to have the
23 staff come out and review, to see -- to
24 resurvey in either 30 days or not to exceed 60
25 days, to see what the -- what the estab- --



1 whether the plants were established or not.

2 Q: So, now we have established, if you will, sorry
3 for using this word so much, potentially a new
4 standard, not based on the statute, but based
5 on some -- a board decision that says you have
6 the ability to reestablish something for 30 to
7 60 days?

8 A: I don't think that's a new standard. They
9 asked the staff to work with the property
10 owners to resurvey. As I said earlier, the
11 judge was asking if we would go out after
12 different time frames, after six months, and if
13 we would reassess, resurvey. And I said that
14 the staff would be willing to do site visits,
15 and that's what the board is asking the staff
16 to do here.

17 Q: So, I'm all -- all I'm saying, Jessica, because
18 one of the things I brought up from the
19 beginning is Morgan testified that prior to me
20 there was no sanctions that she can recall back
21 to '99, 25-some years, of any sanctions for
22 erosion control structures landward of the
23 setback line. Now, we have established through
24 this that certain homeowners from this -- in
25 the same area, two homes down, were given the



1 opportunity to reestablish, maybe that little
2 plant that I already showed was seaward of the
3 wall, reestablish all these plants for 30, no
4 more than 60, days. Was I given that
5 opportunity or was I knocked out on day one
6 because your survey was the day after the
7 storm? You did not look back and see if
8 vegetation established. You did not give me
9 the opportunity to go forward and establish it.
10 You said, boom, it doesn't -- it is not there.
11 It is not visible on that day after the storm,
12 so that is Beach Critical Area. How -- how --
13 do you think this is a proper interpretation
14 when even the board doesn't seem to interpret
15 it like they're concerned about established,
16 the word established in the statute, not
17 meaning established means exist on the day I'm
18 there?

19 A: I don't see in this portion of the testimony
20 that they said that they were concerned about
21 the word established. And I think that they
22 indicated that the staff would work with the
23 property owners to replant and resurvey, check
24 back in at 30 or not less -- not more than 60
25 days.



1 Q: So -- actually, we're nice people. Do we look
2 like bad people that we wouldn't be given that
3 opportunity?

4 A: As I said, I'm not a permitting project
5 manager, but I believe there's been some
6 testimony about, you know, this would be
7 something that could be applied for, and I
8 don't know the details about that, but I don't
9 think that that was applied and authorized at
10 your site.

11 Q: Given that y'all have 290 exhibits, or
12 something like that, that we have not objected
13 to, hundreds of thousands of taxpayer money,
14 all of this stuff here, would you not agree
15 that this is a hoax?

16 A: I would not.

17 **OBJECTION:**

18 **MS. PHELAN:** Objection, Your Honor.

19 **THE COURT:** Well, he can ask the question.

20 Q: You would not?

21 A: I would not.

22 Q: Okay.

23 **MR. REDDY:** Can I enter this into evidence?

24 **THE COURT:** Well, you published the portion that you
25 sought to ---



1 **MR. REDDY:** Your Honor, I'm going to move to say
2 what is the objection that this board goes
3 through an entire meeting of talking about
4 different things to come to this conclusion.
5 This is the last page of it. That's the
6 conclusion they reached. After hearing all the
7 arguments for and against, that's the
8 conclusion they reached. That was the decision
9 of this board and all of this stuff leads up to
10 the decision. The only reason they had this
11 meeting was for this. And what is the -- this
12 should be a public document anyway. So, what
13 is the harm in us entering this thing into
14 evidence?

15 **THE COURT:** All right. Do you wish to respond to
16 that?

17 **MS. PHELAN:** Your Honor, it contains statements that
18 were made by other parties about what they
19 thought about the vegetation or what they did
20 and that's not present in the board to explain.
21 I don't -- I think that based on hearsay and
22 based on they're not present in court, they --
23 it unfairly prejudices us.

24 **MR. REDDY:** Your Honor, I don't understand all this
25 mumbo jumbo, but this is a party opponent, and



1 this is a public meeting.

2 **THE COURT:** Well, it's not an exhibit of -- it's not
3 -- earlier where I address that issue, that was
4 a final report from DHEC. This is a transcript
5 of a hearing.

6 **MR. REDDY:** It's a transcript of a public meeting.

7 **THE COURT:** Yeah. I have to sustain the objection
8 at this point.

9 **MR. REDDY:** Okay. So, you want me to ---

10 **THE COURT:** For the whole document.

11 **MR. REDDY:** So, I can enter page 115 to 116?

12 **THE COURT:** Any objection?

13 **MS. PHELAN:** Hold on real quick. He read a lot ---

14 **THE COURT:** Yeah.

15 **MS. PHELAN:** --- further than what he told me he was
16 going to, so let me just read it.

17 **MR. REDDY:** I did not. 115 to 116.

18 **THE COURT:** Yeah. I'm looking at it. It looks like
19 1- ---

20 **MR. REDDY:** This is -- Your Honor, this is like the
21 Watergate here. Didn't know I was a ---

22 **MS. PHELAN:** Yeah, I don't have any objection.

23 **MR. REDDY:** -- criminal lawyer.

24 **THE COURT:** Those pages are admit- -- well, they're
25 admitted.



1 **MR. REDDY:** So, what do I need to do?

2 **COURT REPORTER:** Admitted?

3 **THE COURT:** Admitted.

4 **(Respondent's Exhibit Number 39, pages 115 and 116,**
5 **were admitted into evidence at this time.)**

6 **MR. REDDY:** And, Your Honor, I'm going to proffer
7 the entire document.

8 **THE COURT:** There you go.

9 **(Respondent's Exhibit Number 39 - entire document -**
10 **was proffered at this time.)** I

11 **MR. REDDY:** Similarly, before she gets off the
12 stand, I want to go back to this beach report,
13 and want to make sure that we are entering the
14 introduction that was already established and
15 read and I want to proffer the rest of the
16 document.

17 **THE COURT:** All right. Well, do you want to clarify
18 what was introduced?

19 **MR. REDDY:** Yes. What was introduced was the
20 introduction to the South Carolina beach
21 preservation stakeholder workgroup.

22 **Q:** May I ask one last questions, Jessica, and then
23 we are going to call this a wrap. It calls
24 this thing the beach preservation workgroup.
25 Can you name one thing here in this workgroup's



1 work that you were involved with that would
2 fall into the category of present- --
3 preservation?

4 **(Respondent's Exhibit Number 35 was referenced at**
5 **this time.)**

6 A: Sure. The workgroup came up with
7 recommendations for pilot projects.

8 Q: And the -- wasn't the predominant work of the
9 workgroup to say preservation means expanding
10 jurisdiction?

11 A: No.

12 Q: No? Do you believe that? Do you believe that
13 the way, one of the strategies for preservation
14 is to expand jurisdiction?

15 A: I do not.

16 Q: You do not. So why would -- why was the --
17 why, in fact, was that a major push, to expand
18 jurisdiction?

19 A: There was not a push to expand jurisdiction
20 associated with the workgroup.

21 Q: So you're saying, it is your testimony that the
22 law that was passed in 2024 to amend Regulation
23 30-13(N) (a), to amend it to include
24 jurisdiction specifically over beaches when it
25 stopped at the beach/dune, to include over



1 beaches was not an attempt to increase their
2 jurisdiction, and there was no wording you were
3 involved in that actually justified that,
4 saying, because of increased erosion, you
5 needed more jurisdiction?

6 A: The authorities for the Department were already
7 established. The Department provided
8 clarification in the regulations.

9 Q: So, you would say, when the Department took the
10 regulation which stopped at beach/dune, but as
11 we went over earlier, is actually just a
12 combination of beach and dune, so everyone --
13 that's not an issue. But it stopped at
14 beach/dune and then added unlimited
15 jurisdiction, like we just went through with
16 vegetation and inundation and all that that you
17 testified was going to be to the best of your
18 expert knowledge, and the rest of the
19 Department's expert knowledge, unlimited
20 jurisdiction, property by property is a
21 clarification and not a major change?

22 A: The jurisdiction is not unlimited.

23 Q: So -- oh, it's not? Well, you wanna -- let's
24 go there. So, tell me, based on what we all
25 just testified, we have a beautiful yard.



1 People have beautiful yards. Well, I take --
2 what -- how do you -- you've been out there, I
3 saw you with you and the camera. You've been
4 out to 120 Ocean?

5 A: Yes.

6 Q: Are you aware that I built that house and that
7 used to be my property?

8 A: Not prior to this trial.

9 Q: Okay. So, having looked at old pictures, and
10 I saw you saw some, you put some pictures up
11 there with the pool and all that, did you see
12 how far out that property went with, you know,
13 with the fountain and putting green and all
14 that? It's actually in one of your tile
15 pictures, we can pull it up if you want.

16 A: I've seen the -- that area over a number of
17 different time periods.

18 Q: Yes. Do you know that all of that bottom part
19 of the property, as you also showed in your
20 pictures, has been completely washed away, all
21 the way back to her pool, which is one, one of
22 the ones you used for your -- one of your
23 lines?

24 A: Yes. I've seen that there has been erosion at
25 her property.



1 Q: So, how is it that all of that area she's now
2 had since that storm, that which really
3 happened in the nor'easter, is not Beach
4 Critical Area? You would agree with that,
5 right?

6 A: I'd have to look at it and see what it looks
7 like ---

8 Q: Yeah.

9 A: --- on site.

10 Q: Well, yesterday we saw, in one of their
11 testimony, the beach umbrellas and all that in
12 what used to be the yard. Would you agree,
13 from what you're saying, that in the past, she
14 would be able to restore her yard and put back
15 and put back the fence in her yard, and today
16 she cannot because of these new regulations or
17 whatever you're running around with?

18 A: I believe that she is able to apply for
19 authorization to do various restorations to
20 stabilize that area of the beach. That's my
21 understanding.

22 Q: No, ma'am. We were told, she was told -- you
23 know, I was told, Matt said, you can only put
24 beach compatible material, which is sand.

25 A: I believe dune plantings would be beach



1 compatible material.

2 Q: Dune plantings?

3 A: Vegetation, similar to what we talked about
4 earlier.

5 Q: Well, prior to that, prior to this new
6 interpretation, she could put her yard back,
7 put her fence back. Do you agree? Up to the
8 -- up to the setback line?

9 A: The Department, prior to the legislation that
10 you're referring to, still had authority within
11 beaches and beach/dune system ---

12 Q: Now we're in ---

13 A: --- still be assessed.

14 Q: --- they never used it. She testified to that.

15 A: I think I mentioned earlier that historically
16 and even in more recent times, the setback line
17 in the majority of the coast has been the most
18 landward jurisdiction. But in these more
19 highly vulnerable areas and dynamic areas,
20 we've seen beaches erode into -- landward of
21 the setback.

22 Q: Are you saying this is -- Jessica, are you
23 saying this is now going to be your job, the
24 agency's job, as opposed to the General
25 Assembly's job, to determine where jurisdiction



1 is on eroded areas and what restrictions
2 they're going to put on homeowners, which is
3 what the General Assembly was doing with the
4 setback lines and the baselines over a certain
5 period of time. Again, we talked earlier,
6 right? Do you agree -- do you agree that that
7 was the goal that we went -- went over all
8 this, but it seems like what you're saying now
9 is you all have taken this over from the
10 General Assembly.

11 A: We have not taken over from the General
12 Assembly. The General Assembly applies -- or
13 the General Assembly provides the authority for
14 the Department in the four critical areas, and
15 beaches is one of those.

16 Q: Okay. You know what, we're going over a lot of
17 old ground. I have no more questions.

18 **THE COURT:** Re-direct?

19 **MS. BOYNTON - RE-DIRECT EXAMINATION BY MS. PHELAN:**

20 Q: Ms. Boynton, you okay?

21 A: Yeah.

22 Q: All right. I'm gonna ask you -- I think
23 there's been still a little bit of confusion
24 about this active beach concept and how it
25 relates to jurisdiction. So, I'm asking -- I'm



1 asking Janet to go ahead and pull up that
2 figure again so you can talk us through. While
3 she's pulling it up, in general, can you tell
4 us how the active beach relates to beaches
5 critical area?

6 A: So, you can see on screen the definition for
7 active Beach is the area seaward of the
8 escarpment or the first line of stable natural
9 vegetation, whichever first occurs, measured
10 from the ocean. So, active beach can be within
11 -- is always within beaches critical area. And
12 if that escarpment that we saw earlier is
13 vegetated, then the active beach and the
14 beaches would be one in the same. But if you
15 have a scenario where you have an escarpment
16 seaward of vegetation, then active beach would
17 be seaward of that escarpment, and beaches
18 would be defined by that vegetation.

19 Q: Okay. So, although we -- although the statute
20 defines our authority in the four critical
21 areas, including the beaches, how does that
22 relate to the active beach?

23 A: Active beach would be within beaches. And, as
24 I said, in some cases might be one in the same
25 depending on the site conditions, which we



1 could see in the exhibit here in just a minute.

2 Q: So, can you pull up -- we can't do it.

3 A: Okay.

4 Q: Let me ask you this. I know that you're not a
5 critical area permitting manager, is that
6 correct?

7 A: Correct.

8 Q: And the critical area permitting managers, the
9 beachfront manager, specifically, is the one
10 for project position -- is the one that
11 generally goes out and determines what -- what
12 the beaches critical area is?

13 A: That's correct.

14 Q: Now, do you know whether -- we've seen a lot of
15 different lines prior to September of the
16 meeting that we had on the site on September
17 11, 2023. Do you know whether there was ever
18 a request prior to that September 11th, '23
19 date for the beaches critical area to be
20 determined on the Reddys' property?

21 A: I don't.

22 Q: So, he -- he was showing you a May photo, a May
23 2023 photo, and the data -- you've shown some
24 data lines that we had prior to the September
25 2023 area, correct?



1 A: Yes, that's correct.

2 Q: Were those lines collected to say this is the
3 beaches critical area?

4 A: Are you referring to the vegetation lines that
5 we talked about at the beginning of the ---

6 Q: Yes.

7 A: --- so from ---

8 Q: That map that we saw.

9 A: --- so from 2006, 2011. Yes. The Department
10 collects those vegetation in the standard
11 course of its duties.

12 Q: Okay. But were they -- at that point, were
13 they determining where beaches critical area
14 was or were they looking at something else?

15 A: I don't think they were determining beaches
16 critical area at that time.

17 Q: And so when Mr. Slagel went out there on
18 September 20, '23 to determine beaches critical
19 area, was he only looking at that -- I mean,
20 did he only have that one day to consider?

21 A: No. I mean, he can consider the full body of
22 material, as well as other site visits that he
23 did.

24 Q: Now, you've been asked a lot about the final
25 agency decision, that I've located.



1 **MS. PHELAN:** Petitioner 4. The next exhibit number.

2 Is it Petitioner 4, I think, is what we need.

3 **COURT REPORTER:** I'm sorry?

4 **MS. PHELAN:** Petitioner 4, please.

5 **COURT REPORTER:** I don't have Petitioner 2 or 3.

6 You've only marked 1.

7 **MS. PHELAN:** We haven't done it yet, but we ---

8 **COURT REPORTER:** You marked 1 Petitioner's, the
9 photograph from yesterday.

10 **MS. PHELAN:** Okay. Go ahead and mark it
11 Petitioner's 2 then. I'll mark that one as
12 different. We're gonna use those later.

13 **COURT REPORTER:** Okay. So you want this one to be
14 4?

15 **MS. PHELAN:** Yeah. That's what I was gonna do.

16 **COURT REPORTER:** I'm sorry, I was making sure you
17 understood that ---

18 **MS. PHELAN:** That's all right. I can do it either
19 way. I'll do whatever way, what works.

20 **THE COURT:** Do whatever works. 2 or 4?

21 **COURT REPORTER:** 4.

22 (Petitioner's Exhibit Number 4 was marked for
23 identification purposes.)

24 **THE COURT:** 4 it is.

25 **Q:** Okay. So I'm handing you what's been marked as



1 Petitioner's Exhibit 4.

2 **OBJECTION:**

3 **MR. REDDY:** Your Honor, this was not produced. I
4 don't know what this Petitioner's Exhibit 4 is.
5 I don't know what they're talking about.

6 **MS. PHELAN:** It is not ---

7 **MR. REDDY:** I object to it.

8 **MS. PHELAN:** It's been produced in discovery.

9 **MR. REDDY:** Well, I haven't seen it. Where is it?
10 Which -- where is it?

11 **THE COURT:** What is it?

12 **MR. REDDY:** Discovery, there's all kinds of
13 documents produced.

14 **THE COURT:** What is it?

15 **MS. PHELAN:** It's the final agency decision from the
16 board that he brought up and he had the hearing
17 on. And I wanted to make sure -- I wanted to
18 ---

19 **THE COURT:** Is it the final agency decision
20 regarding this case?

21 **MS. PHELAN:** It's the final agency decision that was
22 regarding the hearing that he brought in court.

23 **THE COURT:** The hearing where he introduced ---

24 **MS. PHELAN:** What he said the board said. So, I was
25 going to show what the actual written final



1 decision said.

2 **MR. REDDY:** I object, Your Honor. This is the same
3 thing. You know, if she wants to go and
4 litigate it and discuss this, she won't -- let
5 me bring in one page out of 115 and now she
6 wants some final decision on something that
7 we've not seen?

8 **THE COURT:** Also, if you want to introduce the final
9 decision, why don't you introduce the final
10 decision and the evidence that he proffered
11 about the hearing and introduce the whole
12 thing. If that's where we're going with that
13 board decision.

14 **MS. PHELAN:** Again, Your Honor, the hearing has all
15 these comments from -- from other people that
16 aren't in the court.

17 **THE COURT:** Yeah.

18 **MS. PHELAN:** That wasn't the board's decision. It
19 wasn't the Department's. He's argued it's
20 admission by a party opponent. I don't think
21 that those statements are relevant to get into
22 evidence.

23 **THE COURT:** Well, that's part of the hearing
24 process. I mean I -- what I'm asking is how
25 far are we going to go on all this, but.



1 So, your objection is to?

2 **MR. REDDY:** I -- we're objecting because, first of
3 all, this is -- out of 290 exhibits that they
4 have, which is ten boxes, is not one of them.
5 They're saying it's in discovery. Well, all of
6 our stuff is in discovery. I would like to say
7 -- you know what, I'll even put this in if
8 they'll stop making me take every one of our
9 exhibits and qualify another. Let's admit all
10 of it into dis- -- everything in discovery in,
11 I'm good with that. But this little selective
12 thing of pulling one out and saying the meeting
13 minutes cannot, one page can be entered, but
14 some final decision that we have not seen or
15 read, I -- there's no way.

16 **MS. PHELAN:** We're trying to get it in for the
17 limited purpose to show what the board actually
18 ordered. The board in -- this represents their
19 final order, the hearing.

20 **THE COURT:** So, are you -- are you telling me that
21 it explains what was published in the hearing?

22 **MS. PHELAN:** No. I'm telling you that this is
23 actually the board's final decision. The
24 hearing is when they take evidence. It's just
25 -- Your Honor ---



1 **THE COURT:** There was a segment that he published.

2 **MS. PHELAN:** Yes.

3 **THE COURT:** Are you telling me that this further
4 explains that?

5 **MS. PHELAN:** Yes. It says exactly what the board --
6 -

7 **MR. REDDY:** Your Honor, it does not. She's making
8 up stuff because what was entered in evidence
9 is what was done. There's pictures and
10 discovery that she -- that -- that's all in
11 discovery that actually shows hose, them hosing
12 it off and coming back and inspecting the line.
13 So, I'm not sure where they're going with this
14 thing, because what was discussed at the board
15 meeting of reestablishing it by planting plants
16 and resurveying it was what was actually done.

17 **THE COURT:** I'm going to let you introduce it
18 because he opened the door with the hearing
19 transcript. Whether you're opening the door or
20 not is your -- but you can risk it. What
21 exhibit?

22 **MS. PHELAN:** It's the --

23 **THE COURT:** What's it marked?

24 **MS. PHELAN:** Final agency decision marked as
25 Petitioner ---



1 **THE COURT:** 4?

2 **MS. PHELAN:** --- 4.

3 **THE COURT:** Ms. Lenhardt?

4 **MS. LENHARDT:** No objection.

5 Q: Do you recog- ---

6 **THE COURT:** It's admitted.

7 **(Petitioner's Exhibit Number 4 was admitted into**
8 **evidence.)**

9 Q: Do you recognize this document?

10 A: I see that it's the final agency decision for
11 that board document number.

12 Q: And I'd like you to go to the last page of this
13 document.

14 A: Okay.

15 Q: Could you just start at the -- the very top
16 line says, however. Could you start -- could
17 you start with the however, and then go down to
18 the conclusion.

19 A: However, based on the facts of this request for
20 final review, the board has determined the
21 requester should have the opportunity to
22 install native beachfront plant species and see
23 if nonlittoral vegetation can become
24 established in the subject area.

25 Keep reading?



1 Q: Yeah.

2 A: After reviewing the written material submitted
3 to the board and considering all arguments and
4 evidence presented at the final review
5 conference, the board finds that this matter is
6 remanded to staff to work with requester for
7 replanting and resurvey at the subject property
8 within the next 60 to 90 days. This decision
9 will provide requester an opportunity to plant
10 vegetation away from the habitable structure
11 where requester thinks vegetation will survive
12 and have staff resurvey the area.

13 Q: And how many days did it say?

14 A: Within the next 30 to 60 days?

15 Q: Okay. Does it say anything about the
16 Department cannot come back after that time?

17 A: No.

18 Q: And again, you were not -- you were not one of
19 the staff members that actually did the
20 critical area line designations for this, that
21 would have been a project manager?

22 A: That's correct.

23 Q: And I believe that they got the Exhibit 63 up,
24 of the escarpment and the active beach is what
25 we were trying to show.



1 (Joint Exhibit Number 63 was referenced at this
2 time.)

3 A: Yes. This is just a visualization of what I
4 described earlier. Active beach looks for that
5 first escarpment, if there is one. And then
6 that is the landward extent of active Beach, as
7 we see here. If that escarpment is vegetated,
8 that would also be the landward extent of
9 beaches. In this case, it was not, so beaches
10 is slightly further landward.

11 Q: All right. No further questions.

12 MR. REDDY: This is ---

13 THE COURT: Wait, wait. Ms. Lenhardt?

14 MS. LENHARDT: No questions.

15 THE COURT: All right, now, Mr. Reddy.

16 MR. REDDY: Your Honor, with this being introduced,
17 I move to introduce that entire board minutes
18 into evidence since she introduced the final
19 decision.

20 (Respondent's Exhibit Number 35 was referenced at
21 this time.)

22 OBJECTION:

23 MS. PHELAN: Same objection, Your Honor. The --
24 what -- what the decision is has been
25 introduced. That's all those -- all those



1 people that were stating what their objections,
2 I think is unfairly prejudicial. I don't think
3 it's relevant. It doesn't go to establish any
4 issue of the case. It is not the Department's
5 position. So, I don't -- I don't think you
6 should admit it.

7 **MR. REDDY:** Your Honor, I am going to quote the rule
8 of completeness. We cannot come to the final
9 decision and introduce this final decision
10 without showing all the information that went
11 into the board's thinking to get to the final
12 decision. She opened the door on the final
13 decision. I was prepared to leave it shut.
14 They keep snatching defeat from the jaws of
15 victory. You gave them the full penalty
16 yesterday and they declined it. Now, they're
17 gonna lose the entire penalty.

18 **THE COURT:** Hold on one moment. Let's see, Rule 106
19 is what you're referring to, remainder of
20 related writings or statements.

21 **MR. REDDY:** Yes. Yes, sir.

22 **THE COURT:** When a writing, or a recorded statement,
23 or part thereof is introduced by a party, an
24 adverse party may require the introduction at
25 that time of any other part or any other



1 writing or recorded statement which ought in
2 fairness to be considered contemporary --
3 contemporaneously with it. So, I am going to
4 admit those -- that document, but I'm going to
5 set forth that any hearsay statements within
6 that document will be ignored by the Court. So
7 with that, I don't know what is in -- what all
8 is in that document, so -- because I haven't
9 had a chance to review it. So, I imagine there
10 will be a fair amount of hearsay in there. But
11 it's admitted.

12 **(Respondent's Exhibit Number 35 was admitted into**
13 **evidence.)**

14 **MR. REDDY:** It's not a bunch of expert engineers in
15 there.

16 So, they redirect about active beach?

17 **THE COURT:** Yes, sir.

18 **MR. REDDY:** So, once again, we covered this. I have
19 to tell you, this is the first time I've been
20 in a court, but I seem to know more about the
21 law now than the entire team here.

22 **MS. BOYNTON - RE-CROSS EXAMINATION BY MR. REDDY:**

23 **Q:** Where in beachfront jurisdiction does it talk
24 about active beach? Are y'all coming up with
25 this? It says over here, it says beaches means



1 those lands subject to periodic inundation by
2 tidal and wave action so that no nonlittoral
3 vegetation is established, and includes active
4 beach. Does it say that?

5 A: It does not.

6 Q: Does not say that. Once again, it has no
7 connection. Apparently. I have read contracts
8 in 50 states with definitions. Definitions
9 have to be used, would you agree, for it to
10 work in any statute? And that definition is
11 not here? So, why they keep bringing it up, I
12 have no idea. Do you?

13 A: I think just because it's an area within a
14 critical area and just providing clarity about
15 the difference.

16 Q: We don't care about these judgments, Jessica,
17 do we? We care about the law. This is about
18 the statute, not the -- all these various
19 additions and interpretations. So, along those
20 lines, just to show you that all these active
21 beach interpretations are -- now I'm going to
22 read the statute that actually supports this.
23 It says ---

24 **MR. REDDY:** I'm going to read, Your Honor, if you
25 want to pull it up, you can. Which is -- which



1 actually established that all this active beach
2 stuff is a hoax. 48-39-280, item (2).

3 **THE COURT:** Hold on a second. I'll follow you
4 there, just a second. 48-280 ---

5 **MR. REDDY:** 39-280, item (2).

6 **THE COURT:** I am there.

7 **MR. REDDY:** Got it?

8 **THE COURT:** There's an (A). You mean (A)?

9 **MR. REDDY:** No, no, no. (A), go down, (A) and then
10 it goes to (2).

11 **THE COURT:** Yeah, (A) (2).

12 **MR. REDDY:** (A) (2), sorry. I'm gonna read this out.

13 Q: First of all, let me ask you the question, and
14 then I'll ask you a question on how you see
15 this. Would you say, based on these different
16 zones y'all designate for different inlets and
17 all that, would you say that our part -- the
18 property in question, part of the beach, would
19 be considered an inlet zone not stabilized?

20 A: Yes. It's a unstabilized inlet erosion zone.

21 Q: Okay. So, that establishes number (2). So, it
22 says, "The baseline for inlet erosion zones
23 that are not stabilized by jetties, terminal
24 groins, or other structures must be determined
25 by the department as the most landward point of



1 erosion at any time during the past forty
2 years, unless the best available scientific and
3 historical data of the inlet and adjacent
4 beaches" indicates "that the shoreline is
5 unlikely to return to its former position. In
6 collecting and utilizing the best scientific
7 and historical data available for the
8 implementation of the beach preservation
9 policy, the department, as part of the State
10 Comprehensive Beach Management Plan provided
11 for this chapter ... must consider historical
12 inlet migration, inlet stability, channel and
13 ebb tidal delta changes, the" effect "of
14 sediment bypassing on shorelines adjacent to
15 the" inlet, "and the effects of nearby beach
16 restoration" project "in inlet sediment
17 budgets."

18 So, all this stuff we're talking about
19 with active beach and all the stuff we went
20 over, doesn't this simply say that the
21 establishment of the setback line takes all of
22 these changes, inlet changes, tidal changes,
23 erosive changes into account in setting the
24 setback line?

25 A: Well, the section that you read was associated



1 with the baseline.

2 Q: Pardon me?

3 A: The section that you read was associated with
4 setting the baseline.

5 Q: Correct. Right, So, it's saying -- it's
6 taking all these factors that I read into
7 account, which is inlet and adjacent beaches,
8 shoreline is unlikely -- the point of highest
9 tide in the last 40 years, and taking into
10 account a bunch of other factors. So, it seems
11 like, to me, instead of us going down this
12 active beach and vegetation, it seems like the
13 legislature, the General Assembly, is saying,
14 every seven to ten years, I'm going to look at
15 all these factors for an unstabilized inlet
16 zone, including the highest, the most landward
17 point of erosion at any time during the past 40
18 years. It says I'm going to look at all these
19 factors and establish the baseline and setback
20 line. It seems like this Department, Jessica,
21 would you agree with me if I say this
22 Department is hijacking this by setting these
23 authorities randomly, day by day, storm by
24 storm, some random definitions of things? It
25 says in here, every seven to ten years, I take



1 all this into account. So, why are we talking
2 about active beach and some other beach and
3 periodic and all that when it -- when these
4 people are saying, hey, I'm going to give you
5 some certainty every seven to ten years because
6 I'm looking at all these factors we're talking
7 about as part of a beach preservation policy,
8 which is what all you guys are talking about.

9 **MR. REDDY:** I have no further questions, Your honor.

10 **THE COURT:** Do you?

11 Any on new matter raised by -- I think
12 we're on re-re-direct.

13 **MS. PHELAN:** Is that right? I've got one question.

14 **THE COURT:** Okay.

15 **MS. BOYNTON - RE-DIRECT EXAMINATION BY MS. PHELAN:**

16 Q: Ms. Boynton, why would the Department -- or
17 according to the guidance provided in the Act,
18 why would the Department want to regulate the
19 beaches critical area?

20 A: Well, it is one of the four critical areas.
21 The beaches critical area is one of the coastal
22 critical areas that contains, I'll describe it,
23 sensitive and fragile environment. And it
24 would be available for recreation, habitat, all
25 of those things that were listed in the Act.



1 Q: Does the Act give any guidance about
2 development?

3 A: It does indicate that the Department should
4 guide activities from unwise development. I'm
5 paraphrasing, but it does provide guidance
6 about activities in sensitive areas and
7 inappropriate development.

8 Q: If the Department did not have ---

9 **OBJECTION:**

10 **MR. REDDY:** Your Honor, I object to this. This is
11 all, once again, inappropriate. All -- some
12 type of judgments again, the sole speculation
13 on re-direct. Is she starting over again?
14 Because if she starts over, then I'll have to
15 go again, because she's ---

16 **THE COURT:** And I really don't want that to happen,
17 Ms. Phelan.

18 **MS. PHELAN:** I promise. I have one more question.

19 **THE COURT:** Well, you said -- you started ---

20 **MR. REDDY:** I thought you said one question.

21 **THE COURT:** -- with one question.

22 **MS. PHELAN:** I know, I know.

23 **THE COURT:** And you're on the third one now.

24 (Laughter.)

25 **OBJECTION:**



1 **MR. REDDY:** I object, Your Honor. I object to this.

2 **THE COURT:** She can ask it.

3 **MS. PHELAN:** Do I get three strikes (laughing)?

4 **MR. REDDY:** No, you get one strike and you're
5 already struck out.

6 **THE COURT:** You can ask your question, then you can
7 object, so.

8 **Q:** If the Department does not -- does not have
9 regulatory authority in the beaches critical
10 area seaward of the setback line, what -- what
11 results would that have?

12 **OBJECTION:**

13 **MR. REDDY:** Your Honor, this is speculation again.
14 Come on. I mean, the law is the law. Why does
15 she talk about the law instead of all this
16 speculation? Object.

17 **THE COURT:** Well, I feel like you're going past the
18 -- he asked about active beach, and that was
19 really it.

20 **MS. PHELAN:** Well, his ---

21 **THE COURT:** I thought.

22 **MS. PHELAN:** He -- he had a whole speech, so I'm ---

23 **THE COURT:** Yeah.

24 **MS. PHELAN:** --- kind of addressing ---

25 **THE COURT:** Well, the speech never resulted in a --



1 in an answer. He gave the speech and then she
2 never answered the question, so. And I've told
3 him that his statements are not evidence, so.
4 Until he takes the stand. All right.

5 **MS. PHELAN:** All right.

6 **THE COURT:** Thank you. You may step down.

7 A: Do I just leave these here?

8 **COURT REPORTER:** Yes. Thank you.

9 **THE COURT:** All right. We're breaking for lunch.
10 An hour would be 1:30. So, I try to give
11 people a little bit longer than that. How
12 about 1:45?

13 **MR. REDDY:** I'm good with 1:30. I wanna get this
14 over with, Your Honor.

15 **THE COURT:** Okay.

16 **MR. REDDY:** I've gotta be -- I've got things that
17 I've gotta run. I'm not full-time like these
18 people are.

19 **THE COURT:** 1:30 or 1:45?

20 **MS. LENHARDT:** I would appreciate 1:45. I don't
21 think 15 minutes is that ---

22 **THE COURT:** Okay. Let's do 1:45 then. All right.

23 **MR. REDDY:** Your Honor, my co-counsel has gotta
24 leave because of our daughter. If Your Honor
25 would excuse her from ---

